

RECORDING REQUESTED BY:

EL DORADO COUNTY PLANNING DEPARTMENT

WHEN RECORDED, RETURN TO

NAME: Planning Department
MAILING ADDRESS: 2850 Fairlane Court
CITY, STATE, ZIP: Placerville, CA 95667

SPACE ABOVE RESERVED FOR RECORDERS USE

AVIGATION AND NOISE EASEMENT

This Easement and Agreement is made and entered into on the _____ day of _____, 200__ by and between the County of El Dorado, a political subdivision of the State of California, hereinafter "County," and PATRICK & REBECCA O'BRIEN, hereinafter "Grantor," pursuant to the authority of Chapter 17.38 of the El Dorado County Ordinance Code.

RECITALS

WHEREAS, pursuant to the requirements of Section 65302.3 of the Government Code of the State of California, the County of El Dorado, on May 12, 1987, amended Chapter 17.38 of the El Dorado County Ordinance Code and, on June 4, 1986, consistent with Section 17.38.030, the Foothill Airport Land Commission had adopted the LAKE TAHOE Airport Comprehensive Land Use Plan; and,

WHEREAS, Grantor is the owner in fee of that parcel of land identified by Assessor's Parcel Number 033-675-01 (Building Permit # 169341) and more particularly described and identified in Exhibit A attached hereto and made a part hereof (hereinafter "Parcel"), and,

WHEREAS, the Parcel lies within airport safety zone 3 as shown on the Comprehensive Land Use Plan of the LAKE TAHOE Airport (hereinafter "Airport");

AGREEMENT AND GRANT OF EASEMENT

NOW, THEREFORE, Grantor, on behalf of itself, its successors and assigns, for and in consideration of the determination by County that Grantor is in compliance with Section 17.38.062 of the El Dorado County Ordinance Code, does hereby grant to the County, its successors and assigns, for the benefit of the public, a perpetual avigation and noise easement, and makes warranties as follows:

1. The easement granted herein shall be for the free and unobstructed passage and flight of aircraft in, through, over, and across the airspace over said Parcel by County, its successors, assignees and their licensees and permittees, and by the public.

2. The rights herein granted shall include the right to overfly the Parcel and to allow, make and emit noise, light, vibrations, fumes, exhaust, smoke, air currents, dust, fuel particles and communications signals, including any inherent radio, television and other electromagnetic interferences, and all other effects as may be inherent to the operation of aircraft using said airspace or landing at, taking off from, or operating on the Airport, subject to the following limitation. The rights granted herein shall be applicable to aircraft of

Avigation and Noise Easement
Grantor: PATRICK & REBECCA
O'BRIEN Page 2

any and all kinds now know or hereafter invented, used or designed for navigation or flight in the air; provided, that such aircraft shall be of a class, size and category operationally compatible with the Airport, and that the level and nature of the use are consistent with general civil aviation use of the Airport in its configuration at the time of this grant, or with such improvements as may be reasonably foreseeable at the time of this grant, so that nothing in this paragraph is intended to abrogate the doctrine of "overburdening" of easements as defined by statutory and common law.

3. For and on behalf of itself, its successors and assigns, Grantor hereby covenants with County for the direct benefit of the real property constituting the Airport that neither Grantor nor its successors in interest or assigns shall hereafter construct or install, or permit the construction or installation, of any structure or object, or allow the growth of any tree or other vegetation over forty (40) feet in height, except with prior written consent of County or its designee. Grantor warrants and agrees that Grantor will comply with the forty (40) foot height limitation set forth herein and in Section 17.28.040 of the El Dorado County Ordinance Code, regardless of any amendment of Section 17.28.040 or any other section of the El Dorado County Ordinance Code that otherwise may increase the permissible height limitation applicable.

4. In addition to any other rights the County may have to enforce compliance with the height restrictions contained in paragraph 3, above, by Grantor, its successors and assigns, County, its successors and assigns, after thirty (30) days written notice to Grantor, its successors or assigns, shall have the right to remove any structure or object in excess of the forty (40) foot height limitation (or such portion of a structure or object as may exceed forty (40) feet in height, to the extent that such partial removal is feasible and reasonable), and shall have the right to cut or remove any vegetation exceeding forty (40) feet in height (or such portion as may exceed forty (40) feet in height, to the extent that such partial removal is feasible and reasonable) if such vegetation is determined by the County to constitute a hazard or obstruction to aerial navigation, violates any law or regulation, including, but not limited to, regulations of the Federal Aviation Administration, or otherwise interferes with the exercise of rights granted herein. County, its successors and assigns, are granted the right of ingress to, egress from, and passage over the Parcel for the foregoing purposes. No notice shall be required if it is determined by the County or its designee that the structure, object or vegetation constitutes an immediate threat to safety. Removal of any structure or vegetation not in compliance with the terms of this easement shall be at the expense of Grantor.

5. Grantor warrants and agrees that Grantor will refrain from any action or use of the Parcel that creates any electrical interference with radio communications between any installation at the Airport and aircraft. Grantor warrants that Grantor will refrain from erecting any structure or fixture which constitutes a barrier to pilots seeking to distinguish between airport lights and other lights or which impairs the visibility of the airport in such a manner as to endanger the landing, takeoff or maneuverability of aircraft seeking to land at, or take off from the Airport. County agrees that Grantor shall not be in violation of this warranty unless Grantor shall have been given express written notice by County, or County's assignees, of any breach of this warranty and that Grantor shall have a reasonable time within which to remedy the breach. Unless otherwise stated in the notice, thirty (30) days shall be deemed a reasonable time within which to remedy the breach. If the Grantor fails to cure the breach within the reasonable period of time after notice, County, its successors or assigns, shall have the same rights of access over and upon the Parcel for the purpose of curing such breach as are set forth in paragraph 4, above, and such cure shall be at the expense of Grantor. Advance notice shall not be required if it is determined by County that the breach constitutes an immediate threat to safety.

6. All covenants, conditions and warranties contained in this instrument are made and entered into for the benefit of County on behalf of the Airport and the public. These promises, covenants, conditions and warranties shall run with the Parcel, described and identified on Exhibit A, attached, and bind Grantor's heirs, administrators, executors, successors and assigns to the maximum extent permitted by law.

7(a). Grantor, on behalf of itself, its successors and assigns, hereby releases, waives, discharges and relinquishes, any and all claims, actions, causes of action, demands and liabilities of any nature whatsoever, which the Grantor now has or which may hereafter accrue, against the County, its officers, employees, and board or commission members, arising in any manner out of the operation of the Airport, the exercise of any rights granted under this easement or any aviation activities associated in any way with the Airport, except as provided in Section 7(b), below. Types of claims, actions, causes of action, demands and liabilities released, waived, discharged and relinquished herein include, but are not limited to, claims for property damage, bodily injury, personal injury, nuisance, trespass, conversion of property and inverse condemnation. The release, waiver and relinquishment contained in this paragraph shall be effective whether or not the claim or action arises out of conduct which is within or exceeds the rights granted by this easement, and whether or not the conduct is in compliance with the terms of this easement.

It is understood and agreed that all rights under Section 1542 of the Civil Code of California and any similar law of any state or territory of the United States are hereby expressly waived. Said section reads as follows:

"1542. Certain Claims Not Affected By General Release. A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

7(b). In the event that the County of El Dorado elects to directly operate and maintain the Airport, the release and waiver set forth in the foregoing Section 7(a) shall not apply in cases where the alleged harm or liability is caused by an act or omission of the County of El Dorado or an employee thereof constituting gross negligence, recklessness or willfulness; provided, that this Section 7(b) is not intended, in any event, to except from the release and waiver contained in Section 7(a) claims such as inverse condemnation and nuisance where the acts complained of are the exercise of rights granted under this easement.

In addition, if the County of El Dorado elects to directly operate and maintain the Airport, the release and waiver set forth in the foregoing Section 7(a) shall not apply to any action seeking injunctive relief based on allegations of any violation of any rule, regulation or practice of the Federal Aviation Agency (and/or any successor agency), the Division of Aeronautics of the California Department of Transportation (and/or any successor agency) or the Foothill Airport Land Use Commission (and/or any successor agency) or any other alleged violation of law governing the conduct of the County in the operation and maintenance of the Airport; provided, that no claim for monetary damages or any monetary award may be maintained in any such action unless the standard of gross negligence, recklessness or willfulness set out above is satisfied.

8. Nothing in this easement shall be construed to preclude Grantor, or Grantor's heirs, successors or assigns, from bringing a cause of action against any pilot, fixed base operator, manufacturer, maintenance entity or any person (other than the County of El Dorado and its officers, board and commission members) for an act or omission which constitutes a violation of any rule, regulation or practice of the Federal Aviation Agency (and/or any successor agency), the Division of Aeronautics of the California Department of Transportation (and/or any successor agency) or the Foothill Airport Land Use Commission (and/or any successor agency) or any other act, omission or breach of duty of ordinary care otherwise cognizable under the laws of the State of California.

9. Grantor agrees to defend at its own cost, hold harmless and indemnify County from any liability arising out of Grantor's failure to comply with the terms of this easement.

10. This easement and the warranties made a part hereof shall continue in effect until the Airport shall be permanently abandoned and shall cease to be used for public airport purposes.

11. County may assign all or any portion of the rights herein to any special district heretofore or hereafter formed for the purpose of operating the Airport, or to any other public entity which assumes responsibility for such operation: provided, however, that both Sections 7(a) and 7(b) shall be applicable with respect to any such public entity assignee. In addition, the terms and limitations contained in Sections 7(a), 7(b) and 8 shall remain in effect and binding as between Grantor, its heirs and successors, and County, its officers, employees and board and commission members notwithstanding any assignment of rights herein.

For Grantor(s):
By: [Signature]
Print: PAT O'BRIEN

For the County of El Dorado

By: _____
Print: _____

By: [Signature]
Print: Rebecca O'Brien

ATTEST:

STATE OF CALIFORNIA

)ss.

County of El Dorado)

On _____, before me, _____, Notary Public, personally appeared _____, 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.

STATE OF HAWAII

County of Kauai

On this 19 day of MAY, 2007, before me personally RP appeared PATRICK O'BRIEN & REBECCA O'BRIEN to me known to be the person S described in and who executed the foregoing instrument, and acknowledged that THEY executed the same as THEIR free act and deed.

[Signature]

RONALD MEEREN
NOTARY PUBLIC, 5TH JUDICIAL CIRCUIT
STATE OF HAWAII
MY COMMISSION EXPIRES: JUNE 1, 2007

C.S.

RECORDING REQUESTED BY
ORDER # Old Republic Title Company
213201216-BCE
APN 033-675-01-100
WHEN RECORDED MAIL TO



El Dorado, County Recorder
William Schultz Co Recorder Office
DOC- 2002-0097472-00

Acct 5-OLD REPUBLIC TITLE CO
Wednesday, DEC 11, 2002 14:30:00
Ttl Pd \$95.50 Nbr-0000352766
CLC/C2/1-3

Name Patrick M. O'Brien & Rebecca S. O'Brien
Street Address 4084 Ori Place
City Kalaheo, HI 96741
State
Zip

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Grant Deed

THIS DOCUMENT IS BEING EXECUTED IN COUNTERPART

The undersigned grantor(s) declare(s):

Documentary transfer tax is \$ 82.50

- (X) computed on full value of property conveyed, or
- () computed on full value less value of liens and encumbrances remaining at time of sale.
- (X) Unincorporated area: () City of _____
- () Realty not sold.

PCOS
FILED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
Robert D. Mazza and Hope F. Mazza, Trustees, Mazza Trust, dated January 7, 1988
and Keith Sautter (who acquired title as an unmarried man) and Jacqueline
Sautter, husband and wife
hereby GRANT(S) to Patrick M. O'Brien and Rebecca S. O'Brien, husband and wife
as Joint Tenants

that property in El Dorado County, State of California, described as:

* * * See "Exhibit A" attached hereto and made a part hereof. * * *

Mail Tax Statements to Grantee at address above

Date December 2, 2002

Robert D. Mazza, TRUSTEE
Robert D. Mazza, Trustee

STATE OF CALIFORNIA

COUNTY OF CONTRA COSTA

Hope F. Mazza, TRUSTEE
Hope F. Mazza, Trustee

On December 3, 2002 before me, the undersigned, a Notary Public in and for said State, personally appeared

ROBERT D. MAZZA AND
HOPE F. MAZZA

Keith Sautter

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.

Jacqueline Sautter

WITNESS my hand and official seal.

Signature Tina Lotspeich

Name TINA LOTSPEICH
(typed or printed)



(This area for official notarial seal)

097617

RECORDING REQUESTED BY
Old Republic Title Company
213201216-BCE

APN

033-675-01-100

WHEN RECORDED MAIL TO

Name
Street
Address
City
State
Zip

Patrick M. O'Brien & Rebecca
S. O'Brien
4084 Oni Place
Kalaheo, HI 96741

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Grant Deed

THIS DOCUMENT IS BEING EXECUTED IN COUNTERPART

The undersigned grantor(s) declare(s):

Documentary transfer tax is \$ 82.50

(X) computed on full value of property conveyed, or

() computed on full value less value of liens and encumbrances remaining at time of sale.

(X) Unincorporated area: () City of _____

() Realty not sold.

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Robert D. Mazza and Hope F. Mazza, Trustees, Mazza Trust, dated January 7, 1988
and Keith Sautter (who acquired title as an unmarried man) and Jacqueline
Sautter, husband and wife

hereby GRANT(S) to Patrick M. O'Brien and Rebecca S. O'Brien, husband and wife
as Joint Tenants

that property in El Dorado County, State of California, described as:

* * * See "Exhibit A" attached hereto and made a part hereof. * * *

Mail Tax Statements to Grantee at address above

Date December 2, 2002

Robert D. Mazza, Trustee

STATE OF CALIFORNIA
COUNTY OF Butte

Hope F. Mazza, Trustee

On December 3, 2002 before me, the
undersigned, a Notary Public in and for said State, personally appeared
Keith Sautter & Jacqueline Sautter

Keith Sautter
Keith Sautter

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~~ they executed the same in
~~his~~ their authorized capacity(ies), and that by ~~his~~ their signature(s) on
the instrument the person(s), or the entity upon behalf of which the person(s)
acted, executed the instrument.

Jacqueline Sautter
Jacqueline Sautter

WITNESS my hand and official seal.
Signature Susie C. Prater
Name Susie C. Prater
(typed or printed)



FTGIS-140 8/94

(This area for official notarial seal)

MAIL TAX STATEMENTS AS DIRECTED ABOVE

097472

Order No. : 213201216-CE

EXHIBIT "A"
LEGAL DESCRIPTION

The land referred to is situated in the State of California, County of El Dorado in the unincorporated area, and is described as follows:

Lot 229, as shown on that certain Map entitled "Tahoe Paradise Addition Unit No. 2", filed in the office of the County Recorder of El Dorado County, State of California, on August 16, 1965, in Map Book "D", at Page 46.

Excepting therefrom all oil, gas and hydrocarbon substances and all minerals of whatever kind or nature, together with the right to recover the same, provided, however, that such recovery shall only be by means of slant drilling or by mine shaft mining below a depth of 100 feet from the surface, as reserved by Tahoe Paradise, Inc., a California corporation, in Deed recorded September 29, 1966, Book 806 of Official Records, at Page 172

APN: 033-675-01-100

12/11/2002, 20020097472

WHEN RECORDED, RETURN TO
THE BOARD OF SUPERVISORS
EL DORADO COUNTY

CERTIFICATE
OF ACCEPTANCE

THIS IS TO CERTIFY that the interest in real property conveyed by the Avigation and Noise Easement dated May 19, 2006, from Patrick O'Brien and Rebecca O'Brien, to the COUNTY OF EL DORADO, a political subdivision of the State of California, is hereby accepted by order of the Board of Supervisors of the County of El Dorado on October 17, 2006, and the grantee consents to the recordation thereof by its duly authorized officer.

DATED this 17th day of October 2006

COUNTY OF EL DORADO

By

Chairman
Board of Supervisors

ATTEST:

CINDY KECK
Clerk of the Board of Supervisors

By: _____
Deputy Clerk