

6478497
10/10/96 4:50 PM 58.00
NANCY WORKMAN
RECORDER, SALT LAKE COUNTY, UTAH
REED MARTINEAU
2060 WALKER LN SLC 84117
REC BY: P ANDERSON DEPUTY - WI

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made this ____ day of October, 1994 by, between FRANCIS P. HOAGLAND, C. JESSE PECK, MARILYN D. PECK, HENRY M. VOLKMAN, GALE VOLKMAN, REED L. MARTINEAU, GLORIA J. MARTINEAU, PAT MCGARRELL and VARA MCGARRELL, (collectively "Plaintiffs"), and KEITH P. GRUNDMANN, and KEITH P. GRUNDMANN, CORY GRUNDMANN and STACY GRUNDMANN as Co-Trustees of the Keith P. Grundmann Children's Trust (collectively "Defendants"), and ^{Stacy} ~~Susan~~ Norton ("Norton").

RECITALS:

WHEREAS, Plaintiffs filed an action against Defendants in the Third Judicial District Court of Salt Lake County, State of Utah, Case No. 900902739PR (the "Action"), claiming, among other things, that Defendants have trespassed upon and interfered with Plaintiffs' rights in and use of a certain lane and right-of-way located to the west of Defendants' property and consisting of not less than that portion of the lane running from the northern edge of Defendants' property adjacent to Walker Lane and south to a line even with the southern boundary of Defendants' property, all as set forth in the Complaint and pleadings in the Action (the "Right-of-Way");

WHEREAS, the Action seeks to establish a boundary by acquiescence and/or a prescriptive easement upon certain property claimed to be owned by Defendants;

WHEREAS, Defendants have denied Plaintiffs' claims all as set forth in the pleadings in the Action; and

87510F0086

WHEREAS, Plaintiffs and Defendants desire to settle all of their claims upon the terms and conditions contained herein, and Norton wishes to resolve certain issues relating to the Right-of-Way.

NOW, THEREFORE, for good and sufficient consideration, the receipt and sufficiency of which are hereby acknowledged, Plaintiffs and Defendants hereby agree as follows:

1. Removal of Wall and Construction of Gate. Plaintiffs agree, at their own expense, after the date of this Agreement and not later than April 30, 1995, that they will:

a. Remove the cinderblock wall and pillar constructed by Defendants adjacent to the asphalt lane and Right-of-Way. Defendants agree to allow Plaintiffs to remove said wall and pillar from Defendants' property.

b. Plant a hedge in the location and in accordance with the project description shown and described on Exhibit "A" attached hereto.

c. Install a mechanical gate in the location and in accordance with the project description shown and described on Exhibit "B" attached hereto.

d. Install a sprinkler line along the hedge described in 1.b above, and connect the sprinkler line to Defendants' existing line presently located on the east side of the subject wall. Upon completion of the sprinkler line, Defendants agree to water the

hedge and any ground cover or other vegetation between the hedge and the edge of the asphalt.

2. Gate. Defendants shall have the right, at their cost, to place an automatic gate opener on the gate to be installed by Plaintiffs, provided, however, that Defendants shall install a light on the telephone pole at the south end of the gate, or other location readily visible to motorists or pedestrians using the lane. The light shall be designed so that it is turned on automatically each time the gate opener is activated. The gate shall remain closed when the driveway is not being used to enter or exit Defendants' property.

3. Ownership Interest in Lane. Plaintiffs hereby acknowledge that Norton and/or one or more of Defendants own an undivided fifty percent (50%) fee interest in the Right-of-Way. Defendants and Norton acknowledge that Plaintiffs except McGarrells own an undivided fifty percent (50%) fee interest in the Right-of-Way. Plaintiffs, Norton and Defendants further acknowledge that their undivided interests, as described in this paragraph, are expressly subject to an easement and right-of-way for ingress and egress to and from the parcels of real property presently located along and serviced by the Right-of-Way, together with any pipeline easements and other easements or rights-of-way of record.

4. Defendant's West Boundary. The parties hereby acknowledge that the West Boundary of Defendant's residential property is the same as described in the recorded deed to that property and which is depicted on the survey by John B. Stahl (L.S. No. 7600) on

October 4, 1989, which was made a part of the record in this Action, subject to the terms of this Agreement.

5. Improvements. Defendants agree that they will not construct or place any improvements in the area to the west of a line beginning with the "Emerald Green Arborvitae" and continuing along the "Gate," "Guide for Gate," and "Brick Pillars" adjacent to Walker Lane, as shown on Exhibit "A" hereto, or make any changes in the nature or character of the Right-of-Way as it presently exists.

6. Mutual Release. Plaintiffs hereby release Defendants and their agents, representatives, and assigns from any and all claims, liabilities, costs, and expenses of every kind and nature as of the date hereof, whether known or unknown, including, without limitation, those claims set forth in the Action. Defendants hereby release Plaintiffs and their respective agents, representatives and assigns from any and all claims, liabilities, costs and expenses of every kind and nature as of the date hereof, whether known or unknown, including, without limitation, those made in connection with the Action.

7. Binding Effect. This Agreement shall run with the land and be binding on the parties hereto and their respective successors and assigns.

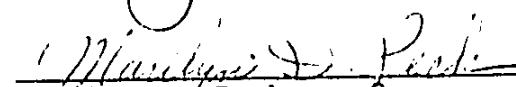
8. Dismissal With Prejudice. Upon execution of this Settlement Agreement, Plaintiffs and Defendants shall execute and file with the Court a Stipulation and Motion for Dismissal With Prejudice in the form attached hereto as Exhibit "C."

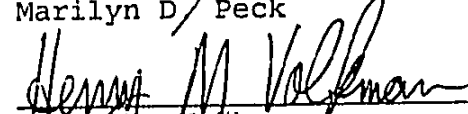
DATED this _____ day of October, 1994.

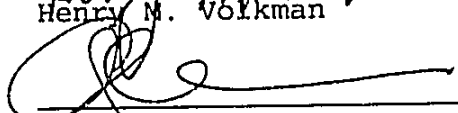
"Plaintiffs"

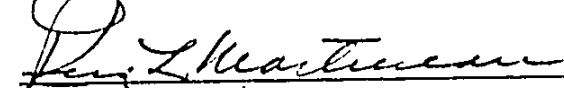

Francis P. Hoagland



C. Jesse Beck


Marilyn D. Peck


Henry M. Volkman


Gale Volkman


Reed L. Martineau


Gloria J. Martineau

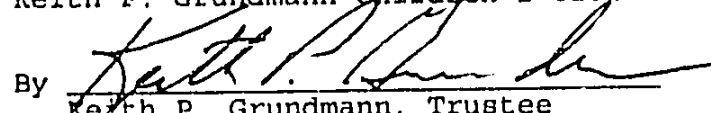
Pat McGarrell

Vara McGarrell

"Defendants"


Keith P. Grundmann

Keith P. Grundmann Children's Trust

By 
Keith P. Grundmann, Trustee

587510950090

DATED this _____ day of October, 1994.

"Plaintiffs"

Francis P. Hoagland

C. Jesse Peck

Marilyn D. Peck

Henry M. Volkman

Gale Volkman

Reed L. Martineau

Gloria J. Martineau

Pat McGarrell

Pat McGarrell

Vara McGarrell

Vara McGarrell

"Defendants"

Keith P. Grundmann

Keith P. Grundmann Children's Trust

By _____
Keith P. Grundmann, Trustee

By Cory Grundmann Trustee
Cory Grundmann, Trustee

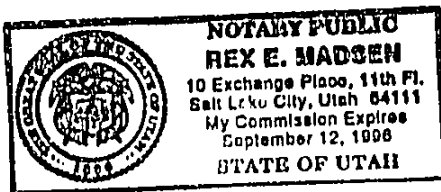
By Stacy Grundmann Trustee
Stacy Grundmann, Trustee

"Norton"

Francis P. Norton
Francis P. Norton
S. P. C. Y.

STATE OF UTAH)
COUNTY OF Salt Lake ; SS.

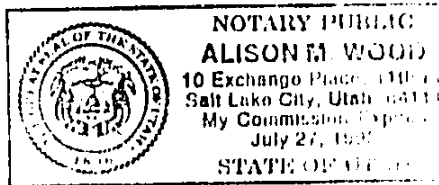
On the 5th day of April, 1995, personally appeared before me Francis P. Hoagland, the signer of the above instrument, who duly acknowledged to me that he executed the same.



Francis P. Hoagland
NOTARY PUBLIC residing in the State of Utah
My Commission Expires: 9/12/98

STATE OF UTAH)
COUNTY OF Salt Lake ; SS.

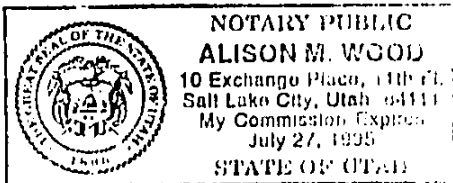
On the 18 day of April, 1995, personally appeared before me C. Jesse Peck, the signer of the above instrument, who duly acknowledged to me that he executed the same.



Alison M. Wood
NOTARY PUBLIC residing in the State of Utah
My Commission Expires: 7/27/95

STATE OF UTAH)
COUNTY OF Salt Lake ; SS.

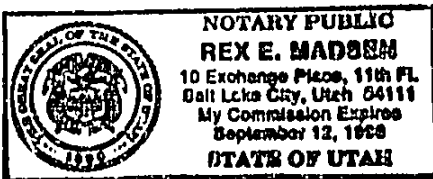
On the 18 day of April, 1995, personally appeared before me Marilyn D. Peck, the signer of the above instrument, who duly acknowledged to me that she executed the same.



Alison M. Wood
NOTARY PUBLIC residing in the State of Utah
My Commission Expires: 7/27/95

STATE OF UTAH)
COUNTY OF Salt Lake ; SS.

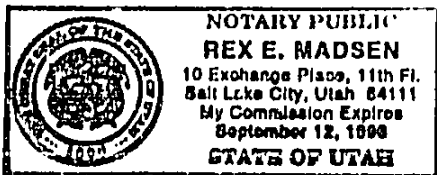
On the 5th day of April, 1995, personally appeared before me Henry M. Volkman, the signer of the above instrument, who duly acknowledged to me that he executed the same.



Rex E. Madsen
NOTARY PUBLIC residing in the State of Utah
My Commission Expires: 9/12/96

STATE OF UTAH)
COUNTY OF Salt Lake ; SS.

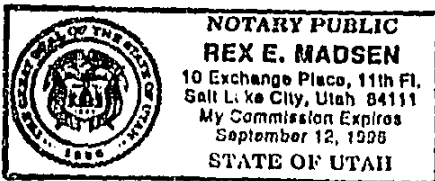
On the 5th day of April, 1995, personally appeared before me Gale Volkman, the signer of the above instrument, who duly acknowledged to me that she executed the same.



Rex E. Madsen
NOTARY PUBLIC residing in the State of Utah
My Commission Expires: 9/12/96

STATE OF UTAH)
COUNTY OF Salt Lake) : SS.

On the 7th day of January, 1995, personally appeared before me Reed L. Martineau, the signer of the above instrument, who duly acknowledged to me that he executed the same.

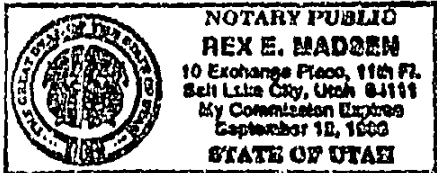


Reed L. Martineau

NOTARY PUBLIC residing in the State of Utah
My Commission Expires: 9/12/96

STATE OF UTAH)
COUNTY OF Salt Lake) : SS.

On the 7th day of January, 1995, personally appeared before me Gloria J. Martineau, the signer of the above instrument, who duly acknowledged to me that she executed the same.



Reed L. Martineau

NOTARY PUBLIC residing in the State of Utah
My Commission Expires: 9/12/96

STATE OF UTAH)
COUNTY OF _____) : SS.

On the _____ day of _____, 1994, personally appeared before me Pat McGarrell, the signer of the above instrument, who duly acknowledged to me that he executed the same.

NOTARY PUBLIC residing in the State of Utah
My Commission Expires: _____

STATE OF UTAH)
 : SS.
COUNTY OF _____)

On the _____ day of _____, 1994, personally appeared before me Reed L. Martineau, the signer of the above instrument, who duly acknowledged to me that he executed the same.

NOTARY PUBLIC residing in the State of Utah
My Commission Expires: _____

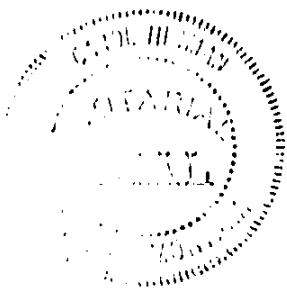
STATE OF UTAH)
 : SS.
COUNTY OF _____)

On the _____ day of _____, 1994, personally appeared before me Gloria J. Martineau, the signer of the above instrument, who duly acknowledged to me that she executed the same.

NOTARY PUBLIC residing in the State of Utah
My Commission Expires: _____

STATE OF ^{Montana} ~~UTAH~~)
 : SS.
COUNTY OF Bavalli)

On the 30 day of January, ¹⁹⁹⁵ ~~1994~~, personally appeared before me Pat McGarrell, the signer of the above instrument, who duly acknowledged to me that he executed the same.



Paul Himmow
NOTARY PUBLIC residing in the State of ~~Utah~~ ^{Montana}
My Commission Expires: May 22, 1995

7510P60095

STATE OF Montana)
COUNTY OF Beauregard) ; SS.

On the 30 day of January, 1995, personally appeared before me Yara McGarrell, the signer of the above instrument, who duly acknowledged to me that she executed the same.



Paul Hinman
NOTARY PUBLIC residing in the State of ~~Utah~~ Montana
My Commission Expires: May 28, 1995.

STATE OF UTAH)
COUNTY OF _____) ; SS.

On the _____ day of _____, 1995, personally appeared before me Keith P. Grundmann, the signer of the above instrument, who duly acknowledged to me that he executed the same.

NOTARY PUBLIC residing in the State of Utah
My Commission Expires: _____

STATE OF UTAH)
COUNTY OF _____) ; SS.

On the _____ day of _____, 1995, personally appeared before me Keith P. Grundmann, Trustee of the Keith P. Grundmann Children's Trust, the signer of the above instrument, who duly acknowledged to me that he executed the same in behalf of the Keith P. Grundmann Children's Trust.

NOTARY PUBLIC residing in the State of Utah
My Commission Expires: _____

317510230096

STATE OF UTAH)
)
COUNTY OF _____) : SS.

On the _____ day of _____, 1994, personally appeared before me Vara McGarrell, the signer of the above instrument, who duly acknowledged to me that she executed the same.

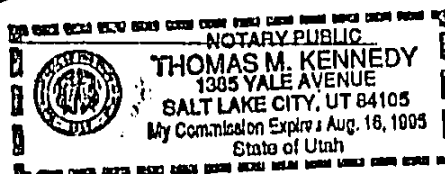
NOTARY PUBLIC residing in the State of Utah
My Commission Expires: _____

STATE OF UTAH)
)
COUNTY OF Salt Lake) : SS.

On the 22 day of November, 1994, personally appeared before me Keith P. Grundmann, the signer of the above instrument, who duly acknowledged to me that he executed the same.

Thomas M. Kennedy

NOTARY PUBLIC residing in the State of Utah
My Commission Expires: _____

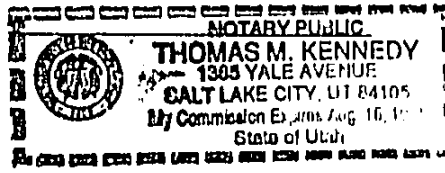


STATE OF UTAH)
)
COUNTY OF Salt Lake) : SS.

On the 22 day of November, 1994, personally appeared before me Keith P. Grundmann, Trustee of the Keith P. Grundmann Children's Trust, the signer of the above instrument, who duly acknowledged to me that he executed the same in behalf of the Keith P. Grundmann Children's Trust.

Thomas M. Kennedy

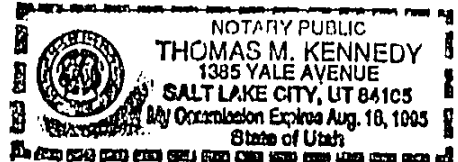
NOTARY PUBLIC residing in the State of Utah
My Commission Expires: _____



STATE OF UTAH)
COUNTY OF Salt Lake) SS.

On the 22 day of November, 1994, personally appeared before me Cory Grundmann, Trustee of the Keith P. Grundmann Children's Trust, the signer of the above instrument, who duly acknowledged to me that he executed the same in behalf of the Keith P. Grundmann Children's Trust.

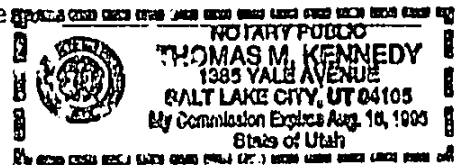
Thomas M. Kennedy
NOTARY PUBLIC residing in the State of Utah
My Commission Expires:



STATE OF UTAH)
COUNTY OF Salt Lake) SS.

On the 22 day of November, 1994, personally appeared before me Stacy Grundmann, Trustee of the Keith P. Grundmann Children's Trust, the signer of the above instrument, who duly acknowledged to me that s/he executed the same in behalf of the Keith P. Grundmann Children's Trust.

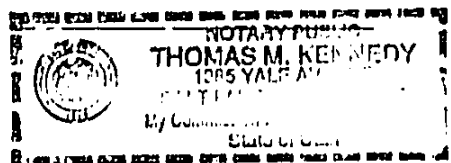
Thomas M. Kennedy
NOTARY PUBLIC residing in the State of Utah
My Commission Expires:



STATE OF UTAH)
COUNTY OF Salt Lake) SS.

On the 22 day of November, 1994, personally appeared before me ~~John~~ Jan Norton, the signer of the above instrument, who duly acknowledged to me that she executed the same.

Thomas M. Kennedy
NOTARY PUBLIC residing in the State of Utah
My Commission Expires:



DEFENDANTS' PROPERTY

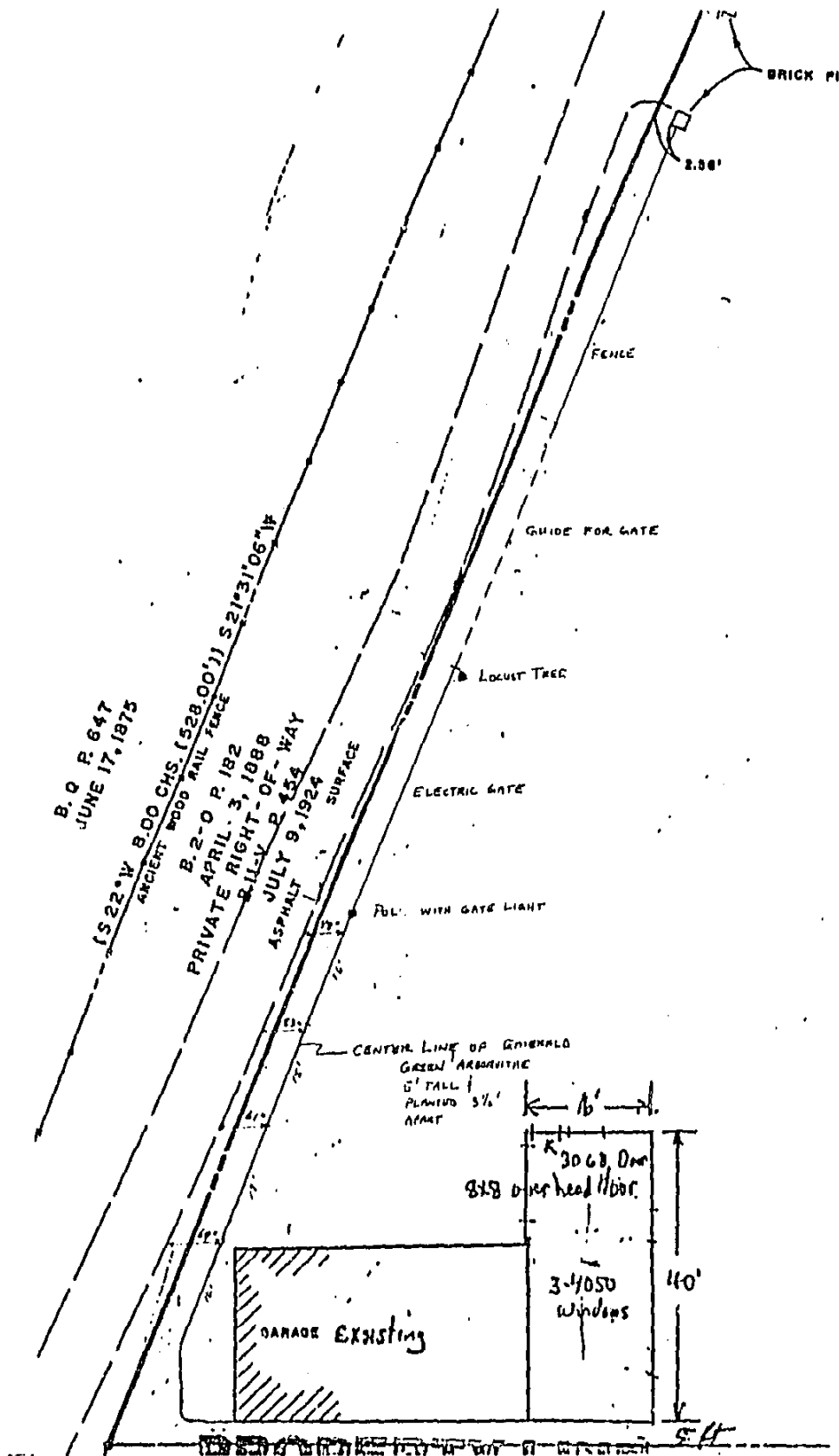
Beginning South 382.8 feet and East 543.09 feet from the Northwest Corner of Section 15, Township 2 South, Range 1 East, Salt Lake Base and Meridian; East 121.79 feet; South 6°08' West 86 feet; West 10.28 feet; South 9°49'53" West 127.68 feet; West 165.68 feet; North 22° East 227.34 feet to beginning. Less street. 0.61 acres more or less.

N:\15731\1\DRP-PROP.BXH

EX 75 | 0 PG 0099

RIGHT-OF-WAY DESCRIPTION

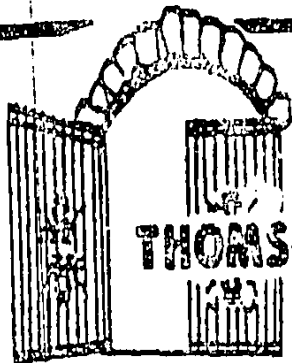
Beginning South 382.8 feet and East 543.09 feet from the Northwest Corner of Section 15, Township 2 South, Range 1 East, Salt Lake Base and Meridian; South 22° West 349 feet; South 16°20' East 87.8 feet; South 9°45' East 69 feet to an old fence line; North 85°50'10" West 25.75 feet; North 9°45' West 61.38 feet; North 16°20' West 95.04 feet; North 22° East 347.58 feet; East 26.97 feet to the beginning. 0.29 acre more or less.



FOUR COPY.
CO. RECORDER

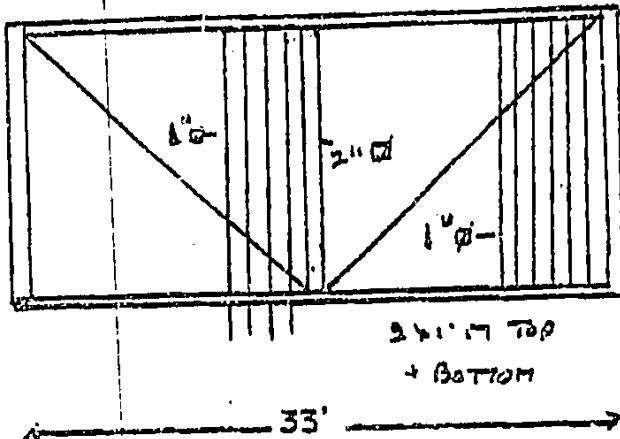
3K7510PG0101

EXHIBIT "A"



THOMSON ORNAMENTAL IRON
 Specializing in fences,
 custom work & orna-tube.

NAME ROY MADSEN DATE 25 MAY 1994
 ADDRESS _____ PHONE 521-9000



ALL POSTS, TRACK,
 WAKELS & ASSURT.
 HARDWARE FOR
 GATE TO SU. 04
 2" of COMPLETE OPUD,
 (SEE ENCLOSEURE)

ALL ABOVE PAINTED
 + INSTALLED.

BY: THOMSON ORNAMENTAL IRON CO.
 57 WEST 21st SOUTH
 SALT LAKE CITY, UTAH 84115
 467-8142

TOTAL AMOUNT _____
 DOWN PAYMENT _____
 BALANCE UPON
 COMPLETION _____

ACC. TERMS: _____

NOTE: The total cost of the job is due and payable to the Thomson Ornamental Iron Co., 57 West 21st South, Salt Lake City, Utah 84115 upon completion of job. If payment delays will be charged at the highest legal rate on all past due amounts and will be added on the last day of the month following completion of job. The buyer further agrees to pay all costs of collection and including a reasonable attorney fee if the delinquent account is placed for collection. The purchaser hereby acknowledges the title to the above stated property shall remain with the Thomson Ornamental Iron Co. until paid for in full and if for any reason the same shall not be paid for, the Thomson Ornamental Iron Co. may at their option, repossess the same without the process of law and retain any amount plus the fee verification of credit extended to the buyer by the Thomson Ornamental Iron Co.

POOR COPY -
 CO. RECORDER

SK 7510PG0102

EXHIBIT "B"

HAROLD G. CHRISTENSEN (A0638)
REX E. MADSEN (A2052)
SNOW, CHRISTENSEN & MARTINEAU
Attorneys for Plaintiffs
10 Exchange Place, Eleventh Floor
Post Office Box 45000
Salt Lake City, Utah 84145
Telephone: (801) 521-9000

IN THE THIRD JUDICIAL DISTRICT COURT OF SALT LAKE COUNTY
STATE OF UTAH

FRANCIS P. HOAGLAND and
CATHERINE P. HOAGLAND, his wife,
C. JESSE PECK and MARILYN D. PECK,
his wife, HENRY M. VOLKMAN and
GALE VOLKMAN, his wife, MITCH
GODFREY and BONNIE C. GODFREY, his
wife, PAT MCGARRELL and VARA
MCGARRELL, his wife, and REED L.
MARTINEAU and GLORIA J. MARTINEAU,
his wife,

Plaintiffs,

vs.

KEITH P. GRUNDMANN,
B. R. GRUNDMANN, Trustee of the
Keith P. Grundmann Children's
Trust, and JOHN DOES 1 through 10,

Defendants.

STIPULATION AND MOTION
FOR ORDER OF DISMISSAL
WITH PREJUDICE

Case No. 900902739PR

Judge John A. Rokich

Plaintiffs and defendants hereby stipulate that the above-entitled action has been settled in its entirety, and hereby move the Court for its order dismissing this action with prejudice, each party to bear his/her own costs and attorney's fees.

EXHIBIT "C"

3K7510PG0103

STIPULATION AND MOTION FOR ORDER OF DISMISSAL WITH PREJUDICE

DATED this ____ day of October, 1994.

SNOW, CHRISTENSEN & MARTINEAU

By _____
Harold G. Christensen
Rex E. Madsen
Attorneys for Plaintiffs

DATED this ____ day of October, 1994.

JOHN PAUL KENNEDY

Attorney for Defendants

DATED this ____ day of October, 1994.

Mitch Godfrey

Bonnie C. Godfrey

02\REM\15731.001\DISMISS.SM