

CITY OF AMADOR CITY

RESOLUTION NO. 356

**A RESOLUTION OF THE CITY OF AMADOR CITY
ACCEPTING GRANT OF ROADWAY EASEMENT**

WHEREAS, the City will undertake retaining wall repair along Fleehart Street in the City;
and

WHEREAS, a portion of the retaining wall requiring repair is outside the City's existing road
right of way for Fleehart Street; and

WHEREAS, the City has solicited and received a Grant of Roadway Easement from Robert
L. Netzer and Louise L. Netzer, Trustees U.D.T. sufficient to accommodate construction of the
required retaining wall; and

WHEREAS, said easement has been offered to the City at no cost to the City.

NOW, THEREFORE BE IT RESOLVED that the City Council hereby accepts Grant of
Roadway Easement from Robert L. Netzer and Louise L. Netzer, Trustees U.D.T.; and

BE IT FURTHER RESOLVED the City Clerk is hereby authorized to record said Grant of
Roadway Easement with the County Recorder at the earliest possible date.

PASSED AND ADOPTED, by the City Council of the City of Amador City, County of
Amador, State of California on the 21 day of AUG, 1997, by the following vote:

AYES: Bragstad, Gudwin, Luxemburg, McKune, Shaw

NOES: 0

ABSTAIN: 0

ABSENT: 0

Susan Bragstad, Mayor

ATTEST:

Bernice L. Hunter

WHEN RECORDED MAIL TO:

Assessor Parcel No. _____

MAIL TAX STATEMENTS TO:

Documentary Transfer Tax \$ _____

Signature of Agent _____

GRANT OF ROADWAY EASEMENT

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

ROBERT L. NETZER and LOUISE L. NETZER, Trustees U.D.T. (Under Declaration of Trust)

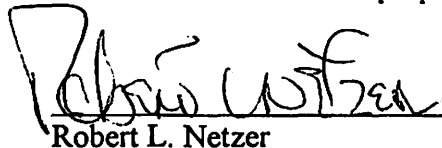
hereby GRANT(S) to **THE CITY OF AMADOR CITY**

the real property in the City of Amador City, County of Amador, State of California, described as:

A permanent and non-exclusive easement for the construction, reconstruction, maintenance, and repair of Fleechart Street retaining wall and appurtenances used or useful in connection therewith, over, under, through, and across a portion of Lot 16, Block 1 of Amador City townsite, more particularly described in Exhibit "A" which is attached hereto and made part hereof. Said easement is to be perpetual and non-exclusive.

Dated

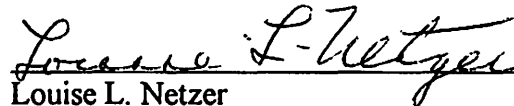
8/11/97



Robert L. Netzer

Dated

8/11/97



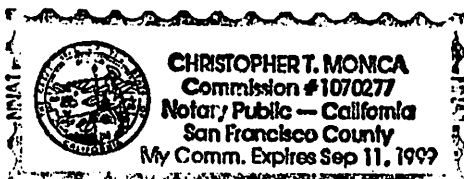
Louise L. Netzer

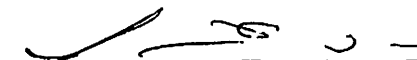
STATE OF CALIFORNIA)

SAN FRANCISCO) SS.
COUNTY OF AMADOR)

On 8-11-97 before me, CHRISTOPHER T. MONICA the personally appeared ROBERT L. NETZER & LOUISE L. NETZER 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 WHEREOF my hand and official seal.




Notary Public
State of California

My Commission Expires 9-11-99

EXHIBIT "A"

LEGAL DESCRIPTION FOR FLEECHART STREET ROAD EASEMENT

Commencing at the southwesterly corner of Lot 16 in Block 1 Townsite of Amador, as the same is set forth on the official map of said Townsite of Amador and on Record of Survey Map 36-M-26 recorded in Amador County on November 15, 1982; thence S63°25' 55"E along the southerly line of the said Lot 16 to the southeast corner of said Lot 16 being the true point of beginning of the herein described easement; thence N12°34' 05"E, 10.00 feet along the easterly line of said Lot 16; thence N63°25' 55"W, 22.5 feet more or less to the east wall of the rock structure now standing upon said Lot 16; thence southerly along said east wall to the southeast corner of said structure; thence northwesterly along a line parallel to and adjacent to the south wall of said structure 37.0 feet more or less to the southerly line of said Lot 16; thence S63°25' 55" E, 61.0 feet more or less along the southerly line of said Lot 16 to the southeast corner of said Lot 16 and the true point of beginning of the herein described easement, all as set forth on Exhibit "B" attached hereto and made a part hereof.

EXCEPTING THEREFROM all that portion of said Lot 16 conveyed to the City of Amador by deed recorded August 23, 1945 in Book 23 of Official Records at Page 69, Records of Amador County.

END OF DESCRIPTION

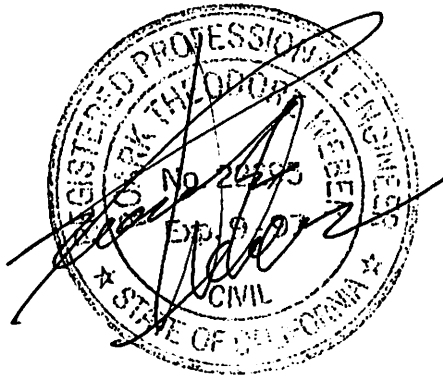
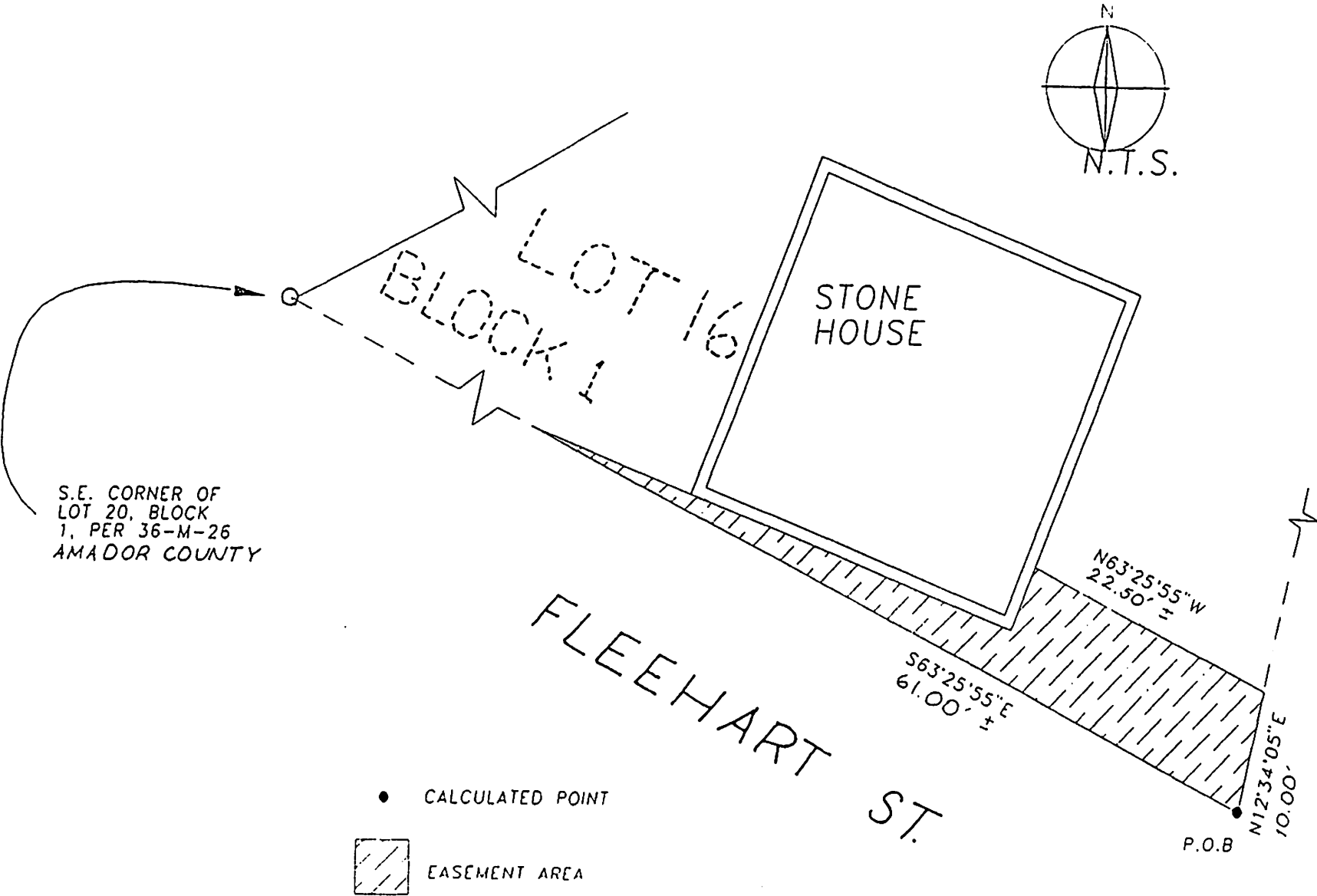


EXHIBIT "B" OF LEGAL DESCRIPTION FOR FLEE HART STREET ROAD EASEMENT



§ 7001. Acquisition of property interest as public purpose

The Legislature hereby declares that the acquisition of interests or rights in real property for the preservation and conservation of the scenic lands and areas provided for in Section 7000 constitutes a public purpose for which public funds may be expended or advanced, and that any of the state departments specified in this chapter may acquire, by purchase, gift, grant, bequest, devise, lease, condemnation or otherwise, the fee or any lesser interest, development right, easement, covenant or other contractual right necessary to achieve the purposes of this chapter. Any of said departments may also acquire the fee to any of the property for the purpose of conveying or leasing said property back to its original owner or another person under such covenants or other contractual arrangements as will conserve the scenic character and value of the property in accordance with the purposes of this chapter.

Added Stats 1963 ch 1758 § 3.

§ 7002. Acquisition of rights or interests in real property within coastal zone

The state agencies specified in Section 7000 may exercise the powers specified in that section for the acquisition of rights or interests in real property within the coastal zone, as defined in Section 30103 of the Public Resources Code, for scenic easements or any of the other purposes specified in Section 7000. The provisions of Section 7001 shall apply to the provisions of this section. Such agencies may expend any funds appropriated for such purposes in the acquisition of such rights or interests in real property.

Added Stats 1977 ch 675 § 2.

CHAPTER 12.7*Dedication of Real Property for Public Purposes*

[Added by Stats 1967 ch 1089 § 1.]

§ 7050. Irrevocable offer of dedication of realty for public purpose, and proceedings thereon

With the consent of the city, county, or city and county, as the case may be, an irrevocable offer of dedication of real property for any public purpose, including, but not limited to, streets, highways, paths, alleys, including access rights and abutter's rights, drainage, open space, public utility or other public easements, parks, or other public

(b) The Legislature finds and declares that, because of the unique circumstances applicable to the Counties of San Bernardino and Orange, as regards the present ability of these counties to process digitized images for recordation, a statute of general applicability cannot be enacted within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution.

(c) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, enacted before January 1, 1999, deletes or extends that date.

Added Stats 1996 ch 842 § 1 (AB 3296).

ARTICLE 3

Documents to be Recorded

Collateral References:

Cal Jur 3d Municipalities § 272.

The 1982 amendment to Gov. Code, § 27201, has not set aside need for document to comply with requirements of Gov. Code, §§ 27280-27296, or for county recorder to see that document complies before recording it. 67 Ops Atty Gen 93.

§ 27280. Instruments and judgments recordable; Change in ownership statement

(a) Any instrument or judgment affecting the title to or possession of real property may be recorded pursuant to this chapter.

(b) Any instrument or document submitted for recordation which effectuates a change in ownership may be accompanied by a change in ownership statement as provided for in Section 480 of the Revenue and Taxation Code. Upon receipt of such change in ownership statement, the recorder shall transmit, as soon as possible, the original statement or true copy thereof to the county assessor along with the recorded document as required by Section 255.7 of the Revenue and Taxation Code. The change in ownership statement shall not be recorded nor open and available to public inspection and shall at all times remain confidential, except as provided in Section 408 of the Revenue and Taxation Code.

Amended Stats 1979 ch 242 § 1, effective July 10, 1979.

Amendments:

1979 Amendment: (1) Designated the former section to be subd (a); and (2) added subd (b).

Cross References:

Disclosures required by arranger of credit in certain residential property transactions: CC § 2963.

Collateral References:

Witkin Summary (9th ed) Security Transactions in Real Property § 56.

Cal Jur 3d Municipalities § 272, Records and Recording Laws § 23.

Miller & Starr, Cal Real Estate 2d §§ 8:3, 8:4, 8:5, 8:9, 8:46, 8:47.

Cal Forms, Real Property § 23:42, Rights and Interests §§ 25:74, 25:123.

Review of Selected 1979 California Legislation. 11 Pacific LJ 625.

So long as the recording of particular documents would not be in violation of pertinent state laws, a county board of supervisors of a general law county has the power to provide by ordinance for the recording of such documents in addition to those documents which state law authorizes to be recorded. However, such documents must be recorded pursuant to the procedures set forth in Gov. Code, §§ 27200-27383 and in Civ. Code, §§ 1169-1220. 63 Ops Atty Gen 905.

Release of mechanic's lien must be acknowledged before it qualifies for recording by county recorder. 69 Ops Atty Gen 97.

§ 27280.5. Requisite legible signatures on documents

Collateral References:

Cal Jur 3d Records and Recording Laws § 26.

§ 27281. Certificate or resolution of acceptance of conveyance; Form; Acceptance and consent by officers or agents

Deeds or grants conveying any interest in or easement upon real estate to a political corporation or governmental agency for public purposes shall not be accepted for recordation without the consent of the grantee evidenced by its certificate or resolution of acceptance attached to or printed on the deed or grant. If a certificate of acceptance is used, it shall be in substantially the following form:

This is to certify that the interest in real property conveyed by the deed or grant dated _____ from _____ to _____, a political corporation and/or governmental agency is hereby accepted by order of the _____

(legislative body)

on _____, (or by the undersigned officer or agent on behalf
(date)

of the _____

(legislative body)

pursuant to authority conferred by resolution of the _____

(legislative body)

adopted on _____, and the grantee consents to recordation
(date)

thereof by its duly authorized officer.

Dated _____

By _____

A political corporation or governmental agency, by a general resolution, may authorize one or more officers or agents to accept and consent to such deeds or grants.

In cases where the county tax collector files purchaser's deeds with respect to a sale for defaulted taxes, the information contained in those documents shall be deemed to constitute compliance with this section. The requirements of this section shall not apply to a deed of trust or other security or regulatory document recorded by or on behalf of a state agency pursuant to a program or activity of the agency authorized by statute or regulation.

Amended Stats 1979 ch 373 § 148; Stats 1983 ch 149 § 1; Stats 1986 ch 1420 § 1; Stats 1990 ch 1312 § 2 (SB 2695).

Amendments:

1979 Amendment: Routine code maintenance.

1983 Amendment: Substituted "one or more officers or agents" for "an officer or agent" in the last paragraph.

1986 Amendment: Added the last paragraph.

1990 Amendment: Added the fourth paragraph.

Note—Stats 1990 ch 1312 provides:

SEC. 5. Any deed of trust or other security or regulatory document recorded by or on behalf of a state agency pursuant to that agency's authorized programs or activities, which has been accepted for recordation during the period from January 1, 1957, to the effective date of this act, is hereby validated as being a document entitled to recordation provided that the deed or grant was in other respects acceptable for recordation. Any deed or grant that has been so recorded during that period shall impart and shall be deemed to have imparted from the date of recordation notice of its contents to subsequent purchasers and encumbrancers. The Legislature hereby finds and declares that amendment of Section 2721 of the Government Code made by this act does not constitute a change in, but is declaratory of, existing law, and consistent with administrative practice.

Collateral References:

Cal Jur 3d Records and Recording Laws § 26.

Miller & Starr, Cal Real Estate 2d §§ 1.6:50, 8:5, 8:8.

Recording of assignment to Public Employees' Retirement System (PERS) of beneficial interest in deed of trust pursuant to PERS Member Home Loan Program must be accompanied by certificate or resolution of acceptance as specified in Gov C § 27281. Recording of State Department of Housing and Community Development's (HCD) interest as beneficiary in deed of trust executed pursuant to loan made by HCD for development of low and moderate income housing must be accompanied by certificate or resolution of acceptance as specified in Gov C § 27281. 73 Ops Atty Gen 305.

§ 27281.5. Recordation of restriction imposed by governmental entity on real property

(a) Any restriction imposed upon real property on or after January 1, 1982, which restricts either the ability of the owner of real property to convey the real property or the owner of a proprietary leasehold interest to convey such interest and which is imposed by a municipal or governmental entity on real property or a proprietary leasehold interest which is not owned by the municipal or governmental entity, shall be specifically set forth in a recorded document which particularly describes the real property restricted in order to impart constructive notice of the restriction, or shall be referenced in a recorded document which particularly describes the real property restricted and which refers by page and book number to a separate recorded document in which the restriction is set forth in full.

(b) Any restriction on the ability of a person to convey real property which is subject to subdivision (a) shall be valid and enforceable only when the requirements contained in subdivision (a) have been met.

(c) Nothing in this section shall be construed, either directly or by implication, to enhance, diminish, or authorize any municipal or governmental entity to impose a restriction on the ability of a person to convey real property or a proprietary leasehold interest.

Added Stats 1981 ch 663 § 1.

Collateral References:

Miller & Starr, Cal Real Estate 2d §§ 1.8:5, 11:36, 22:12.

Review of 1981 Legislation. 13 Pacific LJ 755.

NOTES OF DECISIONS

In an action against a land title company by a partnership that purchased an apartment building and thereafter learned of a conditional use permit restricting use of the property to senior citizen housing, which permit defendant allegedly failed to include in the abstract of title, plaintiff stated a cause of action for negligent preparation of the abstract of title. The permit should have been reported in the abstract of title because Gov. Code, § 27281.5, required the recording of the permit and made the effect of such recording constructive notice. Although the permit did not expressly impose any restrictions upon the process of sell-

ing or leasing, it unquestionably restricted the ability of the owner to convey the real property within the meaning of § 27281.5 because it limited the use of the property. Since that statute applies both to restrictions on an owner's ability to convey real property and to restrictions on a owner's ability to convey a proprietary leasehold interest it was clearly applicable to the property in question, even if the property was an ordinary apartment building, not cooperative one. 1119 Delaware v Continental Land Title Co. (1993, 2nd Dist) 16 CA4th 992, 20 Cal Rptr 2d 438.

§ 27282. Documents recorded without acknowledgments, certificates of acknowledgment, or further proof
Constructive notice

(a) The following documents may be recorded without acknowledgment, certificate of acknowledgment, or further proof:

(1) A judgment affecting the title to or possession of real property, authenticated by the certificate of the clerk of the court in which the judgment was rendered.

(2) A notice of location of mining claim.