

RESOLUTION NO. 667

A RESOLUTION REGARDING SETTLEMENT OF TEUFEL
CONDEMNATION LITIGATION

WHEREAS, The City of Wilsonville has previously authorized the City Attorney to enter into a settlement and compromise of the Teufel condemnation with Thomas M. Teufel and Christina M. Teufel and to finalize same;

NOW, THEREFORE, IT IS HEREBY RESOLVED by the City of Wilsonville as follows:

1. The Mayor is hereby authorized to execute the Settlement and Release agreement effective this 16th day of May, 1988 on behalf of the City of Wilsonville, a copy of which is marked Exhibit "A" attached hereto and incorporated by reference herein.

2. The City Recorder is authorized to obtain an updated title report on the subject property and to record (pending title confirmation) the Warranty Deed, a copy of which is marked Exhibit "B", attached hereto and incorporated by reference and to notify the County Assessor of the change of ownership.

3. The City Recorder is to note in the City Lien Docket that a system development fee credit is to run with the subject property in the amount of \$37,500.00.

ADOPTED by the City Council of the City of Wilsonville's regular meeting thereof on the 16th day of May, 1988 and filed with the Wilsonville City Recorder this same day.

William E Stark
WILLIAM E. STARK, Mayor

ATTEST:

Vera A Rojas
VERA A ROJAS, City Recorder

SUMMARY OF VOTES:

Mayor Stark	<u>AYE</u>
Councilor Edwards	<u>AYE</u>
Councilor Brayman	<u>ABSENT</u>
Councilor Clarke	<u>AYE</u>
Councilor Jameson	<u>AYE</u>

RESOLUTION NO. 667
CB-R-335-88

SETTLEMENT AND RELEASE AGREEMENT

THIS AGREEMENT is made effective this 16th day of May, 1988, between the City of Wilsonville, an Oregon municipal corporation, plaintiff, and Thomas M. Tuefel and Christina M. Tuefel, defendants. The parties hereby acknowledge that a civil condemnation action was instituted by the City of Wilsonville in Clackamas County Circuit Court, No. 85-8-318, against defendants, George R. Tuefel, Thomas M. Tuefel and Christina M. Tuefel, as co-tenants of the certain parcel of land in Clackamas County, Oregon, more particularly described in Exhibit "A" attached hereto, and by this reference incorporated herein as if fully set forth; said condemnation action being under the following style and caption:

"IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF CLACKAMAS

CITY OF WILSONVILLE, an Oregon)
Municipal corporation,)
) No. 85-8-318
Plaintiff,)
)
vs.)
)
THOMAS M. TUEFEL, GEORGE R.)
TUEFEL, AND CHRISTINA M.)
TUEFEL,)
)
Defendants.)")"

The parties wish to settle and compromise this disputed action, and therefore agree as follows:

1. The parties acknowledge that the City of Wilsonville and George R. Tuefel have previously entered into a separate settlement and release, and George R. Tuefel is not a party to this agreement.

2. Based on a compromised and agreed upon valuation for the condemnation of the defendants Thomas M. Tuefel and Christina M. Tuefel's interest in the aforementioned parcel of land and holly trees thereon, the City of Wilsonville agrees to pay to defendants Thomas M. Tuefel and Christina M. Tuefel the sum of \$25,000.00, the receipt of which is expressly acknowledged by execution of this agreement, said sum being in the form of Thomas M. Tuefel and Christina M. Tuefel's claim to two-thirds of \$7,750.00 (\$5,166.67) previously tendered into

court by plaintiff City of Wilsonville, and received by all three aforementioned defendants and the City's draft delivered herewith of \$19,833.33 made payable to Thomas M. Tuefel, Christina M. Tuefel, and to their attorney, Gregory Hathaway. In consideration of these sums, together with other valuable consideration recited below, defendants Thomas M. Tuefel and Christina M. Tuefel, as Grantor, agree to grant and convey to the plaintiff City of Wilsonville, as Grantee, all of their right, title and interest to their undivided two-thirds interest in the aforementioned property described in the attached Exhibit "A" by statutory warranty deed providing good and sufficient title, to be executed contemporaneously with this agreement and delivered to City Attorney, Michael E. Kohlhoff, subject to title insurance being issued by Tigor Title Insurance insuring defendants' title. Property taxes for 1987-88 shall be paid by defendants.

3. As and for further consideration for this settlement and release, the City of Wilsonville hereby grants to Thomas M. Tuefel and Christina M. Tuefel, a systems development fee credit of \$37,500.00, to run with the land described in Exhibit "A". The systems development fee credit shall be applied at the time the land is developed. Systems development fees are those fees charged pursuant to City of Wilsonville Ordinance No. 70, or any successor ordinance thereto.

4. As and for further consideration for this Settlement and Release, Thomas M. Tuefel and Christina M. Tuefel shall continue to maintain and holly farm the existing holly trees remaining on the land in Exhibit "A" until such time as the City notifies them to discontinue such farming of these particular trees or makes use of the property for city purposes. The City shall make no claim to any rents and profits for these trees, and Thomas M. Tuefel and Christina M. Tuefel shall hold the City harmless and indemnify the City for any costs or losses incurred or for any damages arising from such holly farming.

5. The parties agree to stipulate to the dismissal of the action as against defendants Thomas M. Tuefel and Christina M. Tuefel and with prejudice and without costs to either party to this agreement and to authorize their respective attorneys, namely, Michael E. Kohlhoff and Greg Hathaway to execute a stipulated dismissal on their behalf.

6. In consideration of the terms, payments and conditions of this agreement, the parties and their respective officers, directors, agents, successors and assigns, as the case may be, mutually agree and release each other from any

claim, liability, causes of action or damage arising by reason of the aforementioned captioned condemnation action and the events and claims set forth therein or arising therefrom, known or unknown, now or in the future.

7. This Settlement and Release Agreement, together with the referenced statutory warranty deed and stipulated dismissal contains the entire agreement between plaintiff, City of Wilsonville, and defendants Thomas M. Tuefel and Christina M. Tuefel, and its terms are contractual and not merely recitals. In the event legal assistance is required to enforce the provisions of this agreement, the prevailing party shall be entitled to its reasonable attorney fees and statutory costs in any suit, action or appeal(s) therefrom.

THE PARTIES HAVE READ THIS SETTLEMENT AND RELEASE AGREEMENT AND FULLY UNDERSTAND IT.

CITY OF WILSONVILLE

Thomas M. Tuefel
Thomas M. Tuefel

By: William E. Stark
William E. Stark, Mayor

Christina M. Tuefel
Christina M. Tuefel

ATTEST:

Vera A. Rojas
Vera A. Rojas, City Recorder

APPROVED AS TO FORM:

Gregory S. Hathaway
Gregory S. Hathaway, Attorney for Defendants

Michael E. Kohlhoff
Michael E. Kohlhoff, Attorney for City of Wilsonville

OK

WARRANTY DEED - STATUTORY FORM
INDIVIDUAL GRANTOR

THOMAS M. TEUFEL, owner of a one-third (1/3) undivided interest as tenant in common,
and CHRISTINA M. TEUFEL, owner of a one-third (1/3) undivided interest as tenant in common,
conveys and warrants to CITY OF WILSONVILLE, an Oregon municipal corporation, Grantee, all of
Thomas M. Teufel and Christina M. Teufel's respective one-third undivided interests
(two-thirds total) in ~~Grantor~~ the following described real property free of encumbrances
except as specifically set forth herein situated in Clackamas County, Oregon, to-wit:

As more particularly described in Exhibit "A" attached hereto and by this reference incorporated herein.

(IF SPACE INSUFFICIENT, CONTINUE DESCRIPTION ON REVERSE SIDE)

The said property is free from encumbrances except access restrictions contained in deed recorded April 28, 1952, in Book 456, Page 139, Fee Number 5146, Deed Records, Clackamas County, easements of record and any additional real property taxes and interest due to disqualification of the real property for farm use.

The true consideration for this conveyance is \$25,000.00 (Here comply with the requirements of ORS 93.030) together with other value given and promised

Dated this May day of May, 1988.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

Thomas M. Teufel
THOMAS M. TEUFEL

Christina M. Teufel
CHRISTINA M. TEUFEL

STATE OF OREGON, County of Multnomah) ss.

This instrument was acknowledged before me on May 19, 1988, by Thomas M. Teufel and Christina M. Teufel

Gold A. Bradley
Notary Public for Oregon
My commission expires 8-30-90

(SEAL)

WARRANTY DEED

Thomas & Christina Teufel GRANTOR
City of Wilsonville GRANTOR
c/o Michael E. Kohlhoff GRANTEE
P.O. Box 706, Wilsonville, OR 97070
GRANTEE'S ADDRESS, ZIP

After recording return to:

Michael E. Kohlhoff
P.O. Box 706
Wilsonville, Oregon 97070

NAME, ADDRESS, ZIP

Until a change is requested, all tax statements shall be sent to the following address:

City of Wilsonville
P.O. Box 220
Wilsonville, Oregon 97070

NAME, ADDRESS, ZIP

STATE OF OREGON, }
County of } ss.

I certify that the within instrument was received for record on the day of 19, at o'clock M., and recorded in book/reel/volume No. on page or as fee/file/instrument/microfilm/reception No. Record of Deeds of said county.

Witness my hand and seal of County affixed.

NAME TITLE
By Deputy

SPACE RESERVED
FOR
RECORDER'S USE

SCHEDULE A

Amount :

Date :

A. E. O. A. M.

Premium :

INSURED

The estate or interest referred to herein is at the date hereof vested in

The land referred to in this policy is described as

IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON

A tract of land in the northeast one-quarter of the northeast one-quarter of Section 23, and in the northwest one-quarter of the northwest one-quarter of Section 24, Township 3 South, Range 1 West, City of Wilsonville, Clackamas County, Oregon, being that portion of those tracts of land described in Clackamas County Recordors Fee No. 80 50020, more particularly described as follows:

Beginning at the northeast corner of Section 23, Township 3 South, Range 1 West, of the W.M.; thence Easterly along the north line of said section 660 feet, more or less, to the east line of that tract of land described in said Fee No. 80 50020; thence Southerly on said east line to a point that is 54 feet Southerly at right angles to the said north line of Section 24; thence Westerly parallel to said north line of said section, 300 feet to a point; thence Westerly in a straight line 300 feet to a point that is 45 feet Southerly at right angles to the north line of said Section 24; thence Westerly parallel to the said north line of the section 60 feet, more or less, to the west line of Section 24, also being the east line of Section 23; thence continuing Westerly along a line that is 45 feet Southerly at right angles and parallel to the northerly line of Section 23, to the easterly line of that tract of land conveyed to the State of Oregon; thence Northeasterly along the easterly line of the State of Oregon tract, to a point on the south line of Market Road 12, that is southerly 30 feet at right angles to the north line of said Section 23; thence Northerly at right angles to the north line of said section, 30 feet to a point on the north line of said Section 23; thence Easterly along said northerly line of Section 23, to the northeast corner of said Section 23, also being the point of beginning. -----