

RECEIVED on 02/08/2021 CDMS19-00007
By Contra Costa County
Department of Conservation and Development

TO: JAMES CAMPOS
FROM: JEFF ROONEY
DATE: FEBRUARY 5, 2021
CLIENT: CAMPOS DEVELOPMENT LLC
SUBJECT: NORRIS ROAD ACCESS & MAINTENANCE Page 1 of 2

At the request of Campos Development, LLC.(CDL), Vantage Point Law, Inc. has been requested to review, research and provide findings regarding CDL rights of access over the private Norris Road and its obligations, if any, for maintenance of Norris Road. CDL owns the real property legally described on the Exhibit 1 attached ("Property") and abuts both Norris Road and Blackwood Drive.

I.

The Property was created from a portion of lot No. 4 of the R. N. Burgess Company's Map No. 1 recorded on July 22, 1912. That 1912 subdivision and map depicted not only individual lots but also private roads, including Norris Road and Sharp Road. The Property includes a 15' strip of Norris Road within its borders and the lot lines in the subdivision run to the centerlines of Norris Road or Sharp Road. No separate written easement for ingress or egress were, to the best of my investigation, ever created or recorded as part of the subdivision. The Property 'abuts' Norris Road. By the time of the creation of the subdivision **"It is a thoroughly established proposition in this state that, when one lays out a tract of land into lots and streets and sells the lots by reference to a map which exhibits the lots and streets as they lie with relation to each other, the purchasers of such lots have a private easement in the streets opposite their respective lots, for ingress and egress and for any use proper to a private way, and that this private easement is entirely independent of the fact of dedication to public use, and is a private appurtenance to the lots, of which the owners cannot be divested except by due process of law. Kittle v. Pfeiffer, 22 Cal. 490; Petitpierre v. Maguire, 155 Cal. 250, 100 Pac. 690; Prescott v. Edwards, 117 Cal. 304, 49 Pac. 478, 59 Am. St. Rep. 186; Schaufele v. Doyle, 86 Cal. 109, 24 Pac. 834; Eachus v. Los Angeles, etc., Co., 103 Cal. 617, 37 Pac. 750, 42 Am. St. Rep. 149; Cushing-Wetmore Co. v. Gray, 152 Cal. 122, 92 Pac. 70, 125 Am. St. Rep. 47; Williams v. Los Angeles, etc., Co., 150 Cal. 594, 89 Pac. 330; *690 King v. Dugan, 150 Cal. 263, 88 Pac. 925; Archer v. Salines, 93 Cal. 49, 28 Pac. 839, 16 L. R. A. 145; Grogan v. Haywards (C. C.) 4 Fed. 163; Gormley v. Clark, 134 U. S. 350, 10 Sup. Ct. 554, 33 L Ed. 909". Danielson v. Sykes, 157 Cal. 686, 689-90, 109 P. 87, 88 (1910).**

Therefore, I am of the opinion that the Property, along with those other owners of lots created by the 1912 map have private easements for 'ingress, egress, and any use proper to a private way' as both abutting parcels and parcels created by the subdivision map. As a point of reference I obtained and reviewed a copy of the legal description of the property owned by the appellant, Barbara Spruck, which is attached as Exhibit 2.

Vantage Point Law, Inc. A California Professional Corporation Attorney Work Product Declaration

This document is meant for internal use and dissemination between attorney, client, and authorized legal staff, only. Any information found herein merely reflect the impressions, conclusions, opinions, legal research, and/or theories of the attorney and/or legal staff in preparation for litigation. This document and its contents are not discoverable under any circumstances, and is protected under the California Civil Attorney Work Product Statute (Cal. Code Civ. Pro. §2018.030(a)) and the Federal Rule of Civil Procedure 26(b)(3)

MEMO

The Spruck parcel was created out of what was originally Lot No. 7 of the same R. N. Burgess Company's Map No. 1 recorded on July 22, 1912 and also has its property line running to the middle of Norris Road, but from the opposite side as the CDL Property. In the Spruck legal description, there is no separate written easement for ingress and egress over Norris Road, yet that is the access route used by the Spruck property. The Spruck property, the CDL property and the other abutting property owners' rights to access Norris Road all arose from the recordation on July 22, 1912 of the R.N. Burgess Company's subdivision map.

II.

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A review of the public record and the preliminary title report issued to CDL at the time of its acquisition of the Property revealed no written private road maintenance agreement. I further inquired of Mr. Campos and he confirmed he was not provided any disclosure of the existence of a private road maintenance agreement. I therefore assume that no such private road maintenance agreement exists or affects the Property. Notwithstanding the lack of such a written agreement (which if one existed, would govern), California has specific statutory provisions to address duties and obligations of multiple property owners accessing a private road. *California Civil Code §845 (a) and (b)* which read:

§ 845. Easements; maintenance; failure to pay owner's share of costs; snow removal

(a) The owner of any easement in the nature of a private right-of-way, or of any land to which any such easement is attached, shall maintain it in repair.

(b) If the easement is owned by more than one person, or is attached to parcels of land under different ownership, the cost of maintaining it in repair shall be shared by each owner of the easement or the owners of the parcels of land, as the case may be, pursuant to the terms of any agreement entered into by the parties for that purpose. **In the absence of an agreement, the cost shall be shared proportionately to the use made of the easement by each owner.**

The language of Civil Code §845 (b) is quite clear that CDL, along with other parcel owners using Norris Road would share the cost of maintenance proportionally. The fact that CDL has only intermittently used Norris Road to date would suggest that its 'proportional share' would be extremely small. However, upon construction of a home on the newly created CDL parcel, the CDL (or the new homeowner) 'proportion' would increase to that of the others who regularly access Norris Road.

EX 1

RECORDING REQUESTED BY:
Fidelity National Title Company

When Recorded Mail Document
and Tax Statement To:
Campos Development, LLC
1555 Botelho Drive #421
Walnut Creek, CA 94596

20199007676700003
CONTRA COSTA Co Recorder Office
JOSEPH CANCIAMILLA, Clerk-Recorder
DOC 2019-0076767-00
Acct 1078-SIMPLIFILE Fidelity National Title CD
Friday, MAY 24, 2019 12:46:59
SB2 \$0.00|MOD \$3.00|REC \$13.00
FTC \$2.00|RED \$1.00|ERD \$1.00
SUR \$10.00|CCC\$1,314.50|
Ttl Pd \$1,344.50 Nbr-0003475898
LLL/RC/1-3

Escrow Order No.: FCHC-5011900826

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Property Address: 2216 Blackwood Drive,
Walnut Creek, CA 94596
APN/Parcel ID(s): 183-172-001

Exempt from fee per GC 27388.1 (a) (2); recorded in connection with a transfer subject to
the imposition of documentary transfer tax.

GRANT DEED

The undersigned grantor(s) declare(s)

- ☐ This transfer is exempt from the documentary transfer tax.
☒ The documentary transfer tax is \$1,314.50 and is computed on:
☒ the full value of the interest or property conveyed.
☐ the full value less the liens or encumbrances remaining thereon at the time of sale.
The property is located in ☒ an Unincorporated area.

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Elizabeth Ann Todoroff, a single woman

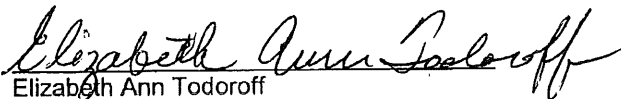
hereby GRANT(S) to Campos Development, LLC, a California limited liability company

the following described real property in the Unincorporated Area of the County of Contra Costa, State of California:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Dated: May 13, 2019

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.


Elizabeth Ann Todoroff

MAIL TAX STATEMENTS AS DIRECTED ABOVE

GRANT DEED
(continued)

APN/Parcel ID(s): 183-172-001

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of ~~California~~ Montana

County of Lake

On May 15, 2019 before me, Koral Haggard, Notary Public,
(here insert name and title of the officer)

personally appeared Elizabeth Ann Todoroff,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Koral Haggard
Signature

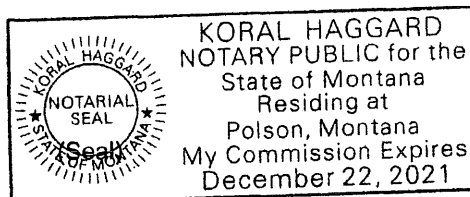


EXHIBIT "A"
Legal Description

For APN/Parcel ID(s): 183-172-001

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

PORTION OF LOT 4, AS DESIGNATED ON THE MAP ENTITLED "R N BURGESS COMPANY'S MAP NO 1, NORRIS ADDITION TO WALNUT HEIGHTS, A PORTION OF THE RANCHO SAN MIGUEL, CONTRA COSTA COUNTY, CALIFORNIA", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF CONTRA COSTA COUNTY, CALIFORNIA, ON JULY 22, 1912 IN VOLUME 7 OF MAPS, AT PAGE 174, CONTAINING ONE ACRE, MORE OR LESS, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING IN THE CENTER LINE OF NORRIS ROAD, DISTANT THEREON NORTH 58° 54' WEST 166.5 FEET FROM THE LINE BETWEEN LOTS 4 AND 5, SAID POINT BEING THE MOST NORTHERLY CORNER OF THE 1.5 ACRE PARCEL OF LAND DESCRIBED IN DEED FROM OAKLAND AND ANTIOCH LAND CO. TO WILLIAM F. WHITEMAN DATED JANUARY 20, 1917 AND RECORDED IN VOLUME 287 OF DEEDS AT PAGE 396, THENCE FROM SAID POINT OF BEGINNING NORTH 58° 54' WEST ALONG SAID CENTER LINE 111 FEET TO THE SOUTHEAST LINE OF THE 0.50 OF AN ACRE PORTION OF LOT 4, DESCRIBED IN DEED FROM WESTERN GROUP SECURITIES COMPANY TO GUY L. PUTNAM, ET AL, DATED MARCH 27, 1925 AND RECORDED APRIL 2, 1925 IN VOLUME 484 OF DEEDS, AT PAGE 370, THENCE SOUTH 31° 06' WEST ALONG SAID LINE 392.28 FEET TO THE SOUTHWEST LINE OF LOT 4, THENCE SOUTH 58° 54' EAST ALONG SAID LINE 111 FEET TO THE NORTHWEST LINE OF THE SAID WHITMAN PARCEL (287 D 396) THENCE NORTH 31° 06' EAST ALONG SAID LINE 392.26 FEET TO THE POINT OF BEGINNING.

EX 2

2

RECORDING REQUESTED BY:

Fidelity National Title Company
Escrow No.: 05-612591-BS
Locate No.: CAFNT0907-0907-0006-0000612591
Title No.: 05-612591-MK

**When Recorded Mail Document
and Tax Statement To:**

Ms. Barbara Spruck
2154 Norris Road
Walnut Creek, CA 94596



CONTRA COSTA Co Recorder Office
STEPHEN L. WEIR, Clerk-Recorder
DOC- 2005-0373501-00

Acct 4- Fidelity National Title
Friday, SEP 30, 2005 08:00:00
CCC \$946.00 SUR \$10.00 MIC \$1.00
MOD \$2.00 REC \$6.00 TCF \$1.00
Ttl Pd \$966.00
Nbr-0002924445
MNH/R2/1-2

APN: 183-171-004

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT DEED

The undersigned grantor(s) declare(s)

Documentary transfer tax is \$946.00

- ☒ computed on full value of property conveyed, or
- ☐ computed on full value less value of liens or encumbrances remaining at time of sale,
- ☒ Unincorporated Area City of

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, California F.I., LLC, A California Limited Liability Company

hereby GRANT(S) to Barbara Spruck, an unmarried woman and Ryan Kish, an unmarried man ,as Joint Tenants

the following described real property in the County of Contra Costa, State of California:
SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

DATED: September 21, 2005

STATE OF CALIFORNIA

COUNTY OF Alameda

ON September 22, 2005 before me,

the undersigned Notary Public personally appeared

Wilson Young

California F.I., LLC, A California Limited Liability Company
by JF Steward, LLC, a California Limited Liability

By: [Signature] Company, Manager

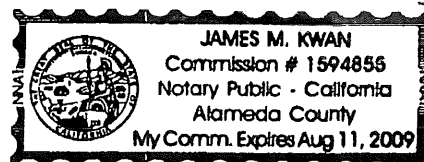
Wilson Young, Manager

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature

[Signature: James M. Kwan]



MAIL TAX STATEMENTS AS DIRECTED ABOVE

Escrow No.: 05-612591-BS
Locate No.: CAFNT0907-0907-0006-0000612591
Title No.: 05-612591-MK

373501

EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UN-INCORPORATED AREA, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

Portion of Lot 7, Map of Norris Addition, filed July 22, 1912, Map Book 7, page 174, Contra Costa County Records, described as follows:

Beginning at a point on the northeasterly line of Lot 7, distant thereof South 58° 54' East 116.22 feet from the most Northerly corner of Lot 7 as said lot is delineated and so designated on that certain map entitled "R.N. Burgess Company's Map No. 1, Norris Addition to Walnut Heights, a portion of The Rancho San Miguel, Contra Costa County Records; thence South 31° 06' West 374.80 feet to a point on the Southwesterly line of said Lot 7; thence along the Southwesterly line of said Lot 7, South 58° 54' East 116.22 feet; thence North 31° 06' East 374.80 feet to a point on the Northeasterly line of said Lot 7; thence 58° 54' West 116.22 feet to the point of beginning.

EXCEPTING THEREFROM: All that portion thereof conveyed in the deed to Audrie E. Brown, recorded October 11, 1966, Book 5222 Official Records, page 231.

END OF DOCUMENT

Initials: 13