

RECORDED AT THE REQUEST OF AND
WHEN RECORDED RETURN TO:

Bruce & Debra Schatzman
9210 SE 33rd Place
Mercer Island, WA 98040

RECORDER'S COVER SHEET

**AMENDMENT TO DECLARATION OF EASEMENT
(UTILITY AND DRIVEWAY EASEMENT AGREEMENT)**

Reference number(s) of related documents: 5604845

Additional reference #'s on page ___ of document.

Grantor(s): MICHALAK, VICTOR R. and EUNICE E., husband and wife

Grantee(s): SCHATZMAN, BRUCE D. and DEBRA S., husband and wife
SCHATZMAN, BRUCE D. and DEBRA S., Trustees of the Schatzman
Revocable Living Trust dated February 26, 2019

Legal Description (abbreviated): , records of King County, Washington

Grantor Property: Lot 4, Lakemont Add Unre & SH Lds Adj Less W 80 Ft of S 293 Ft,
Pl/lo 57-58, King County, Washington

Grantee Property: Ptn of Govt Lot 4, Sec 7, Twp 24N, Tge 4 #, WM, King County,
Washington

Additional legal descriptions are on pages 7 - 9 of the document.

Assessor's Property Tax Parcel ID's:

Grantor Property: 413930-0315 (9216 SE 33rd)

Grantee Properties: 413930-0317 (9210 SE 33rd)
413930-0316 (9212 SE 33rd)

**AMENDMENT TO DECLARATION OF EASEMENT
(Utility and Driveway Easement Agreement)**

This Amendment To Declaration Of Easement (“**Amendment**”) is executed this ___ day of August, 2020, by VICTOR R. and EUNICE E. MICHALAK, husband and wife, as the parties of the first part (“**Grantors**”); and BRUCE DAVID SCHATZMAN and DEBRA STERN SCHATZMAN, in their capacity as Trustees of the Schatzman Revocable Living Trust, dated February 26, 2019, and BRUCE D. SCHATZMAN and DEBRA S. SCHATZMAN, husband and wife, collectively as the parties of the second part (“**Grantees**”).

RECITALS

WHEREAS, Grantors are the owners of that certain real property commonly known as 9216 SE 33rd Place, Mercer Island, WA 98040 (the “**Grantor Property**”) which is legally described on Exhibit “A” and incorporated herein by this reference;

WHEREAS, BRUCE DAVID SCHATZMAN and DEBRA STERN SCHATZMAN, in their capacity as Trustees of the Schatzman Revocable Living Trust dated February 26, 2019 are the owners of that certain real property commonly known as 9210 SE 33rd Place, Mercer Island, WA 98040, and BRUCE D. and DEBRA S. SCHATZMAN, husband and wife, are owners of that certain real property commonly known as 9212 SE 33rd Place, Mercer Island, WA 98040 (collectively, the “**Grantee Properties**”) which properties are legally described on Exhibit “B” and incorporated herein by this reference;

WHEREAS, the Grantor Property and the Grantee Properties are served by a utility and driveway easement, the terms and the footprint of which easement are described in a Declaration of Easement recorded under King County Recording Number 5604845 (the “**Easement**”); and,

WHEREAS, the Grantors and Grantees desire to amend the Easement on the terms and conditions as set for the below.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

AGREEMENT

1. Utility Easement.

a. Grant of Utility Easement. A non-exclusive easement (“**Utility Easement**”) twenty (20) feet wide by one-hundred sixty (160) feet long as described in the Easement is hereby reserved for and granted to the owners of the Grantor Property and the Grantee Properties, respectively, and their successors and assigns, over, under and upon the eastern edge of the Grantor Property as described in the Easement to install, lay, construct, renew, operate and maintain underground conduits, cables, pipe, and wires with necessary facilities and other equipment for the purpose of serving the Grantor Property and the Grantee Properties with electric, telephone, gas, television cable and other utility services together with the right to enter upon the Grantor Property at all times for the purposes herein stated.

b. Maintenance of Utility Easement. The Grantor Property and the Grantee Properties shall, at their sole cost, maintain and repair the conduits, cables, pipe, and wires with necessary facilities and other equipment serving their respective property(ies) (“**Maintenance**”). In the event a

conduit, cable, pipe, and/or wire serves more than one property, each property sharing such conduit, cable, pipe, and/or wire shall be equally responsible for the cost of such Maintenance. For purposes of this Agreement, Maintenance shall be defined as keeping the Utility Easement in reasonably good condition and in compliance with all government requirements. However, the owner of a property shall be solely responsible for the repair of any damage caused by the owner to the Utility Easement, provided that in the case of material damage or where the replacement of the driveway is required, any owner may require that a second opinion or bid be obtained and reasonably considered before commencing any repairs.

2. Driveway Easement.

a. Grant of Driveway Easement. A non-exclusive easement ("Driveway Easement") approximately twenty (20) feet wide by one-hundred sixty (160) feet long is reserved for and granted to the owners of the Grantor Property and the Grantee Properties, respectively, and their successors and assigns, over and across the eastern edge of the Grantor Property for the purposes of pedestrian and vehicular ingress and egress in order to access their respective properties. For purposes of calculating the cost of the maintenance, repair and replacement provisions contained in this Amendment, the Driveway Easement is defined as that part of the existing driveway as it travels from the public street to the gate currently located on the Grantor Property, and specifically excludes any portion of the Easement located north said gate.

b. Repair of Driveway Easement. The cost of normal repairs to the driveway shall be at the sole discretion of the owner of the Grantor Property to the extent that such repairs do not exceed \$1,000.00 per calendar year and provided that such repairs are completed by parties who are licensed, insured and bonded. For expenses in excess of \$1,000.00 in any calendar year, such work shall be mutually agreed upon by the owners (including the review of any applicable bids) before any owner of a Grantee Property is obligated to pay for such work. Notwithstanding the above, if a repair of material damage to the Driveway Easement is necessitated due to the acts of an owner or said owner's agents, contractors or invitees, then said owner shall be solely responsible for the cost of said repairs, provided that in the case of material damage or where the replacement of the driveway is required, any owner may require that a second opinion or bid be obtained and reasonably considered before commencing any repairs.

c. Certain Maintenance. The following maintenance shall be completed under the direction and control of the owner of the Grantor Property, with the cost of such certain maintenance split equally between the individual owners of the Grantee Properties and the Grantor property (i.e. each as to 1/3rd) as set forth below:

- i. Repaving – up to \$5,000.00 per owner per occurrence (every twelve years);
- ii. Resealing – up to \$500.00 per owner per occurrence (every two years);
- iii. Snow removal – up to \$100.00 each time per owner;
- iv. Pressure washing – up to \$150.00 per owner per year (annually);
- v. Debris removal – up to \$200.00 per owner per year (as needed).

The repaving and resealing timelines may be modified by the agreement of all of the owners of the Grantor Property and the Grantee Properties. Notwithstanding the foregoing, debris removal and cleanup of the Driveway Easement following landscaping work or other contractor work at an individual Property owner's property shall be the sole responsibility of the individual Property owner. The amounts set forth in Sections 2.b and c. above shall be increased from the date of execution of this Amendment by the Consumer Price

Index—All Items less Food & Energy, for Seattle-Tacoma-Bellevue area, as published by The Bureau of Labor Statistics, United States Department of Labor. If publication of the Consumer Price Index shall be discontinued or if its components shall be adjusted or its base year changed, then in order to calculate the required increases in monthly distributions, the Grantor Property shall use any conversion table and/or index published by the U.S. Government which is intended to be a substitute for the Consumer Price Index. These limits shall not prevent an individual Property owner from electing to complete maintenance or repairs in excess of such costs, but reimbursement for such maintenance or repairs shall not be binding on the other owner(s) unless pre-approved in writing, as set forth above.

3. 9212 SE 33rd PI Obligation. Upon completion of the development/construction of a new home on that property known as 9212 SE 33rd Place, the owners of 9212 SE 33rd Place shall be responsible for reimbursing the owners of the Grantor Property for the cost of repaving the Driveway Easement from the street to the gate located on the Grantor Property at 9212 SE 33rd Place. Notwithstanding the foregoing, this reimbursement obligation shall be reduced on a pro-rated basis by contributions from the owners of the other Grantee Property and of the Grantor Property depending on the 12-year repaving schedule set forth in Paragraph 2c, above. By way of example, if the cost of repaving is \$15,000, and it has been 5 years since the road was last repaved, then the owners of the 9212 SE 33rd Place property shall only be required to cover 7/12^{ths} of the expense (\$8,750) on their own, and the remaining 2/3rds of the expense (\$6,250) would be split by the 3 owners, equally (\$2,083.33). In the event of material damage to the Driveway due to construction activities or where the replacement of the driveway is required due to the construction activities, any owner, including the owners of 9212 SE 33rd Place may require that a second opinion or bid be obtained and reasonably considered before commencing any repairs and the cost of such replacement or the costs of completing material repairs shall be paid by the owners of 9212 SE 33rd Place.-

4. Consideration. The parties are executing this Amendment for the purposes of clarifying the parties' obligations under the original Easement. No consideration is being paid.

5. Touch, Concern and Length. The Easement and this Amendment shall be perpetual, appurtenant, shall touch and concern the real property described herein, and shall run with the land.

6. General Provisions.

a. Binding Effect. This Amendment shall be binding upon and inure to the benefit of the owners of the Grantor Property and the Grantee Properties and their successors, heirs, assigns, and personal representatives and all persons claiming by, through or under the parties hereto.

b. Applicable Law. This Amendment shall be governed by and construed in accordance with the laws of the State of Washington. Jurisdiction over and venue of any suit arising out of or related to this Agreement shall be exclusively in the state and federal courts of King County, Washington.

c. Entire Agreement. This Amendment contains the entire agreement between the parties with respect to this matter. It may not be modified except in a writing signed by the party against whom enforcement of the modification is sought.

d. Severability. If for any reason any portion of this Amendment shall be held to be invalid or unenforceable, the holding of invalidity or unenforceability of that portion shall not affect any other portion of this Amendment and the remaining portions of this Amendment shall remain in full force and effect.

e. Easement. To the extent the terms of this Amendment conflict with the terms of the Easement, the terms of this Amendment shall control. Except as modified herein, the Easement remains in full force and effect.

GRANTORS:

GRANTEES:

Victor R. Michalak
VICTOR R. MICHALAK

Bruce D. Schatzman
BRUCE D. SCHATZMAN

Eunice E. Michalak
EUNICE E. MICHALAK

Debra S. Schatzman
DEBRA S. SCHATZMAN

SCHATZMAN REVOCABLE LIVING TRUST
DATED FEBRUARY 26, 2019

Bruce D. Schatzman
BRUCE D. SCHATZMAN, Trustee

Debra S. Schatzman
DEBRA S. SCHATZMAN, Trustee

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Victor R. Michalak (name of person) is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

GIVEN under my hand and official seal this 13th day of August, 2020.

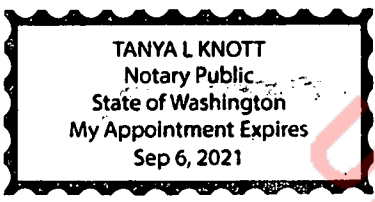


Tanya L. Knott
Tanya L. Knott
[print notary's name]
Notary Public in and for the State of Washington
residing at Duwall, WA
My commission expires: 09-06-2021

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Eunice Michalek (name of person) is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

GIVEN under my hand and official seal this 13th day of August, 2020.

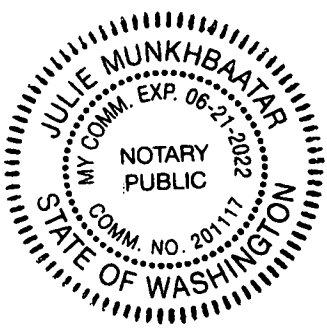


Tanya L. Knott
Tanya L. Knott
[print notary's name]
Notary Public in and for the State of Washington
residing at Duvall, WA
My commission expires: 09-06-2021

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that BRUCE D. SCHATZMAN (name of person) is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

GIVEN under my hand and official seal this 17 day of August, 2020.

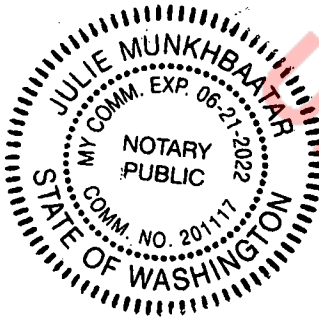


Julie Munkhbaatar
JULIE MUNKHBAATAR
[print notary's name]
Notary Public in and for the State of Washington
residing at KING COUNTY
My commission expires: 06/21/2022

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that DEBRA S. SCHATZMAN (name of person) is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

GIVEN under my hand and official seal this 17 day of August, 2020.



J. Munkhbaatar
JULIE MUNKHBAATAR
[print notary's name]
Notary Public in and for the State of Washington
residing at KING COUNTY
My commission expires: 06/21/2022

Official Copy

EXHIBIT A

LEGAL DESCRIPTIONS
(Grantor Property)

Tax Parcel 413930-0315 (9216 SE 33rd):

The following described real property situated in the County of King, State of Washington:

BEGINNING AT A POINT ON THE SOUTH LINE OF GOVERNMENT LOT 4 IN SECTION 7, TOWNSHIP 24 NORTH, RANGE 5 EAST WILLAMETTE MERIDIAN, DISTANT NORTH 89 DEGREES 57 MINUTES 00 SECONDS WEST 626 FEET FROM THE SOUTHEAST CORNER OF SAID GOVERNMENT LOT 4 AS SHOWN ON THE ORIGINAL PLAT OF LAKEMONT (SAID SOUTHEAST CORNER BEING DISTANT NORTH 89 DEGREES 57 MINUTES 00 SECONDS WEST 1333.64 FEET FROM THE SOUTHEAST CORNER OF GOVERNMENT LOT 5 IN SAID SECTION 7);
THENCE NORTH 1090.00 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION;
THENCE NORTH 89 DEGREES 57 MINUTES 00 SECONDS WEST 100 FEET;
THENCE NORTH 440 FEET, MORE OR LESS, TO THE SHORE OF LAKE WASHINGTON;
THENCE EASTERLY, ALONG SAID SHORE LINE, 100 FEET, MORE OR LESS, TO A POINT WHICH BEARS NORTH FROM THE TRUE POINT OF BEGINNING;
THENCE SOUTH 450 FEET, MORE OR LESS, TO THE TRUE POINT OF BEGINNING;

TOGETHER WITH SHORELANDS OF THE 2ND CLASS AS CONVEYED BY THE STATE OF WASHINGTON SITUATE IN FRONT OF, ADJACENT TO OR ABUTING THEREON, LYING BETWEEN THE NORTHLEY PRODUCTION OF THE EAST AND WEST BOUNDARIES OF THE ABOVE DESCRIBED TRACT;

EXCEPT THAT PORTION OF SAID GOVERNMENT LOT 4 DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT ON THE SOUTH LINE OF SAID GOVERNMENT LOT WHICH POINT IS NORTH 89 DEGREES 57 MINUTES 00 SECONDS WEST 646.00 FEET FROM THE SOUTHEAST CORNER THEREOF (SAID SOUTHEAST CORNER BEING NORTH 89 DEGREES 57 MINUTES 00 SECONDS WEST 1333.64 FEET FROM THE SOUTHEAST CORNER OF GOVERNMENT LOT 5 IN SAID SECTION 7);
THENCE RUN NORTH 1090.00 FEET;
THENCE CONTINUE NORTH 293 FEET;
THENCE NORTH 89 DEGREES 57 MINUTES 00 SECONDS WEST 80.00 FEET;
THENCE SOUTH 293 FEET;
THENCE SOUTH 89 DEGREES 57 MINUTES 00 SECONDS EAST 80 FEET TO THE TRUE POINT OF BEGINNING OF THIS EXCEPTION;

SITUATE IN THE CITY OF MERCER ISLAND, COUNTY OF KING, STATE OF WASHINGTON.

EXHIBIT B

LEGAL DESCRIPTION
(Grantee Properties)

Tax Parcel 413930-0317 (9210 SE 33rd):

The following described real property situated in the County of King, State of Washington:

THAT PORTION OF GOVERNMENT LOT 4, SECTION 7, TOWNSHIP 24 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE OF SAID GOVERNMENT LOT WHICH POINT IS NORTH 89°57'00" WEST 726.00 FEET FROM THE SOUTHEAST CORNER THEREOF AS SHOWN ON THE ORIGINAL PLAT OF LAKEMONT, ACCORDING TO THE UNRECORDED PLAT THEREOF, (SAID SOUTHEAST CORNER BEING NORTH 89°57'00" WEST, 1,333.64 FEET FROM THE SOUTHEAST CORNER OF GOVERNMENT LOT 5, IN SAID SECTION 7);

THENCE NORTH 1230.0 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION;

THENCE SOUTH 89°57'00" EAST 80.00 FEET;

THENCE NORTH 20.00 FEET TO A POINT CALLED HEREIN "X";

THENCE CONTINUING NORTH 133.00 FEET;

THENCE NORTH 89°57'00" WEST 80 FEET TO A POINT FROM WHICH THE TRUE POINT OF BEGINNING BEARS SOUTH;

THENCE SOUTH 153.00 FEET TO THE POINT OF BEGINNING;

TOGETHER WITH AN EASEMENT FOR DRIVEWAY AND UTILITY PURPOSES OVER A 20 FOOT WIDE STRIP, THE WEST LINE OF WHICH BEGINS AT POINT "X" ABOVE DESCRIBED AND RUNS SOUTH 160 FEET;

SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

Tax Parcel 413930-0316 (9212 SE 33rd):

The following described real property situated in the County of King, State of Washington:

THAT PORTION OF GOVERNMENT LOT 4 IN SECTION 7, TOWNSHIP 24 NORTH, RANGE 5 EAST W.M., DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE OF SAID GOVERNMENT LOT 4 WHICH IS NORTH 89 DEGREES 57 MINUTES 00 SECONDS WEST 646.00 FEET FROM THE SOUTHEAST CORNER THEREOF, (SAID SOUTHWEST CORNER BEING NORTH 89 DEGREES 57 MINUTES 00 SECONDS WEST, 1,333.64 FEET FROM THE SOUTHEAST CORNER OF GOVERNMENT LOT 5 IN SAID SECTION 7);

THENCE NORTH 1090 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING NORTH 140.00 FEET;

THENCE NORTH 89 DEGREES 57 MINUTES 00 SECONDS WEST 80.00 FEET;
THENCE SOUTH 140.00 FEET;
THENCE SOUTH 89 DEGREES 57 MINUTES 00 SECONDS EAST 80.00 FEET TO
THE TRUE POINT OF BEGINNING;

(ALSO BEING KNOWN AS A PORTION OF TRACTS 57 AND 58 IN REPLAT OF
TRACTS E, F, G, H, I, J AND K OF LAKEMONT, AN UNRECORDED PLAT);

SITUATE IN THE CITY OF MERCER ISLAND, COUNTY OF KING, STATE OF
WASHINGTON.

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