



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

Stephen L. Madkour
County Counsel

Kathleen Rastetter
Scott C. Ciecko
Amanda Keller
Nathan K. Boderman
Shawn Lillegren
Jeffrey D. Munns
Andrew R. Naylor
Andrew Narus
Sarah Foreman
Assistants

February 17, 2022

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Settlement Agreement and execution of Quitclaim Deed
in the lawsuit: *Jerry A. Rensch, Trustee, et al. v. Clackamas County, et al.*

Purpose	Settle a lawsuit and transfer title to an expired easement back to the adjoining property owners.
Dollar Amount and Fiscal Impact	Only costs are internal costs through County Counsel to process this matter. No funds are being paid in settlement.
Funding Source	None
Duration	Permanent
Strategic Plan Alignment	Build public trust through good government
Previous Board Action	Executive Session review on December 14, 2021
County Counsel Review	This Settlement Agreement has been reviewed and approved by County Counsel on 2-8-22.
Procurement Review	No, items are a Settlement Agreement of a lawsuit and a Quitclaim Deed to transfer an old easement to adjoining property owners
Contact Person	Jeffrey D. Munns (503)742-5984

Background:

Clackamas County was recent sued by a property owner in order to remove an unused easement from the owner's property. The lawsuit, *Jerry A. Rensch, Trustee, et al. v. Clackamas County, et al.*, Clackamas County Circuit Court case no. 21CV41147 was filed in late October of 2021. Clackamas County is the beneficiary of an easement located at 29701 SW 60th Ave., Wilsonville, OR 97070. The easement was granted in 1910 for the construction of a public road.

Issue:

The easement has never been used as a public road. According to DTD staff there are no foreseeable needs or plans for a new public road in this location. The easement provided that should the County not use the easement for a public road for a period of 3 years the land would revert to the adjoining granting property. The road was never constructed. The easement ceased to be valid in 1913.

Recommendation:

Sign the Settlement Agreement to end the lawsuit and execute the Quitclaim Deed to quiet title to the easement transferring the area of the easement to the adjoining property owners.

Respectfully Submitted,



Jeffrey D. Munns
Assistant County Counsel

SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

This Settlement Agreement and Release of Claims ("Agreement") is entered into between Jerry A. Rensch, Trustee of the Jerry A. Rensch Revocable Living Trust; Kathleen B Rensch, Trustee of the Kathleen B. Rensch Revocable Living Trust; David Nanson and Sarah L. Nanson, Trustees of the Nanson Revocable Trust; KB II, LLC, a limited liability company; and Christopher J. Nanson, Trustee of the LC Trust ("Plaintiffs"), and Clackamas County ("County"), collectively the "Parties."

WHEREAS, Plaintiffs have filed a complaint in the Circuit Court of the State of Oregon for the County of Clackamas, Case No. 21CV41147;

WHEREAS, The County wishes to avoid entry of a judgment against it, but has no defenses or objections to allegations in Plaintiff's Complaint;

Nevertheless, the Parties wish to resolve this claim as follows:

1. Meaning of Terms.

- (a) As used in this Agreement, "Plaintiffs" shall mean Jerry A. Rensch, Trustee of the Jerry A. Rensch Revocable Living Trust; Kathleen B Rensch, Trustee of the Kathleen B. Rensch Revocable Living Trust; David Nanson and Sarah L. Nanson, Trustees of the Nanson Revocable Trust; KBII, LLC, a limited liability company; and Christopher J. Nanson, Trustee of the LC Trust, their spouses, heirs, executors, administrators, successors, agents, insurers, attorneys, assigns, and anyone claiming through him.
- (b) As used in this Agreement, "County" shall mean Clackamas County and current and former commissioners, current and former managers, current and former County Counsel, current and former County Administrators, current and former employees (in their individual and representative capacities), attorneys, insurers, and current and former agents.
- (c) As used in this Agreement, "Parties" shall mean Plaintiffs and the County as defined above.
- (d) As used in the Agreement, "the Property, or Property" shall mean the real property located at 29701 SW 60th Avenue, Wilsonville, Oregon 97070.

2. Consideration.

The Parties also agree and acknowledge that this Agreement is entered into in consideration of the mutual promises and covenants contained herein.

3. Settlement.

The parties agree to settle the present action under the following terms:

1. County shall execute in favor of and deliver to Plaintiffs a Quitclaim Deed transferring all interest in the easement transferred to Clackamas County on April 21, 1910, in Book 113, Page 491.
2. Plaintiffs shall file a dismissal with prejudice, and without fees, costs and disbursements of the claim against Clackamas County within seven (7) days of signing this agreement;

4. Mutual Release.

The Parties hereby waive any legal rights and releases and forever discharge each other as defined above from any and all liability, demands, claims, suits, actions, charges, damages, judgments, levies or executions, whether known or unknown, liquidated, fixed, contingent, direct or indirect, which have been or could have been raised which relate in any way to Plaintiffs' allegations or claims referenced in their complaint filed in the Circuit Court of the State of Oregon for the County of Clackamas, Case No. 21CV41147, except for Plaintiffs' right to enforce the Agreement according to its terms. The Parties agree to a full and final waiver and release of all such claims which relate Plaintiffs claim against County, specifically including but not limited to all claims for relief or remedy of any type under any state or federal laws.

5. No Admission of Liability.

Plaintiffs acknowledge the Agreement is a compromise and final settlement of a disputed claim. Nothing in the Agreement shall be construed to be or used as an admission of liability, fault, or wrongful, tortious, or unlawful activity by any party. No part of this agreement shall be admissible in any court or alternative dispute resolution proceeding for the purpose of proving liability, causation, or fault.

6. Covenant Not to Commence Lawsuit or Claim.

The Parties further covenant that they will not commence or bring any lawsuit or claim in the future against the other party as a result of any of the events related to the Plaintiffs' claim prior to execution of this Agreement or any act or thing done or omitted to be done by the other party prior to the execution of this Agreement.

7. Integration.

The Parties agree that this Agreement states the entire agreement of the Parties and supersedes all prior and contemporaneous negotiations and agreements, oral or written. Each party expressly acknowledges that the other party did not, directly or indirectly, make any promises, representations, or warranties whatsoever, express or implied, other than those contained in this Agreement. The Parties further agree that this Agreement may be amended only by a subsequent writing signed by the Parties.

8. Severability and Governing Law.

The Parties agree that any provision of this Agreement that is held to be illegal, invalid, or unenforceable under present or future laws shall be fully severable. The Parties further agree that this Agreement shall be construed and enforced as if the illegal, invalid, or unenforceable provision had never been a part of this Agreement and the remaining provisions of this

Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement. Furthermore, a provision as similar to the illegal, invalid, or unenforceable provision as is possible and legal, valid, and enforceable shall be automatically added to this Agreement in lieu of the illegal, invalid, or unenforceable provision. The Parties also agree that Oregon law shall govern the validity and enforceability of this Agreement.

9. No Assignment, Subrogation, or Transfer.

The Parties represent and warrant that there has not been and there will be no assignment, subrogation or other transfer of any interest in any of the released claims. The Parties agree to and hold the released Parties, and each of them, harmless from any liability, claims, demands, costs, expenses and attorneys' fees incurred by the released parties, or any of them, as a result of any person asserting any such assignment or transfer or any rights to claims under any such assignment or transfer.

10. Attorney Fees and Costs.

Each party to this Agreement shall bear its own attorney fees and costs incurred before and through the date of this Agreement.

11. Execution of this Agreement.

This Agreement may be executed in one or more identical counterparts, including facsimile and scanned and electronically transmitted counterparts, each of which shall be deemed an original. All counterparts shall constitute one Agreement, binding on all the Parties, notwithstanding that all of the parties have not signed the same counterpart.

12. Review by Counsel.


The Parties have been given the opportunity to have this Agreement reviewed by counsel. BY SIGNING THIS AGREEMENT, PLAINTIFFS ACKNOWLEDGE that they have carefully read and fully understand all provisions and effects of this Agreement and that the County advised them in writing, by this paragraph, to consult with their own attorneys before signing this Agreement; that they have had sufficient opportunity to consult with attorney(s) before signing this Agreement; that they are voluntarily entering into this Agreement free of coercion and duress; and that neither the County nor any of their agents or attorneys, has made any representations or promises concerning the terms or effects of this Agreement other than those expressly set forth herein.

IN WITNESS WHEREOF, the Parties hereto have executed this Settlement Agreement and Release of Claims on the respective dates set forth below.

Signatures on next page.

CLACKAMAS COUNTY
BOARD OF COUNTY COMMISSIONERS

Tottie Smith, Chair
Date: _____, 2022.



Christopher J. Nanson
Trustee of the LC Trust
Date: January 31, 2022.


Jerry A. Rensch
Trustee of the Jerry A. Rensch
Revocable Living Trust
Date: _____, 2022.

Kathleen B Rensch of the
Trustee of the Kathleen B. Rensch
Revocable Living Trust
Date: _____, 2022.

David Nanson and Sarah L. Nanson
Trustees of the Nanson Revocable Trust
Date: _____, 2022.

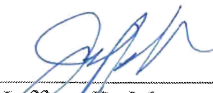
Kelli Bradley, Manager
KB II, LLC, a limited liability company
Date: _____, 2022.

APPROVED AS TO FORM:



Jennelle J. Johnson
Of Attorneys for Plaintiffs
Date: February 2, 2022.

APPROVED AS TO FORM:



Jeffrey D. Munns
Assistant Clackamas County Counsel
Date: February 9, 2022.


CLACKAMAS COUNTY
BOARD OF COUNTY COMMISSIONERS

Tootie Smith, Chair
Date: _____, 2022.

Christopher J. Nanson
Trustee of the LC Trust
Date: _____, 2022.

Jerry A. Rensch
Trustee of the Jerry A. Rensch
Revocable Living Trust
Date: _____, 2022.

Kathleen B Rensch of the
Trustee of the Kathleen B. Rensch
Revocable Living Trust
Date: _____, 2022.



David Nanson and Sarah L. Nanson
Trustees of the Nanson Revocable Trust
Date: 1/24/22, 2022.

Kelli Bradley, Manager
KB II, LLC, a limited liability company
Date: _____, 2022.

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Jennelle J. Johnson
Of Attorneys for Plaintiffs
Date: _____, 2022.

Jeffrey D. Munns
Assistant Clackamas County Counsel
Date: _____, 2022.

CLACKAMAS COUNTY
BOARD OF COUNTY COMMISSIONERS

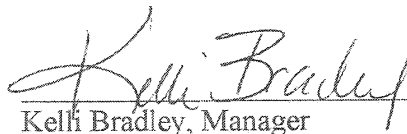
Tootie Smith, Chair
Date: _____, 2022.

Christopher J. Nanson
Trustee of the LC Trust
Date: _____, 2022.

Jerry A. Rensch
Trustee of the Jerry A. Rensch
Revocable Living Trust
Date: _____, 2022.

Kathleen B Rensch of the
Trustee of the Kathleen B. Rensch
Revocable Living Trust
Date: _____, 2022.

David Nanson and Sarah L. Nanson
Trustees of the Nanson Revocable Trust
Date: _____, 2022.



Kelli Bradley, Manager
KB II, LLC, a limited liability company
Date: 2/1, 2022.

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Jennelle J. Johnson
Of Attorneys for Plaintiffs
Date: _____, 2022.

Jeffrey D. Munns
Assistant Clackamas County Counsel
Date: _____, 2022.

CLACKAMAS COUNTY
BOARD OF COUNTY COMMISSIONERS

Tootie Smith, Chair
Date: _____, 2022.

Christopher J. Nanson
Trustee of the LC Trust
Date: _____, 2022.

JERRY A. RENSCH

Jerry A. Rensch
Trustee of the Jerry A. Rensch
Revocable Living Trust
Date: 1/25/22, 2022.

Kathleen B Rensch

Kathleen B Rensch of the
Trustee of the Kathleen B. Rensch
Revocable Living Trust
Date: 1/25/22, 2022.

David Nanson and Sarah L. Nanson
Trustees of the Nanson Revocable Trust
Date: _____, 2022.

Kelli Bradley, Manager
KB II, LLC, a limited liability company
Date: _____, 2022.

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Jennelle J. Johnson
Of Attorneys for Plaintiffs
Date: _____, 2022.

Jeffrey D. Munns
Assistant Clackamas County Counsel
Date: _____, 2022.

**Until a change is requested,
all tax statements will be sent to:**
No Change

After recording return to:

Abraham J. Barnett
The Barnett Firm
11501 SW Pacific Hwy, Suite 201
Portland, OR 97223

STATUTORY QUITCLAIM DEED

Clackamas County, a political subdivision of the State of Oregon, Grantor, releases and quitclaims a one-quarter ownership interest to Jerry A. Rensch, Trustee of the Jerry A. Rensch Revocable Living Trust, a one-quarter ownership interest to Kathleen B. Rensch, Trustee of the Kathleen B. Rensch Revocable Living Trust, a one-sixth ownership interest to KB II LLC, a one-sixth ownership interest to David K. Nanson, Trustee of the Nanson Revocable Trust, and a one-sixth ownership interest to Christopher J. Nanson, Trustee of the LC Trust, Grantees, all right, title, and interest in and to the following described real property:

The easement transferred to Clackamas County on April 21, 1910, in Book 113, Page 491.

Legal Description: Real Property in the County of Clackamas, State of Oregon, described as follows:

Beginning at point 4.91 ch. South and 15.32 ch. East of the ¼ Sec. corner on West boundary of Sec. 18, T3S, R1E of Willamette Meridian thence South 39 ch. To Willamette River thence east 20 ft. thence North 39 ch. to a point thence West 20 ft. to place of beginning. Also beginning at said point 4.91 chains South and 15.32 ch. East of said Sec. corner in said township and range; thence East 26 rods thence south 20 ft. thence West 26 rods thence North 20 ft. to place of beginning.

The true consideration for this conveyance is other value given.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES 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 THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED

IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. 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 THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5

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TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

DATED: February 17, 2022.

CLACKAMAS COUNTY
BOARD OF COUNTY COMMISSIONERS
Tootie Smith
Sonia Fischer
Paul Savas
Martha Schrader
Mark Shull

Tootie Smith, Chair

STATE OF OREGON)
) ss.
County of Clackamas)

This instrument was acknowledged before me on this 17th day of February, 2022, by Tootie Smith, as Chair of the Clackamas County Board of County Commissioners.

Notary Public for Oregon
My Commission Expires: _____

Clackamas County, Oregon, Board of County Commissioners approved this item by Agenda Item Number _____ on February 17, 2022.