

KING COUNTY OFFICE OF OPEN SPACE

TITLE OFFICER'S REVIEW OF TITLE REPORT

DATE: December 17, 1996

PROJECT NAME: East Sammamish Trail

OOS PARCEL NO.: 43 ACREAGE: 3.50 acres (1,525 l.f.±)

ASSESSOR'S PARCEL NO(S): 062406-9013-06

TITLE COMPANY: Commonwealth Land Title Insurance Company

REPORT NO.: H769552 DATED: August 2, 1996

VESTING: Burlington Northern Railroad Company, a Delaware corporation, successor in interest to Seattle, Lakeshore & Eastern Railway Company

COMPARISON OF REPORT LEGAL WITH PROPOSED TAKE: Acquisition will be of an interim trail use permit

COMMENTS ON SPECIAL EXCEPTIONS:

1. Taxes and associated charges, tax lot 13: Affects operating property of the railroad. A proration will be required through the date of closing.
2. Excise tax: If the property is conveyed as part of the pending transaction, the tax will be payable when instruments are submitted for recording. Contracts must provide for payment by the seller. If an interim trail use permit is used to create an interest in the county, no excise will be required.
3. Mortgage, Farmers Loan and Trust Company: A revolving credit mortgage given by the Northern Pacific Railway Company in 1896. Partial releases are given routinely by successors to the bank upon application by the railroad. A release will be required prior to closing.
4. Mortgage, Mercantile Trust Company: A revolving credit mortgage given by the Northern Pacific Railway Company in 1896. Partial releases are given routinely by successors to the bank upon application by the railroad. A release will be required prior to closing.
5. Mortgage, Guaranty Trust Company of New York: A revolving credit mortgage given by the Northern Pacific Railway Company in 1914. Partial releases are given routinely by successors to the bank upon application by the railroad. A release will be required prior to closing.
6. Consolidated mortgage, Morgan Guaranty Investment Company of New York and Jacob Ford, II, Investor: A revolving credit mortgage given by the Burlington Northern Railroad

- Company in 1970. Partial releases are given routinely by successors to the bank upon application by the railroad. A release will be required prior to closing.
7. Mortgage, First National Bank of the City of New York: A revolving credit mortgage given by the Great Northern Railway Company in 1921. Partial releases are given routinely by successors to the bank upon application by the railroad. A release will be required prior to closing.
 8. Terms of Northern Pacific Land Grant Act of 1864: The Act is not applicable to this case since the right of way was acquired from private parties, not from the federal government.
 9. Vesting: The report is vested in the railroad, but the interest proposed to be insured is not necessarily fee simple but may be in the nature of an easement. This depends on the nature of the interest held by the railroad which depends in turn on the interest acquired by the railroad. The particular deed under which this property was acquired was entitled "right of way deed" which would probably be deemed to be an easement interest only. The commitment disclaims liability on issues relating to the nature of the interest acquired.
 10. Reversionary rights: If the interest acquired by the railroad was in the nature of an easement, the interest would terminate when the right of way ceased to be used for its intended purpose and the interest would revert to the last person whose deed is interpreted to include the right of way.
 11. Questions of survey: The legal description for the property specifies the exact location of the centerline of the right of way in relation to accepted government survey monuments and includes metes and bounds descriptions for such centerline. The paragraph should not apply to this section of right of way.
 12. Compliance with subdivision ordinances: The property described in the report is a portion of a legal tax parcel. The exception will not apply if the entire right of way is acquired.
 13. Unrecorded permits, etc.: The railroad may be presumed to have issued permits and other forms of agreement allowing neighboring property owners and utilities to cross the right of way for access or to install facilities. It will be necessary to obtain copies of the agreements from the railroad at closing.
 14. Right of entry: Provides for access to a power line easement right of way over adjacent land for maintenance and repair purposes.
 15. Agreement, railroad crossing: Affects portion of right of way approximately 65 feet south of the north line of Government Lot 2. Provides for the right to cross the right of way on a private road by individuals belonging to a homeowner's association composed of owners of lots along the lake in a development known as Mint Grove.

16. Lease, Frederick O. Vicik and Linda K. Vicik: Permits only the use of the portion of the right of way for residential landscaping purposes. Affects a portion of the right of way adjacent to tax lot 57.
17. Conditions on deed: The right of way deed contains no restrictions on use of the right of way but grants the railroad the right to remove danger trees on the adjacent property.

ADDITIONAL COMMENTS:

1. Title is vested by deed recorded under Recording Number 13449 from Bill Silchkanum and Mary Silchkanum, husband and wife. The following instruments affecting title have been recorded within the past 5 years: None.
2. The taxpayer is Burlington Northern Railroad Company, as to Tax Lot 15, address is 810 Third Avenue, Seattle, WA 98104.

9. Title as vested is pursuant to instrument recorded under Recording No. 13449. Numerous court cases have held that the language contained in the original instruments conveying ownership rights to various railroad entities can be construed as ambiguous, both as to intent and purpose. This Company therefore assumes no liability for any questions which may arise relating to the nature of the interest of Burlington Northern, as successor, until such time as a court of competent jurisdiction makes a final determination on this matter.
10. Possible reversionary rights and rights of adjoining property owners, dependant upon the intent and/or purpose of the instrument under which title to the rights herein described as vested.
11. This Company assumes no liability relative to the location of the right of way described herein which may be disclosed by an accurate survey of said premises.
12. Question of compliance with R.C.W. 58.17 and local subdivision ordinances.
13. Any unrecorded permits, licenses, easements and agreements entered into by Burlington Northern Railway Company, or its predecessors in interest, pertaining to the use of the right of way by other parties for water, sewer and electric lines, private and public roads and railroad crossings.
- Right to enter the land to make repairs and the right to cut brush and trees which constitute a menace or danger to the electric transmission line adjoining the land, as granted in instrument recorded under Recording No. 2839770, 2839771 and 2839772.
15. AGREEMENT AND THE TERMS AND CONDITIONS THEREOF:
- | | |
|----------------|------------------------------|
| Recorded: | July 25, 1996 |
| Recording No.: | 9607250971 |
| Regarding: | Private road crossing permit |
- This permit replaces that certain private road crossing permit from the Railway Company to A.J. Peters, number 43810 and dated August 8, 1926, which was assigned to Alex Kell on August 1, 1927.
16. INDEFINITE TERM LEASE AND THE TERMS AND CONDITIONS THEREOF:
- | | |
|----------------|--|
| LESSOR: | Burlington Northern Railroad Company, a Delaware corporation |
| LESSEE: | Frederic O. and Linda K. Vicik, husband and wife |
| FOR A TERM OF: | Not disclosed |
| DATED: | February 1, 1996 |
| RECORDED: | March 15, 1996 |
| RECORDING NO.: | 9603151766 |
17. COVENANTS, CONDITIONS AND RESTRICTIONS imposed by instrument recorded on May 9, 1887, under Recording No. 13449.

KING COUNTY OFFICE OF OPEN SPACE

TITLE OFFICER'S REVIEW OF TITLE REPORT

DATE: December 17, 1996

PROJECT NAME: East Sammamish Trail

OOS PARCEL NO.: 42 ACREAGE: 2.79 acres (1,215 l.f.±)

ASSESSOR'S PARCEL NO(S): 062406-9013-06

TITLE COMPANY: Commonwealth Land Title Insurance Company

REPORT NO.: H769551 DATED: June 21, 1996

VESTING: Burlington Northern Railroad Company, a Delaware corporation, successor in interest to Seattle, Lakeshore & Eastern Railway Company

COMPARISON OF REPORT LEGAL WITH PROPOSED TAKE: Acquisition will be of an interim trail use permit

COMMENTS ON SPECIAL EXCEPTIONS:

1. Taxes and associated charges, tax lot 13: Affects operating property of the railroad. A proration will be required through the date of closing.
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7. Mortgage, First National Bank of the City of New York: A revolving credit mortgage given by the Great Northern Railway Company in 1921. Partial releases are given routinely by successors to the bank upon application by the railroad. A release will be required prior to closing.
 8. Terms of Northern Pacific Land Grant Act of 1864: The Act is not applicable to this case since the right of way was acquired from private parties, not from the federal government.
 9. Vesting: The report is vested in the railroad, but the interest proposed to be insured is not necessarily fee simple but may be in the nature of an easement. This depends on the nature of the interest held by the railroad which depends in turn on the interest acquired by the railroad. The particular deed under which this property was acquired was entitled "right of way deed" which would probably be deemed to be an easement interest only. The commitment disclaims liability on issues relating to the nature of the interest acquired.
 10. Reversionary rights: If the interest acquired by the railroad was in the nature of an easement, the interest would terminate when the right of way ceased to be used for its intended purpose and the interest would revert to the last person whose deed is interpreted to include the right of way.
 11. Questions of survey: The legal description for the property specifies the exact location of the centerline of the right of way in relation to accepted government survey monuments and includes metes and bounds descriptions for such centerline. The paragraph should not apply to this section of right of way.
 12. Compliance with subdivision ordinances: The property described in the report is a portion of a legal tax parcel. The exception will not apply if the entire right of way is acquired.
 13. Unrecorded permits, etc.: The railroad may be presumed to have issued permits and other forms of agreement allowing neighboring property owners and utilities to cross the right of way for access or to install facilities. It will be necessary to obtain copies of the agreements from the railroad at closing.
 14. Easement, ingress and egress: Affects portion of right of way within East Lake Sammamish Shore Lane Road. No recorded instrument appears to exist, but the access is disclosed on the plat of the property adjacent to the road. There probably is a permit with the railroad for this crossing.
 15. Right of entry: Provides for access to a power line easement right of way over adjacent land for maintenance and repair purposes.

16. Conditions on deed: The right of way deed contains no restrictions on use of the right of way but grants the railroad the right to remove danger trees on the adjacent property.

ADDITIONAL COMMENTS:

1. Title is vested by deed recorded under Recording Number 13449 from Bill Silchkanum and Mary Silchkanum, husband and wife. The following instruments affecting title have been recorded within the past 5 years: None.
2. The taxpayer is Burlington Northern Railroad Company, as to Tax Lot 15, address is 810 Third Avenue, Seattle, WA 98104.

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10. Possible reversionary rights and rights of adjoining property owners, dependant upon the intent and/or purpose of the instrument under which title to the rights herein described as vested.
11. This Company assumes no liability relative to the location of the right of way described herein which may be disclosed by an accurate survey of said premises.
12. Question of compliance with R.C.W. 58.17 and local subdivision ordinances.
13. Any unrecorded permits, licenses, easements and agreements entered into by Burlington Northern Railway Company, or its predecessors in interest, pertaining to the use of the right of way by other parties for water, sewer and electric lines, private and public roads and railroad crossings.

EASEMENT AND THE TERMS AND CONDITIONS THEREOF.

Purpose:	Ingress and egress
Affects:	Southerly portion of said premises
Disclosed by:	Plat of Masons's Lakeside re-plat

15. Right to enter the land to make repairs and the right to cut brush and trees which constitute a menace or danger to the electric transmission line adjoining the land, as granted in instrument recorded under Recording No. 2571700.
16. COVENANTS, CONDITIONS AND RESTRICTIONS imposed by instrument recorded on May 9, 1887, under Recording No. 13449.

DJC/cgg

END OF SCHEDULE B

Investigation should be made to determine if there are any service, installation, maintenance, or construction charge for sewer, water or electricity.

In the event this transaction fails to close, a cancellation fee will be charged for services rendered in accordance with our rate schedule.

This company is a Pennsylvania Corporation and is in no way affiliated or connected with Commonwealth Title Insurance Company or Commonwealth Title