

64738-5

64738-5

No. 64738-5-1

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COURT OF APPEALS, DIVISION ONE

OF THE

STATE OF WASHINGTON

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DANIEL HERR,

*Appellant,*

v.

ESMAEIL and JOY FORGHANI, *et al,*

*Respondents.*

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BRIEF OF RESPONDENT

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ORIGINAL

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## **RESTATEMENT OF ISSUES**

- I. Does the language “Tract ‘X’ for ingress, egress, and utilities” limit an easement’s use to residential purposes?
- II. Is RCW 70.128.175(2) considered illegal spot zoning when it affects all parcels in residential and commercial zones and not just a few?
- III. Does RCW 70.128.175(2) cause a constitutional taking or due process violation when the property owner has suffered no cognizable harm to his property rights?

## STATEMENT OF THE CASE

### Statement of Facts

Esmail Forghani and Joy Forghani (“Forghanis”) own landlocked property located at 108 SW 122nd Street, Seattle, Washington. CP at 477; RP at 26-27.<sup>1</sup> Daniel Herr, their neighbor to the south, owns the property located at 110 SW 122nd Street, Seattle, Washington. CP at 476; RP at 53. In order to access the Forghanis’ property, Tract X, an easement over Mr. Herr’s property, is used. CP at 476-77. Tract X is 20 feet wide by 200 feet long and dedicated for “ingress, egress, and utilities.” CP at 477; RP at 27; CP \_\_\_, Ex. A. Tract X was created in 1981, when Robert and Velma McKennan, who then owned the parties’ properties as a single lot, and Marguerite Martin short platted the property creating Tract 1, now owned by Mr. Herr, Tract 2, now owned by Ms. Forghani, and the Tract X easement. CP at 477; CP \_\_\_, Ex. A. Six years later, in 1987, a duplex was built on Tract 2. CP \_\_\_, Ex. B.

In 2006, two years after acquiring their property, the Forghanis converted one of the duplex units on Tract 2 from a rental to Happy Heart Adult Family Home Care (“Happy Heart”). CP at 477; RP at 27-28, 85. Happy Heart residents compensate

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<sup>1</sup> Currently, only Joy Forghani owns the property. RP at 26, 31-32.

Ms. Forghani for providing room and board and assisted living services such as bathing, cooking, and medicating. RP at 30-31, 40, 86-87. At trial, there were seven people residing at the Forghanis' adult family home consisting of five elderly adult family home residents, one caregiver, and Ms. Forghani. RP at 29-30, 85. On occasion, doctors, social workers, therapists, Metro Access vans, and relatives visit Happy Heart residents. CP at 478; RP at 90-91. Ms. Forghani brings groceries for the adult family home using her car and bottled water and the residents' medication are delivered occasionally. RP at 90-91.

### **Procedural History**

Mr. Herr filed a Summons and Complaint for Trespass, Damages, and Quiet Title on December 17, 2007. CP at 1-6. On January 31, 2008, the Forghanis served Mr. Herr with their answer and counterclaim, but did not file it with the court essentially non-suiting their counterclaims. On April 11, 2008, Mr. Herr amended his Complaint to include Pacific NW Title and Depositor's Insurance. CP at 11-15. On summary judgment, the superior court dismissed Mr. Herr's complaint against Pacific NW Title and Depositor's Insurance on January 16, 2009 and May 15, 2009, respectively. CP 194-96, 450-51.

On November 10, 2009, the Hon. William L. Downing of the King County Superior Court presided over a trial. CP at 476. The superior court ruled the Forghanis have the expressed authority to use the easement for ingress and egress and neither altered or expanded the scope of the easement nor overburdened the easement by operating Happy Heart. CP at 480. The court entered its Findings of Fact and Conclusions of Law on November 12, 2009. CP at 476-81. The court dismissed Mr. Herr's petition and awarded the Forghanis' their statutory attorney's fees and costs on December 18, 2009. CP at 482-84. Mr. Herr filed a Notice of Appeal with the superior court on January 6, 2010.

### **ARGUMENT**

The superior court did not abuse its broad discretion when it dismissed Mr. Herr's complaint requesting an injunction and damages. "A suit for injunction is an equitable proceeding addressed to the sound discretion of the trial court, to be exercised according to the circumstances of each case." *Steury v. Johnson*, 90 Wn. App. 401, 405, 957 P.2d 772 (1998) (citing *Federal Way Family Physicians, Inc. v. Tacoma Stands Up For Life*, 106 Wn.2d 261, 264, 721 P.2d 946 (1986)). "A trial court abuses its discretion only when its decision is manifestly unreasonable or based on

untenable grounds or reasons.” *Snyder v. Haynes*, 152 Wn. App. 774, 217 P.3d 787, 791 (2009). “A court’s decision is manifestly unreasonable if it is outside the range of acceptable choices, given the facts and the applicable legal standard; it is based on untenable grounds if the factual findings are unsupported by the record; it is based on untenable reasons if it is based on an incorrect standard or the facts do not meet the requirements of the correct standard.” *In re Marriage of Littlefield*, 133 Wn.2d 39, 47, 940 P.2d 1362 (1997). “When findings of fact and conclusions of law are entered following a bench trial, appellate review is limited to determining whether the findings are supported by substantial evidence, and if so, whether the findings support the trial court’s conclusions of law and judgment.” *Sunnyside Valley Irrigation District v. Dickie*, 111 Wn. App. 209, 214, 43 P.3d 1277 (2002). “Evidence is substantial if it is sufficient to persuade a fair-minded person that the declared premise is true.” *Id.* “Substantial evidence may support a finding of fact even if the reviewing court could interpret the evidence differently.” *Snyder*, 217 P.3d at 790. Appellate courts defer to the trial court’s determinations on the persuasiveness of the evidence, witness credibility, and conflicting testimony. See *State v. Salinas*,

119 Wn.2d 192, 201, 829 P.2d 1068 (1992). The superior court's decision is not based on untenable reasons.

- I. The Superior Court applied the correct standard when it determined the easement did not have a residential use only restriction since the language of the easement grant did not contain such a restriction.

Mr. Herr erroneously asserts the use of the Tract X easement is limited to residential purposes only. Interpretation of an easement grant is a question of law and reviewed de novo. See *Ross v. Bennett*, 148 Wn. App. 40, 49, 203 P.3d 383 (2008). An easement is “a right, distinct from ownership, to use in some way the land of another, without compensation.” *City of Olympia v. Palzer*, 107 Wn.2d 225, 229, 728 P.2d 135 (1986) (quoting *Kutschinski v. Thompson*, 101 N.J. Eq. 649, 656, 138 A. 569 (1927)). Because easements affect land, express easements must comply with the statute of frauds, which requires that “[e]very conveyance of real estate, or any interest therein, and every contract creating or evidencing any encumbrance upon real estate shall be by deed.” RCW 64.04.010; *Berg v. Ting*, 125 Wn.2d 544, 551, 886 P.2d 564 (1995).

Courts generally consider the intention of the parties to the original grant, the nature and situation of the properties subject to

the easement, and the manner in which the easement, *not the properties*, has been used and occupied to determine the scope of an easement. See *Logan v. Brodrick*, 29 Wn. App. 796, 799-800, 631 P.2d 429 (1981). The intent of the parties is determined from the language of the easement and the circumstances surrounding the grant. *Schwab v. City of Seattle*, 64 Wn. App. 742, 751, 826 P.2d 1089 (1992). The language in the grant is given its “ordinary and common use.” See *Krein v. Smith*, 60 Wn. App. 809, 811, 807 P.2d 906, review denied, 117 Wn.2d 1002, 815 P.2d 266 (1991). Ambiguities in the grant are resolved *in favor of the grantee*. See *Kunkel v. Meridian Oil*, 114 Wn.2d 896, 901, 792 P.2d 1254 (1990). Moreover, “*restrictive covenants, being in derogation of the common law right to use land for all lawful purposes, will not be extended to any use not clearly expressed [in the restrictive covenant], and doubts must be resolved in favor of the free use of land.*” *Viking Properties, Inc. v. Holm*, 155 Wn.2d 112, 120, 118 P.3d 322 (2005) (citing *Riss v. Angel*, 131 Wn.2d 612, 621, 934 P.2d 669 (1997)) (emphasis added). Lastly, courts do not give a restriction a broader than the intended application. See *The Lakes at Mercer Island Homeowners Ass’n v. Witrak*, 61 Wn. App. 177, 180, 810 P.2d 27 (1991).

In the present case, the language of 1981 short plat creating the easement simply provides “Tract ‘X’ for ingress, egress, and utilities.” CP at 477; CP \_\_\_, Ex. A. There is no language in the grant limiting Tract X to “residential purposes,” “residential use,” or any other similar restriction. The only affirmative restriction on the use of Tract X is for “ingress, egress, and utilities.” CP at 477, Ex. A. The lack of a “residential purposes only” restriction in this case distinguishes itself from the cases Mr. Herr has relied on throughout the course of this litigation.

The covenant in *Mains Farm Homeowners v. Worthington* provides “[a]ll lots in MAINS FARM shall be designated as ‘Residential Lots,’ and shall be *used for single family residential purposes only* ... No structure shall be erected, altered or placed on the plat of MAINS FARM which shall serve other than a single family dwelling unit.” 121 Wn.2d 810, 813-14, 854 P.2d 51 (1993) (emphasis added). Likewise, the restrictive covenant in *Hagemann v. Worth* provides the plat was designed for “residential and recreational use” and the buildings are to be “single family residences” and prohibited “business, industry or commercial enterprise of any kind or nature.” 56 Wn. App. 85, 86-87, 782 P.2d 1072 (1989). Similarly, the restrictive covenant in *Metzner v.*

*Wojdyla* states “said property shall be used for residential purposes only.” 125 Wn.2d 445, 447, 886 P.2d 154 (1994). Here, there is no such restriction. If there were, the outcome of this case could have been different.<sup>2</sup> Moreover, Mr. Herr failed to introduce any evidence the original parties to the easement grant intended the easement to be used for residential purposes only. Thus, the superior court applied the correct legal standard.

There is substantial evidence to support the Superior Court’s findings. The court heard testimony from the parties the Forghanis, Happy Heart residents, and visitors use Tract X to access the Forghanis’ property. RP at 69-72, 82-83, 87-92.

Mr. Herr complains about traffic that would occur irrespective of whether the Forghanis operated an adult family home on their property. An elderly recluse living on Tract 2 could certainly have his or her prescriptions delivered, relatives, social workers, doctors, or therapist visit, or use the Metro Access van as a means of transportation. Similarly, a very large active family could use the easement several times throughout the day in their comings and goings or have bottled water and other shipments delivered. The

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<sup>2</sup> *Mains Farm* and *Hagemann* have held adult family homes constitute a business use. See *Mains Farm*, 121 Wn.2d at 821; *Hagemann*, 56 Wn. App. at 91.

court correctly concluded from the testimony the Forghanis were using the easement consistently with its stated purpose of ingress and egress and have not altered or expanded the easement or overburdened it. CP at 480. Accordingly, the superior court did not err in denying Mr. Herr's request for an injunction.

II. RCW 70.128.175 is not spot zoning because it affects all properties located in residential and commercial zones.

Mr. Herr erroneously argues RCW 70.128.175(2) is spot zoning. "Spot zoning' is an attempt to wrench a single lot from its environment and give it a new rating that disturbs the tenor of the neighborhood, and which affects only the use of a particular piece of property or a small group of adjoining properties and is not related to the general plan for the community as a whole, but is primarily for the private interest of the owner of the property so zoned; and it is the very antithesis of planned zoning." *Pierce v. King County*, 62 Wn.2d 324, 338, 382 P.2d 628 (1963) (citing 101 C.J.S. Zoning § 34). It is "for the benefit of one or a few or for the disadvantage of some." *Pierce*, 62 Wn.2d at 339 (citing 2 Metzenbaum, *Law of Zoning* (2d ed.) chapter X-m-(5)). Spot zoning is void and unlawful when it is an arbitrary, capricious and unreasonable zoning action. *See Pierce*, 62 Wn.2d at 340. It is

arbitrary, capricious and unreasonable when there is no basis for such a zoning in furtherance of public health, safety, or morals, or a contribution to either the general welfare of the people of the area or at large. See *Pierce*, 62 Wn.2d at 340; *Anderson v. City of Seattle*, 64 Wn.2d 198, 199-00, 390 P.2d 994 (1964).

RCW 70.128.175(2) provides, in relevant part, “[a]dult family homes shall be a permitted use in all areas zoned for residential or commercial purposes, including areas zoned for single family dwellings.” RCW 70.128.175(2). Under the statute, properties located in residential or commercial neighborhoods can be converted and operated as adult family homes without violating the local zoning ordinance. Thus, the statute does not affect one particular piece of property; it creates a benefit, and a disadvantage, to all properties in residential and commercial zones. Mr. Herr, if he so desired, could operate an adult family home in his home.

Similarly, many residential structures can be converted to an adult family home without changing the structure’s residential character or appearance. In the present case, Mr. Foghani testified extensively about the renovation on the duplexes in order to operate one unit as an adult family home including converting the

garage into two rooms, installing a fire sprinkler system, and adding two bedrooms and a bathroom in the rear. RP at 42-46. This renovation did not change the residential character and appearance of the duplex and certainly did not disturb the tenor of the parties' neighborhood. See CP \_\_\_, Ex. C. Accordingly, the statute is not spot zoning.

Even if RCW 70.128.175(2) were spot zoning, it is not void and unlawful because its purpose serves the public health, safety, and general welfare of the population. The legislature outlined the benefits of adult family homes in RCW 70.128.005(1), which provides, in relevant part:

(a) Adult family homes are an important part of the state's long-term care system. Adult family homes provide an *alternative to institutional* care and promote a high degree of independent living for residents.

(b) Persons with functional limitations have broadly varying service needs. Adult family homes that can meet those needs are an essential component of a long-term system. Different populations living in adult family homes, such as persons with developmental disabilities and elderly persons, often have significantly different needs and capacities from one another.

*(c) There is a need to update certain restrictive covenants to take into consideration the legislative findings cited in (a) and (b) of this subsection, the need to prevent or reduce institutionalization; and the legislative and judicial mandates to provide care and services in the least restrictive setting appropriate to the needs of the individual. Restrictive covenants which directly or indirectly restrict or prohibit the use of property for adult family homes (i) are contrary to the public interest served by establishing adult family homes and (ii) discriminate against individuals with disabilities in violation of RCW 49.60.224.*

RCW 70.128.005(1)(a)-(c) (emphasis added).

The legislature has decreed adult family homes are an integral part of the state's care plan for its elderly and developmentally disabled population. RCW 70.128.175(2) contributes to the public health, safety, and general welfare of the population by providing alternatives to institutionalized care for people with functional limitations. Permitting adult family homes in residential neighborhoods is not arbitrary, capricious and unreasonable.

III. Mr. Herr has suffered no cognizable harm to his property rights because RCW 70.128.175(2) has caused neither a constitutional taking nor a due process violation.

Mr. Herr erroneously asserts RCW 70.128.175(2) amounts to a constitutional taking of his property and violation of his due process rights. “Mere regulation of the use of land has never constituted a ‘taking’ or a violation of due process under federal or state law.” *Presbytery of Seattle v. King County*, 114 Wn.2d 320, 327, 787 P.2d 907 (1990). Nevertheless, a regulation that drastically curtails an owner’s use of his property can cause either a constitutional taking or a denial of substantive due process. *See id.* at 329. There is no constitutional taking, thus requiring just compensation, when the challenged regulation (1) safeguards the public interest in health, safety, the environment or the fiscal integrity of an area, (2) does not exceed preventing a public harm to actually enhance a publicly owned right in property; and (3) does not destroy one or more of the fundamental attributes of ownership - the right to possess, exclude others and to dispose of the property.<sup>3</sup> *See id.* at 329-30.

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<sup>3</sup> Even if the challenged regulation exceeds preventing a public harm to actually enhance a publicly owned right in property or if it denies an owner a fundamental attribute of ownership, further inquiry is necessary before a constitutional taking can be found. *See Presbytery of Seattle*, 114 Wn.2d at 329-37. The takings analysis first requires determination of whether the regulation substantially advances a legitimate state interest. *See id.* at 333. If not, then it is a taking; conversely, if so, the inquiry becomes

*Seattle*, 114 Wn.2d at 330-31 (citing William B. Stoebuck, San Diego Gas: Problems, Pitfalls and a Better Way, 25 J.Urb. & Contemp.L. 3, 20 (1983)).

- A. Mr. Herr has not suffered a constitutional taking because RCW 70.128.175(2) safeguards the public's interest in the health and safety of functionally limited individuals and does not infringe upon any of his fundamental rights of ownership in property.

Mr. Herr cannot overcome the threshold inquiry for a constitutional taking. RCW 70.128.175(2) safeguards and achieves the public's interest in the health and safety of persons with functional limitations by allowing them to live in residential neighborhoods instead of limiting them to institutional settings. Moreover, the statute does not exceed its stated goal because it does not enhance the public's right in any publicly held property. Further, RCW 70.128.175(2) does not destroy Mr. Herr's right to possess, exclude others, dispose of or otherwise use his property. Nothing in the statute prevents him from using, enjoying, or selling his property as he did before the Forghanis began operating an adult family home.

Mr. Herr erroneously asserts that his property has lost value because of the adult family home. At trial, based on his unqualified lay opinion, he claimed his property was worth \$240,000 without

the adult family home and \$180,000 with the adult family home, thereby suffering a \$60,000 diminution in value to his property. RP at 74-75. His opinion was merely based on what he would buy it for personally.<sup>4</sup> RP at 79. Thus, his opinion is really not based on fair market value. The King County Assessor assessed Mr. Herr's property at \$208,000, \$219,000, \$225,000, \$238,000, \$266,000, and \$293,000 for 2004, 2005, 2006, 2007, 2008, and 2009, respectively. See RP at 80-81; CP \_\_, Ex. D.

The county assessor's valuation of Mr. Herr's property is a superiorly more reliable and accurate indicator of the fair market value of real property than of Mr. Herr's lay opinion. Mr. Herr testified a tree lost \$3,000 in value merely because its lower limbs were cut. RP at 75-76. When the superior court asked how a tree could lose so much value by merely having its lower limbs cut, Mr. Herr could barely explain the basis for his valuation. *Id.* Thus, his opinions on the value of property, and the alleged diminution of value of his property because of the Forghanis' adult family home, are neither credible nor helpful.

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<sup>4</sup> Mr. Herr works for a parking garage downtown and has no extensive background in real estate investing aside from buying and selling real property for his own residential use. RP at 53-54.

Mr. Herr further erroneously asserts the traffic using the easement for access to the Forghanis' adult family home has interfered with his right to the enjoyment of his property and created a nuisance. However, the Forghanis' rights to use the easement over Mr. Herr's property stems from their easement rights, not from RCW 70.128.175(2)'s mandate permitting adult family homes in residential neighborhoods. Accordingly, Mr. Herr has not suffered a constitutional taking.

- B. RCW 70.128.175(2) does not violate Mr. Herr's due process rights because it serves a legitimate public purpose, reasonably necessary to achieve this purpose, and is not unduly oppressive to Mr. Herr.

RCW 70.128.175(2) meets the requirements of substantive due process. The goal of finding alternatives to institutionalized care for persons with functional is a legitimate public purpose. The legislature has found there are restrictive covenants preventing achievement of this purpose. Accordingly, RCW 70.128.175(2) is reasonably necessary to change and update these restrictive covenants in order to increase the areas where adult family homes can be established.

RCW 70.128.175 is not unduly oppressive to neighbors of adult family homes because, as the superior court correctly found,

“it is easy to imagine worse neighbors.” CP at 479. Adult family homes are typically quiet neighbors because elderly residents prefer peace and quiet over the busy and bustling lifestyle of the young; they typically do not stay up late, play loud music, or otherwise create problems. In this case, Happy Heart residents enjoy a quiet routine and are asleep by 9:00 p.m. CP at 478; RP at 86-87. Again, the traffic Mr. Herr complains of would occur irrespective of whether he had an elderly recluse or a large active family as his neighbors instead of an adult family home. As such, Mr. Herr has neither suffered a constitutional taking nor due a process violation.

#### **REQUEST FOR ATTORNEY’S FEES AND COSTS**

The Forghanis, as the substantially prevailing party, pursuant to RCW 4.84.010(6) and RAP 14.2 and 14.3, request this Court award their statutory attorney’s fees and costs for defending this appeal. See RAP 14.2 and 14.3.

#### **CONCLUSION**

WHEREFORE, the Forghanis respectfully request this Court to affirm the King County Superior Court’s judgment dismissing Mr. Herr’s complaint with prejudice and award their costs and statutory attorney’s fees for maintaining this appeal.

Dated this 6th day of May, 2010.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Meyrick Cortes', written over a horizontal line.

Meyrick Cortes  
Attorney for Respondent  
WSBA # 35362

**CERTIFICATE OF SERVICE**

The undersigned declares under penalty of perjury under the laws of the state of Washington that on May 6, 2010, I arranged for service of the foregoing Respondent's Brief to which this certification is affixed to the Washington Court of Appeals, Division I and the parties to this proceeding as follows:

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DATED this 6th day of May, 2010.

  
Meyrick Cortes

**Exhibit A**

S. 7 T. 27N R. 4E

SHORT PLAT NO 177972

KING COUNTY, WASHINGTON

8109170624

This space reserved for recorder's use

APPROVAL

Department of Planning and Community Development  
Building and Land Development Division

Examined and approved this 2 day of

SEPTEMBER, 19 81

*Stan J. Kelle*  
Manager, Building & Land Development Division

Department of Public Works

B.F.

Examined and approved this 27th day of

August, 19 81

*Frank J. Longen*  
Director

Filed for record at the request of:

Name

Department of Assessments

Examined and approved this 1st day of

SEPTEMBER, 19 81

*Harley H. Hoare*  
Assessor

Return to:

Building & Land Development  
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Seattle, Washington 98104

*D. Martin*  
Deputy Assessor

NE# of Sub 7-234  
Acct #072504-9220 Jy

Recording Number

LEGAL DESCRIPTION

THE NORTH 450.00 FEET OF THE W. 1/4 184.00 FEET OF THE EAST 474.40 FEET OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 7, TOWNSHIP 23 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON, EXCEPT THE WEST 104.00 FEET THEREOF AND EXCEPT THAT PORTION WITHIN SOUTHWEST 122nd STREET, CONTAINING 0.7502 ACRES MORE OR LESS.

TRACT "X"

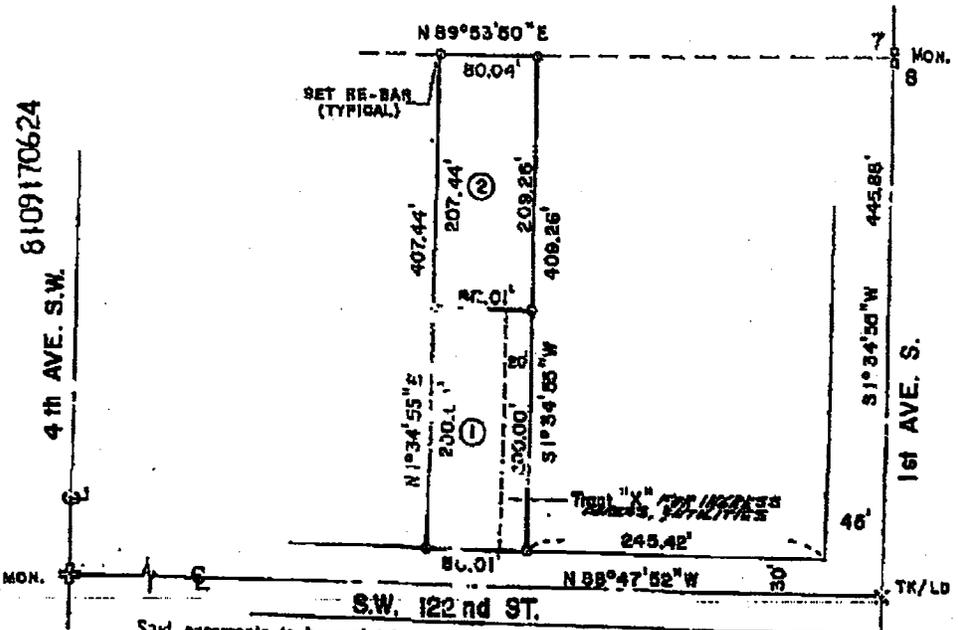
THE SOUTH 230.0 FEET OF THE E 1/2 20.0 FEET OF THE NORTH 450.00 FEET OF THE WEST 184.00 FEET OF THE EAST 474.40 FEET OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 7, TWP. 23 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON, EXCEPT THE WEST 104.00 FEET THEREOF, AND EXCEPT THAT PORTION WITHIN SOUTHWEST 122nd STREET.

81/09/17  
RECD F  
CRSHSL 5.00 #0624 B  
44445.00  
22

IMP-1

Map on File in Vault

RECORDED THIS DAY Page 1 of 3  
SEP 17 2 32 PM '81  
BY THE DIRECTOR OF  
RECORDS & ELECTIONS  
KING COUNTY



Said easements to be maintained, repaired, and/or rebuilt by the owners of the parcels having legal access therefrom and their heirs, assigns or successors, unless and until such roads are improved to King County standards and are dedicated and accepted by King County for maintenance.

WARNING: King County has no responsibility to build, improve, maintain or otherwise service the private roads contained within or providing service to the property described in this short plat.



Land Surveyor's Certificate:

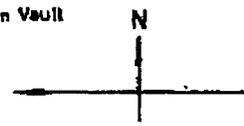
This short plat correctly represents a survey made by me or under my direction in conformance with the requirements of appropriate state and county statute and ordinance.

1-8-80  
Date

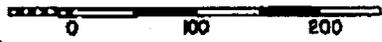
*David G. West*

Map on File in Vault

Direction:



Scale: 1" = 100'



Certificate No. 10446

Short Plat No. 578072

Page 2 of 3

8109170624

DECLARATION:

Know all men by these presents that we, the undersigned, owner(s) in fee simple (and contract purchaser(s)) of the land herein described do hereby make a short subdivision thereof pursuant to RCW 58.17.060 and declare this short plat to be the graphic representation of same, and that said short subdivision is made with the free consent and in accordance with the desire of the owner(s).

In witness whereof we have set our hands and seals.

ROBERT E. MCKENNON  
Name

Velma B McKennon  
Name

Velma B McKennon  
Name

Velma B McKennon  
Name

MARGUERITE E. MARTIN  
Name

Marguerite E. Martin  
Name

STATE OF WASHINGTON )  
County of Pierce ) ss.

On this day personally appears before me \*\*Robert E. McKennon and Velma B. McKennon\*\*

to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this day of May 1, 1981

[Signature]  
Notary Public in and for the State of  
Washington, residing at Sumner

L.S. seal

STATE OF WASHINGTON )  
County of Pierce ) ss.

On this day personally appeared before me \*\*Marguerite E. Martin\*\*

to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that she signed the same as her free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this day of May 1, 1981

[Signature]  
Notary Public in and for the State of  
Washington, residing at Sumner

L.S. seal

**Exhibit B**

## Parcel Data

<b>Parcel</b>	072304-9230	<b>Present Use</b>	Duplex
<b>Name</b>	FORGHANI ESMAEIL+JOY	<b>Zoning</b>	R6
<b>Site Address</b>	106 SW 122ND ST 98146	<b>Jurisdiction</b>	KING COUNTY
<b>Area Code</b>	023-002	<b>Property Type Code</b>	R
<b>Block</b>		<b>Lot</b>	

**Legal Description** LOT 2 OF K C SHORT PLAT NO 579072 RECORDING NO 8109170624 SD PLAT DAF-N 450 FT OF W 184 FT OF FT OF NE 1/4 OF SE 1/4 LESS W 104 FT LESS CO RD E 474.40

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## Land Data

<b>Land SqFt</b>	16,668	<b>Use Exemption</b>	
<b>Acres</b>	0.38	<b>Environmental</b>	No
<b>Water</b>	WATER DISTRICT	<b>Topography</b>	No
<b>Sewer/Septic</b>	PUBLIC	<b>Traffic</b>	No

## Views

<b>Rainier</b>	No	<b>Sound</b>	No
<b>Olympics</b>	No	<b>Lk Wash</b>	No
<b>Cascades</b>	No	<b>Lk Samm</b>	No
<b>Territorial</b>	No	<b>Lk/Riv/Crk</b>	No
<b>Seattle</b>	No	<b>Other</b>	No

## Waterfront

<b>Location</b>	No	<b>Footage</b>	0
<b>Bank</b>	No	<b>Access Rights</b>	No
<b>Tide/Shore</b>	No	<b>Prox. Influence</b>	No
<b>Restricted</b>	No	<b>Poor Quality</b>	No

## Building/Improvement

<b>Building Nbr</b>	1 of 1	<b>Living Units</b>	2
<b>Yr Built/Renov</b>	1987	<b>Bedrooms</b>	8
<b>Grade</b>	7 Average	<b>Total Baths</b>	4
<b>Condition</b>	Average	<b>Basement</b>	0
<b>AGLA</b>	3,310	<b>Finished Bsmt</b>	0
<b>Accessory Imps</b>	N	<b>Covered Parking</b>	500

## Tax Roll History

Tax Yr	Omit Yr	TaxValue Reason	Appraised			Taxable		
			Land Val	Imp Val	Total	Land Val	Imp Val	Total
2010	0		146,000	211,000	357,000	146,000	211,000	357,000
2009	0		146,000	289,000	435,000	146,000	289,000	435,000
2008	0		133,000	219,000	352,000	133,000	219,000	352,000
2007	0		111,000	204,000	315,000	111,000	204,000	315,000
2006	0		105,000	192,000	297,000	105,000	192,000	297,000
2005	0		58,000	260,000	318,000	58,000	260,000	318,000
2004	0		55,000	247,000	302,000	55,000	247,000	302,000
2003	0		53,000	217,000	270,000	53,000	217,000	270,000
2002	0		51,000	199,000	250,000	51,000	216,000	267,000
2001	0		49,000	180,000	229,000	49,000	180,000	229,000
2000	0		47,000	164,000	211,000	47,000	164,000	211,000
1999	0		38,000	211,000	249,000	38,000	211,000	249,000
1998	0					38,000	189,000	227,000
1997	0					38,000	165,000	203,000
1996	0					38,000	165,000	203,000

## Sales History

E Number	Sale Date	Sale Price	Instrument	Sale Reason
2183125	12/17/2005		Quit Claim Deed	Tenancy Partition

## Review History

Tax Yr	Review#	Review Type	Appeal Val	Hearing Dt	Settlement Val	Hearing Result	Status
2005	R74151	Review - Assessment		01/01/1900			Completed

## Permit History

Number	Type	Value	Issue Date	Jurisdiction	Review Dt
B07M0507	Remodel	165612	5/15/2007	KING COUNTY	08/31/2009

## Home Improvement Exemption

Exempt No	Bldg No	Date Rec	Date Comp	Beg Yr	Est Cost
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## Internet Resources

Summary Report for your area:

<http://www.kingcounty.gov/Assessor/Reports/~//media/Assessor/AreaReports/2009/Residential/023.pdf.ashx>

Visit Property Tax Information System to access your tax bill:

<https://payments.metrokc.gov/metrokc.ecommerce.propertytaxweb/>

Visit Records Office's web site to view Excise Tax Affidavits:

<http://146.129.54.93:8193/legalacceptance.asp?>

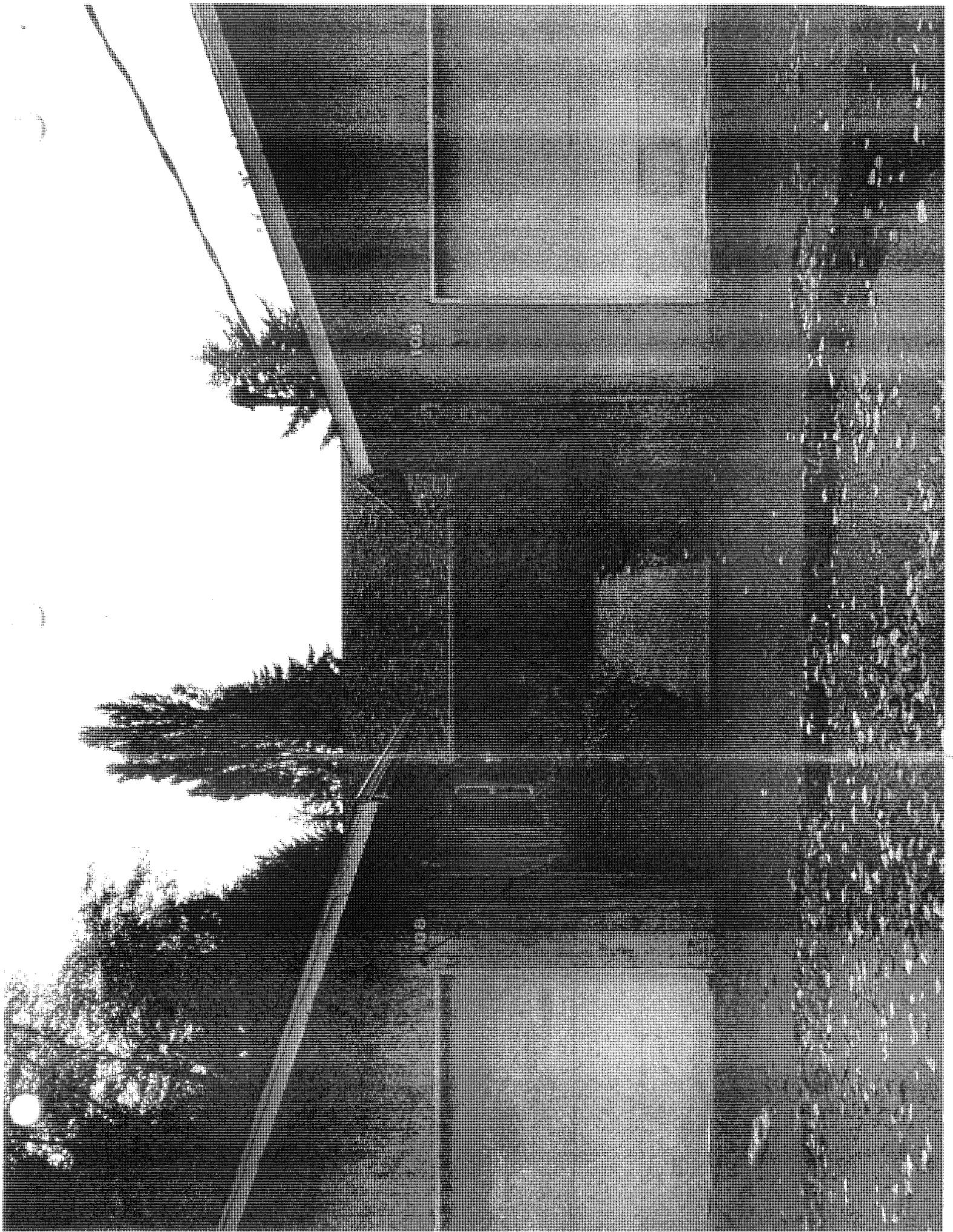
Visit GIS Parcel Viewer for the map of the parcel:

<http://www5.metrokc.gov/parcelviewer/viewer/kingcounty/viewer.asp?PIN=0723049230>

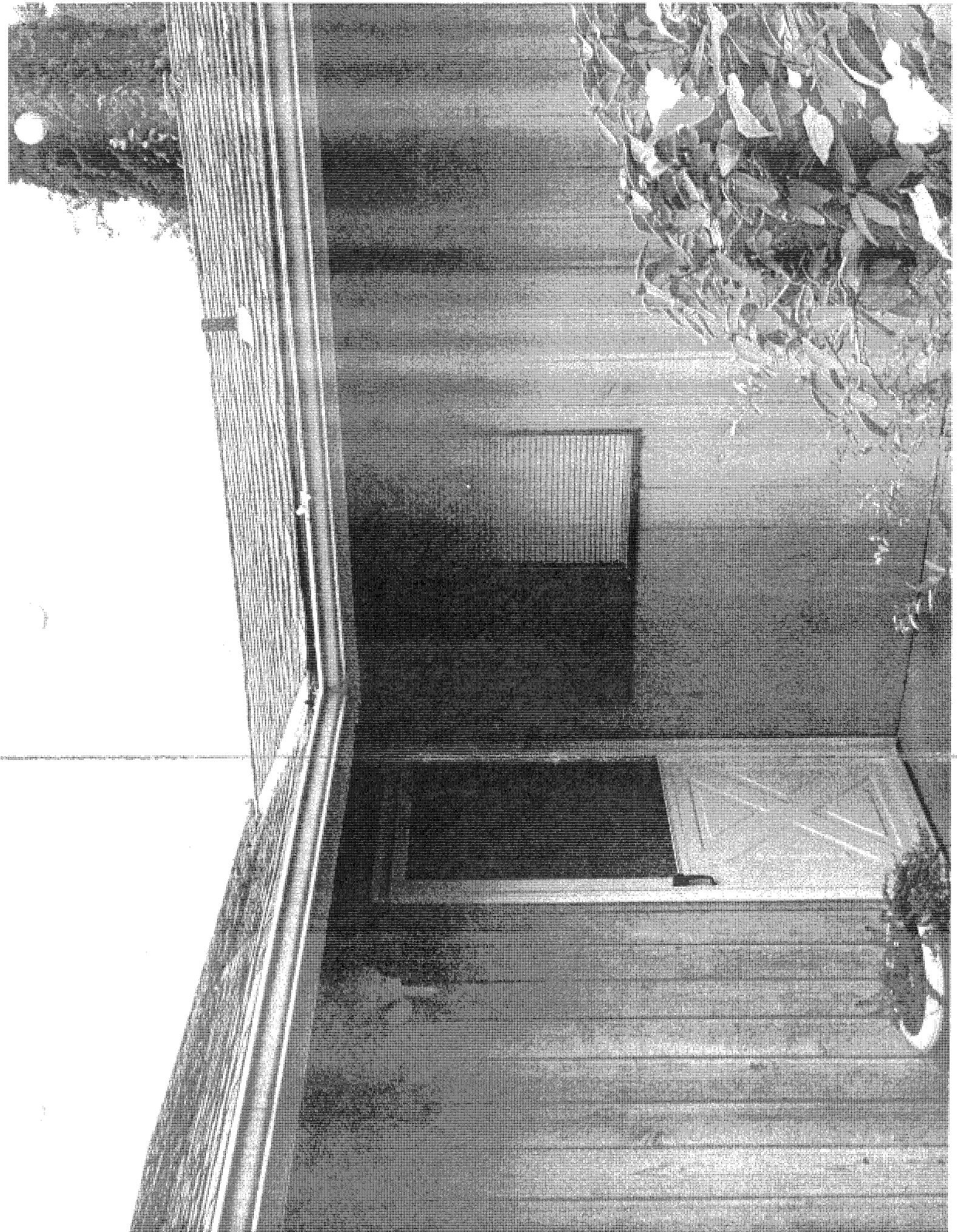
Glossary of Terms

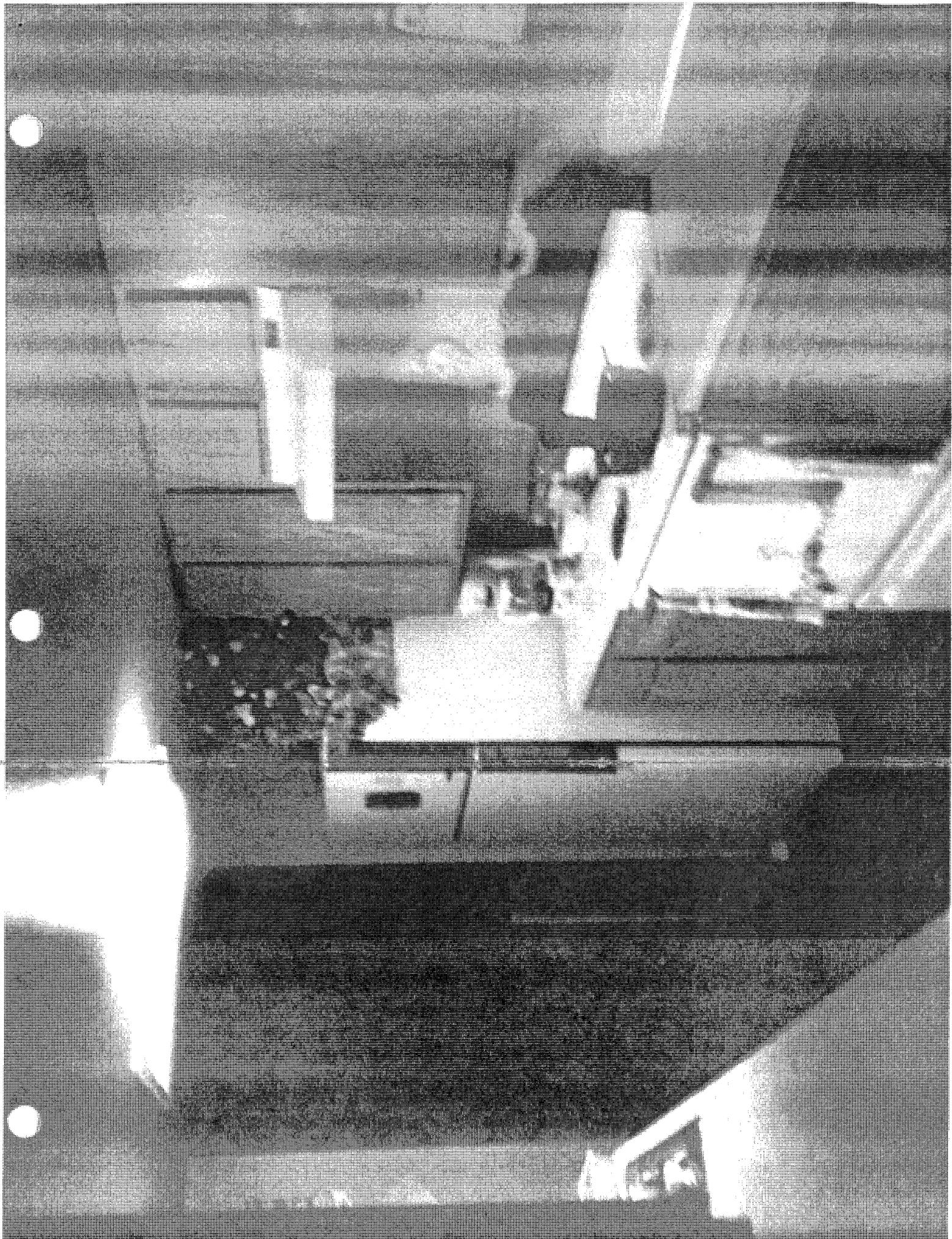
<http://your.kingcounty.gov/assessor/eRealProperty/GlossaryTerms.html>

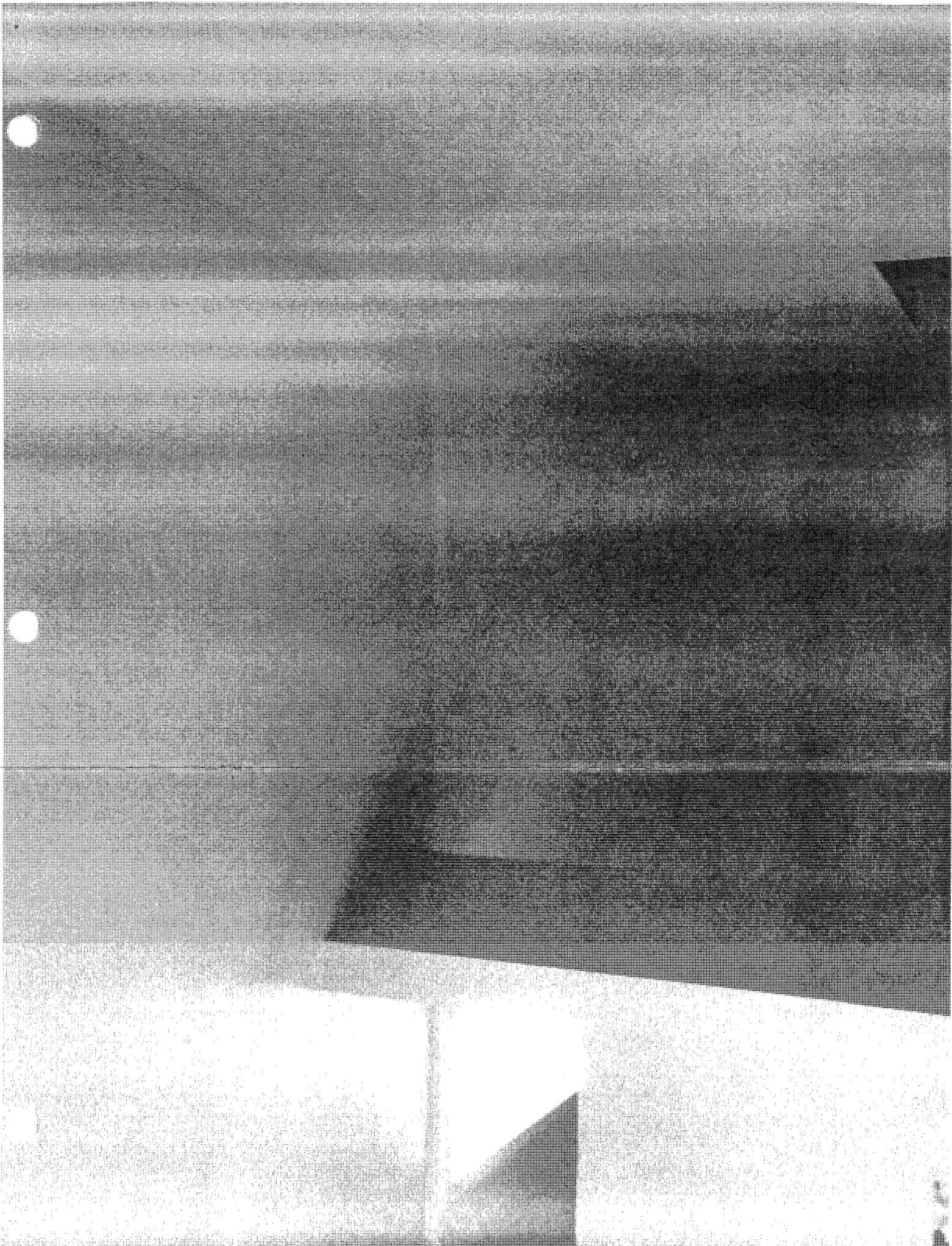
# Exhibit C

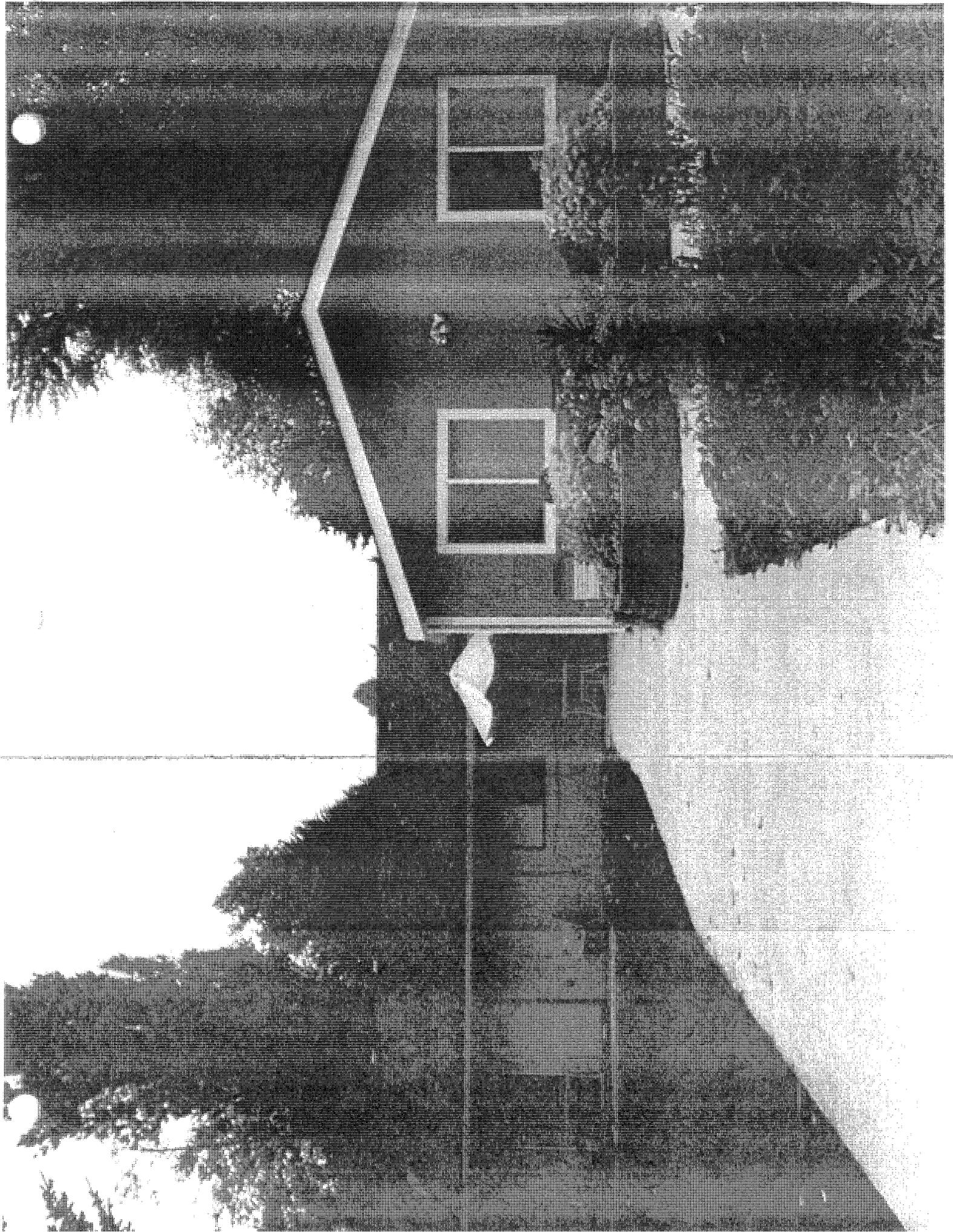






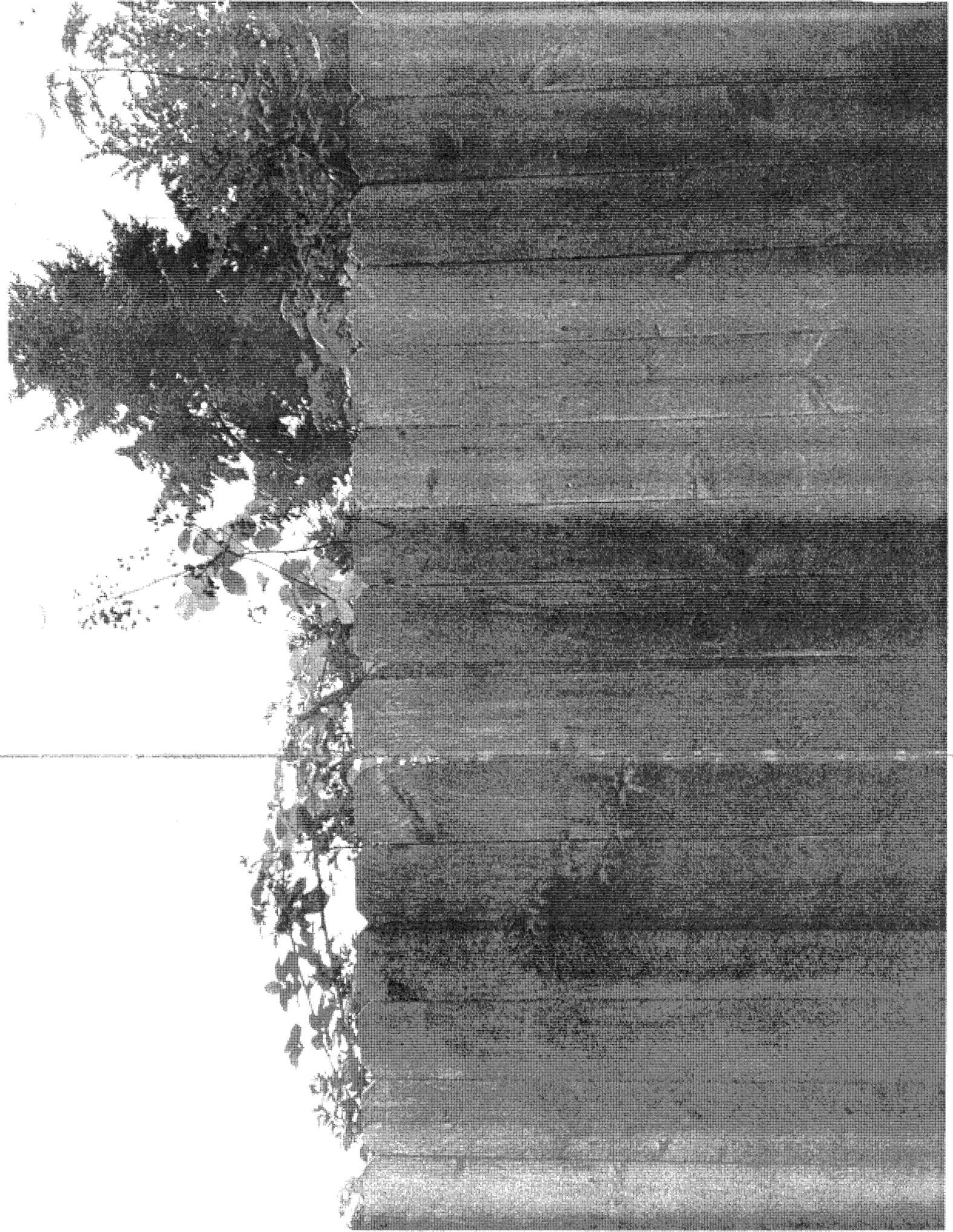












# Exhibit D

## Parcel Data

<b>Parcel</b>	072304-9220	<b>Present Use</b>	Single Family(Res Use/Zone)
<b>Name</b>	HERR DANIEL G+LI MA	<b>Zoning</b>	R6
<b>Site Address</b>	110 SW 122ND ST 98146	<b>Jurisdiction</b>	KING COUNTY
<b>Area Code</b>	023-002	<b>Property Type Code</b>	R
<b>Block</b>		<b>Lot</b>	

**Legal Description** LOT 1 OF K C SHORT PLAT NO 579072 RECORDING NO 8109170624 SD PLAT DAF-N 450 FT OF W 184 FT OF E 474.40 FT OF NE 1/4 OF SE 1/4 LESS W 104 FT LESS CO RD

---

## Land Data

<b>Land SqFt</b>	16,000	<b>Use Exemption</b>	
<b>Acres</b>	0.37	<b>Environmental</b>	No
<b>Water</b>	WATER DISTRICT	<b>Topography</b>	No
<b>Sewer/Septic</b>	PUBLIC	<b>Traffic</b>	No

## Views

<b>Rainier</b>	No	<b>Sound</b>	No
<b>Olympics</b>	No	<b>Lk Wash</b>	No
<b>Cascades</b>	No	<b>Lk Samm</b>	No
<b>Territorial</b>	No	<b>Lk/Riv/Crk</b>	No
<b>Seattle</b>	No	<b>Other</b>	No

## Waterfront

<b>Location</b>	No	<b>Footage</b>	0
<b>Bank</b>	No	<b>Access Rights</b>	No
<b>Tide/Shore</b>	No	<b>Prox. Influence</b>	No
<b>Restricted</b>	No	<b>Poor Quality</b>	No

## Building/Improvement

<b>Building Nbr</b>	1 of 1	<b>Living Units</b>	1
<b>Yr Built/Renov</b>	1979	<b>Bedrooms</b>	3
<b>Grade</b>	6 Low Average	<b>Total Baths</b>	2
<b>Condition</b>	Average	<b>Basement</b>	0
<b>AGLA</b>	1,460	<b>Finished Bsmt</b>	0
<b>Accessory Imps</b>	Y	<b>Covered Parking</b>	0

## Tax Roll History

Tax Yr	Omit Yr	TaxValue Reason	Appraised			Taxable		
			Land Val	Imp Val	Total	Land Val	Imp Val	Total
2009	0		125,000	168,000	293,000	125,000	168,000	293,000
2008	0		114,000	152,000	266,000	114,000	152,000	266,000
2007	0		95,000	143,000	238,000	95,000	143,000	238,000
2006	0		90,000	135,000	225,000	90,000	135,000	225,000
2005	0		55,000	164,000	219,000	55,000	164,000	219,000
2004	0		53,000	155,000	208,000	53,000	155,000	208,000
2003	0		51,000	142,000	193,000	51,000	142,000	193,000
2002	0		49,000	119,000	168,000	49,000	119,000	168,000
2001	0		47,000	97,000	144,000	47,000	97,000	144,000
2000	0		45,000	88,000	133,000	45,000	88,000	133,000
1999	0		38,000	80,000	118,000	38,000	80,000	118,000
1998	0					38,000	72,000	110,000
1997	0					38,000	62,900	100,900
1996	0					38,000	62,900	100,900

## Sales History

E Number	Sale Date	Sale Price	Instrument	Sale Reason
1901976	7/31/2002	155,000	Statutory Warranty Deed	None

## Review History

Tax Yr	Review#	Review Type	Appeal Val	Hearing Dt	Settlement Val	Hearing Result	Status
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## Permit History

Number	Type	Value	Issue Date	Jurisdiction	Review Dt
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## Home Improvement Exemption

Exempt No	Bldg No	Date Rec	Date Comp	Beg Yr	Est Cost
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Visit Records Office's web site to view Excise Tax Affidavits:

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Glossary of Terms

<http://www.metrokc.gov/Assessor/eRealProperty/GlossaryTerms.html>