

1983

Delbert Kresser And Edward Kresser v. Vaughn Peterson And Glade Arthur Peterson : Appellant's Brief

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IN THE SUPREME COURT
OF THE STATE OF UTAH

---oo0oo---

DELBERT KRESSER and	:	
EDWARD KRESSER,	:	
	:	
Appellants,	:	APPELLANT'S BRIEF
	:	
vs.	:	Supreme Court No. 19285
	:	
VAUGHN PETERSON and	:	
GLADE ARTHUR PETERSON	:	
	:	
Respondents.	:	
	:	

---oo0oo---

An appeal from a Judgment, no cause of action against
Appellants, Plaintiffs. Third Judicial District Court in
and for Salt Lake County, State of Utah, JUDGE SCOTT DANIELS.

DEL B. ROWE
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Attorney for Appellant

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Attorney for Respondent

FILED

SEP 20 1983

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APPELLANT'S BRIEF

NATURE OF CASE AND DISPOSITION IN LOWER COURT:

This is an appeal from a Judgment of a District Court Judge that a Warranty Deed was delivered by the Grantor to the Grantees prior to the Grantors death by recording.

RELIEF SOUGHT ON APPEAL:

The Appellant seeks reversal and a Judgment that the Deed in question was not delivered because it was placed in a safe deposit box after recording which box was, by written agreement with the bank, under the "exclusive" control of the Grantor until death.

(Findings R 141-48) FACTS: (Parties Stipulated R96)

1. On May 21, 1949, Edward Kresser, Sr. and Della Pyper Kresser were married in the State of Nevada.
2. At said time, Edward Kresser, Sr. was already the father of two sons, by a prior marriage with Louie Barrett, which sons, Delbert Kresser and Edward Kresser, are the Plaintiffs in this action.
3. At said time, Della Pyper Kresser was already the mother of two sons, by prior marriage with Arthur Peterson, which sons, Lloyd Peterson and Glade Peterson, aka Vaughn Peterson and Arthur Peterson, respectively, are the Defendants in this action.
4. Sometime in 1951, Edward Kresser, Sr. and Della

Pyper Kresser purchased the real property which is the subject of this action, as joint tenants, which real property is located at 2140 South 1800 East, Salt Lake City, Utah, and more particularly known as:

All of Lots 36 and 37, Bl. 3, Idlewild Addition, a subdivision of part of the North-east quarter of Section 21, Township 1 South, Range 1 East, Salt Lake Meridian, in the City of Salt Lake, County of Salt Lake, State of Utah, according to the plat thereof recorded in the office of the County Recorder of said County.

5. After several transactions between themselves, Edward Kresser, Sr. and Della Pyper Kresser owned the subject real property as joint tenants with full rights of survivorship at the time of the death of Edward Kresser, Sr., on April 20, 1970.

6. Fee simple title to the subject real property passed to Della Pyper Kresser, outside the estate of Edward Kresser, Sr., by operation of law, upon the death of Edward Kresser Sr.

7. On June 16, 1970, Della Pyper Kresser executed a document entitled "Will of Della Pyper Kresser." See Attachment :

8. Relevant portions of said Will provide as follows:

I give, devise, and bequeath the house and property at 2140 South 18th East in Salt Lake County, State of Utah, described as follows:

All of Lots 36 and 37, Block 3 Idlewild Addition in Salt Lake County, State of Utah,

to Lloyd Vaughn Peterson, Glade Arthur Peterson, Edward Kresser, and Delbert Kresser, in equal shares.

9. On July 2, 1976, Della Pyper Kresser executed a hand-written codicil on the bottom of the Will.

10. Relevant portions of the said codicil provide as follows:

It is my wish that at the time of my death, that my son, Lloyd, have first opportunity to purchase my home at 2140 South 18th East.

11. On April 15, 1977, Della Pyper Kresser executed a Warranty Deed, which was also acknowledged, which conveyed all of her right, title and interest in the subject real property to Della P. Kresser (herself), Lloyd V. Peterson (a Defendant herein) and Glade A. Peterson (a Defendant herein), as joint tenants with full rights of survivorship.

12. On April 18, 1977, the subject Warranty Deed was recorded in the office of the Salt Lake County Recorder in Book 4476, at Page 964, as Entry No. 2933125 of said records. Said Warranty Deed was recorded by Della Pyper Kresser, at her request, as noted by the Recorder at the top of the Deed.

13. After the Warranty Deed was recorded, it was returned to Della Pyper Kresser, by the Recorder, at her address of 2140 South 1800 East, Salt Lake City, Utah 84106.

14. Della Pyper Kresser died October 19, 1981.

15. Della Pyper Kresser was the exclusive occupant of the property until her death.

16. During all times relevant hereto, Della Pyper Kresser was one hundred percent (100%) independent as to her business and personal affairs.

17. The Warranty Deed was located in a safe deposit box at Continental Bank and Trust Company, several days prior to her death by her son, Lloyd Peterson, a Defendant

herein, which safe deposit box was rented by Della Pyper Kresser as "Tenant", Lloyd Peterson, as "Joint Tenant", and Glade Peterson as "Joint Tenant", pursuant to the terms of the Safe Deposit Rental Agreement, an exhibit herein. #1

a. Neither Lloyd Peterson nor Glade Peterson knew the Deed was in the safe deposit box.

b. Neither Lloyd Peterson nor Glade Peterson had ever gone to the box prior to the location of the Deed in the safe deposit box.

c. Della Pyper Kresser left no instructions about the box or contents with Lloyd Peterson or Glade Peterson, or anyone else that they were aware of.

18. Lloyd Peterson did not have Della Pyper Kresser's express permission or authority to take the Deed from the safe deposit box, except as to permission or authorization granted in the Safe Deposit Rental Agreement, if any.

20. Neither Glade Peterson nor Lloyd Peterson ever saw the Warranty Deed prior to the location of it in the safe deposit box.

21. Neither Lloyd Peterson nor Glade Peterson paid the ten dollars (\$10) mentioned in the Warranty Deed.

22. Della Pyper Kresser executed her Will, she intended that the subject real property should be passed through her estate and distributed to Lloyd Peterson, Glade Peterson, Delbert Kresser, and Edward Kresser, Jr., as her devisees, pursuant to the terms of her Will.

23. Della Pyper Kresser felt great love and affection for her natural sons, Lloyd Peterson and Glade Peterson, the Defendants herein, during all times relevant hereto.

24. At the time Della Pyper Kresser executed the subject Warranty Deed, she intended that present title to the subject real property be transferred to her natural sons, Lloyd Peterson and Glade Peterson, the Defendants herein.

25. During the life of Della Pyper Kresser, she paid all taxes, hazard insurance, and utilities on the subject real property.

26. Shortly prior to the execution of the Warranty Deed, during its execution, and shortly thereafter, Della Pyper Kresser verbally represented to Mayme Peterson (the wife of Defendant Lloyd Peterson), Blanche Liebelt (the sister of Della Pyper Kresser), and DeNiece Starich (the Notary Public in front of whom the Warranty Deed was signed) that she (Della Pyper Kresser) intended to transfer the present title in the subject real property to herself and her natural sons, Lloyd Peterson and Glade Peterson, the Defendants herein.

27. Shortly prior to the execution of the Warranty Deed, during its execution, and thereafter, Della Pyper Kresser verbally represented to Mayme Peterson (the wife of the defendant Lloyd Peterson), Blanche Liebelt (the sister of Della Pyper Kresser), and DeNiece Starich (the Notary Public in front of whom the Warranty Deed was signed) that she (Della Pyper Kresser) did not desire or intend that the subject real property pass to Delbert Kresser and Edward Kresser, Jr.

28. No undue influence or fraud was perpetrated upon Della Pyper Kresser or the Plaintiffs herein, by the Defendants at anytime relevant hereto.

29. This action affects title to or an interest in real property located within Salt Lake County, State of Utah.

30. The Safe Deposit Rental Agreement states that the Grantor of the Deed, Mrs. Kresser, was the sole tenant of the box and states: (para 4 of attached Exhibit 1)

"...It being agreed that the right of access hereby granted tenant is "EXCLUSIVE" ..."

ARGUMENT

POINT 1

HERE WAS NO VALID DELIVERY OF THE DELLA PYPER KRESSER DEED PRIOR TO DEATH.

1. The deed from MRS. KRESSER to her sons, the PETERSON brothers, is void for lack of delivery. In 23 AmJur 2d #89, the law is very straightforward that a delivery must mean that the grantor lose dominion and control of the instrument. At page 138 of the above citation the general rule is stated:

"A SUFFICIENT DELIVERY OF A DEED REQUIRES THAT THERE BE A MANIFESTATION OF THE INTENTION OF THE GRANTOR TO RELINQUISH ALL DOMINION AND CONTROL OVER THE INSTRUMENT AND TO HAVE IT BECOME PRESENTLY EFFECTIVE AS THE TRANSFER OF TITLE. THERE IS NO DELIVERY IN LAW WHERE THE GRANTOR KEEPS THE DEED IN HIS POSSESSION WITH THE INTENTION OF RETAINING IT, PARTICULARLY WHERE HE KEEPS POSSESSION OF THE PROPERTY AS WELL. . . IF A GRANTOR RETAINS THE RIGHT TO CONTROL OR RECLAIM A DEED, THERE IS NO DELIVERY EVEN THROUGH GRANTOR NEVER EXERCISES SAID RIGHT." Emphasis added.

In the Utah Supreme Court case of WIGGILL vs. CHENEY, 597 P. 1351, (1979). The Court discussed the facts:

"THE MATERIAL FACTS ARE UNDISPUTED. SPECIFICALLY, ON THE 25TH DAY OF JUNE, 1958, LILLIAN W. CHENEY SIGNED A DEED TO CERTAIN REAL PROPERTY LOCATED IN THE CITY OF OGDEN, UTAH, WHEREIN THE DEFENDANT, FLORA CHENEY, WAS NAMED GRANTEE."

THERAFTER LILLIAN CHENEY PLACED THIS DEED IN A SEALED ENVELOPE AND DEPOSITED IT IN A SAFETY DEPOSIT BOX IN THE NAMES OF HERSELF AND THE PLAINTIFF, FRANCIS E. WIGGILL. FOLLOWING THE DEPOSITION OF THE DEED LILLIAN CHENEY ADVISED PLAINTIFF HIS NAME WAS ON THE SAFETY DEPOSIT BOX AND INSTRUCTED PLAINTIFF THAT UPON HER DEATH, HE WAS TO GO TO THE BANK WHERE HE WOULD BE GRANTED ACCESS TO THE SAFETY DEPOSIT BOX AND ITS CONTENTS. LILLIAN CHENEY FURTHER INSTRUCTED, ' IN THAT BOX IS AN ENVELOPE ADDRESSED TO ALL THOSE CONCERNED, ALL YOU HAVE TO DO IS GIVE THEM THAT ENVELOPE AND THAT'S ALL. ' AT ALL TIMES PRIOR TO HER DEATH, LILLIAN CHENEY WAS IN POSSESSION OF A KEY TO THE SAFETY DEPOSIT BOX AND HAD SOLE AND COMPLETE CONTROL OVER IT. PLAINTIFF WAS NEVER GIVEN THE KEY TO THE SAFETY DEPOSIT BOX.

FOLLOWING THE DEATH OF LILLIAN CHENEY, PLAINTIFF, AFTER GAINING ACCESS TO THE SAFETY DEPOSIT BOX, DELIVERED THE DEED CONTAINED THEREIN TO FLORA CHENEY, THE NAMED GRANTEE."

2. This case is even stronger against delivery. DELLA KRESSER had entered into a written agreement with her Bank giving her "exclusive" possession of the box. Her natural sons, the Defendants, had no legal control over the box or the deed inside because the Safe Deposit Agreement granted only the "tenant" MRS. KRESSER, "exclusive" access to the box. Thus the fact that DELLA had exclusive control of the box and her sons never even knew of the existence of the deed they, therefore, never had valid delivery prior to DELLA's death and this non-delivery voids the deed.

Another Utah case directly in point is NORLING vs. ANDERSON 235 P2 1253. In that case the grantor actually handed the deed to the Grantee who initialed it and gave it back. Grantor then placed it in her safe deposit box. When Grantor was ill and not mentally capable of authorizing delivery the Grantee took the deed and recorded it. The court held the deed void for non-delivery. The KRESSER case is even stronger than NORLING or WIGGILL for non-delivery for the following significant reasons.

1. Recording created only an "inference" of delivery. After recording, it was returned by The Recorder exclusively to Mrs. Kresser. FURTHER, SHE WILLED IT TO THE APPELLANTS. -7-

- (2) DELLA was also a Grantee on her own deed which is clear and convincing evidence of her intent to retain a present interest in the title to the Home.
- (3) Neither LLOYD nor GLADE ever saw the deed prior to her death, although LLOYD took the deed from the box while she was on her death bed without authorization. They didn't even know it was in the box.
- (4) DELLA PYPER KRESSER was the sole "tenant" of the safe deposit box. Her agreement with the bank said she had the "exclusive" right to the box. Her sons went to the box prior to the unauthorized taking. They never had the Key to the box.
- (5) Further, DELLA was the sole possessor of the home.
- (6) The Peterson Brothers had no legal physical possession of the deed nor ever saw it with their own eyes.
- (7) Neither LLOYD nor GLADE ever lived with DELLA after the deed was made and therefore they never had even minimal possession of the deed.
- (8) DELLA paid all taxes, insurance and utilities.

POINT II

REGARDLESS OF RECORDATION, THE RETENTION OF SOLE CONTROL OF THE DEED AND PROPERTY BY DELLA, THE GRANTOR, REBUTTS THE INFERENCE OF DELIVERY.

1. The PETERSON brothers claim that recordation raises an almost conclusive presumption of delivery. That is not the law in Utah. Two Utah cases are in point. In ALLEN vs. ALLEN 204 P2 458, the facts are that in 1929 a MRS. ALLEN conveyed her property via Quit Claim deed to her daughter LIVINIA ALLEN SMITH

and her son EDWARD F. ALLEN. She reserved a LIFE ESTATE in herself in the same instrument. She kept the deed in her possession until her death in 1947. LIVINIA lived with her most of the time and had actual possession of the deed. In 1947 MRS. ALLEN delivered another deed to her son EDWARD and his wife PEGGY, only, on the same property. She had recorded the 1929 deed. The court held:

"THE RETENTION OF A LIFE ESTATE IN THE PROPERTY COVERED BY THE DEED, RAISES A PRESUMPTION THAT THE DEED IS TO OPERATE IMMEDIATELY AS A CONVEYANCE SINCE RETENTION OF THE PART IS INDICATIVE OF AN INTENTION TO DIVEST HERSELF OF THE BALANCE PRESENTLY, AND ADDS STRENGTH TO THE PRESUMPTION OF DELIVERY ARISING FROM RECORDING. IN THE PRESENT CASE, THEN, WE HAVE TWO ACTS INDICATIVE OF AN INTENTION TO MAKE AN IMMEDIATE CONVEYANCE-- THE RETENTION OF THE LIFE ESTATE AND THE RECORDING."

2. However, in the instant KRESSER case, DELLA completed the one-act -- that of recording but the "by clear and convincing acts" obliterated any effect of recording by:

- A. Placing her own name on the deed as a grantee has the opposit effect of the "Allen Life Estate Deed." Putting her own name on the deed as a grantee shows an intent to retain ownership and control of the deed and the property. THERE WAS NO "PRESENT" divestment here, as found in the ALLEN case. Deeding ones own property to oneself jointly creates no new estate in that same person. This case if further distinguished from ALLEN in that, there LIVINIA ALLEN lived in the house and had actual physical possession of the Deed.

Here there is no physical possession by the PETERSON Brothers as they never lived in the KRESSER home at any pertinent time nor opened the safe deposit box.

- B. She placed the deed in a safety deposit box under her exclusive control.
- C. Only eight months before, by the notation on her will, she intended all four parties get the property.
- D. As stated, supra, Point I: 23 AmJur 2d #89:
" . . . There is not delivery in law where the grantor keeps the deed in his possession with the intention of retaining it, particularly where he KEEPS POSSESSION OF THE PROPERTY AS WELL . . ."

3. In CHAMBERLAIN vs. CHAMBERLAIN, 83 U. 420, 29 P2 355, our Supreme Court in a case where one sister deeded to her sister who lived with her in the same house, which deed was recorded, held: The fact the sister had "constructive possession" of the deed by living in the home where the deed was located was a valid delivery but concerning recording, our Supreme Court said P362 (p2) at #15 . . .

"SO IN THIS JURISDICTION A PRESUMPTION OPERATES BUT WHEN FACTS AND CIRCUMSTANCES ARE SHOWN CONCERNING WHICH THE PRESUMPTION IS INDULGED, THE PRESUMPTION CEASES AND THE CONTROVERSY IS TO BE DECIDED BY THE WEIGHT OF THE EVIDENCE ADDUCED. 'A PRESUMPTION OF FACT' . . . is IN REALITY, NOTHING MORE THAN AN INFERENCE DEMANDED BY LOGIC FROM FACTS AND CIRCUMSTANCES IN EVIDENCE, AND USUALLY IS A QUESTION OF FACT AND THUS DIFFERENT FROM A PRESUMPTION OF LAW 'AS EVIDENTIARY VALUE'".

Emphasis added.

4. Further, in YOUNG vs. GUILBEAN, 95 I 11.267, 18 Ed 262, the Court held concerning registration or recording:

"THE PRESUMPTION OF DELIVERY FROM REGISTRATION IS REBUTTED WHEN IT IS SHOWN THE REGISTRY WAS MADE WITHOUT THE ASSENT OF THE GRANTEE, WHO HAD NO KNOWLEDGE OF THE EXISTENCE OF THE DEED, AND WHERE THE PROPERTY REMAINED IN THE POSSESSION OF THE GRANTOR."

The KRESSER brother's case is even stronger because of the placing of the deed in the safe deposit box, "exclusive" right of access in DELLA!!! Also, neither of the Peterson brothers knew the deed was in the box.

POINT III

WITHOUT EVIDENCE OF DELIVERY IT IS OF NO IMPORTANCE WHATEVER THE INTENTIONS OF THE GRANTOR MAY BE.

The fundamental law in Utah concerning intent and delivery was laid down in the landmark case of SINGLETON vs. KELLY, 61 Utah 244, 212P. 63 (1922) at Page 66:

" . . . That is true (The Courts will carry out the grantor's intention wherever this is possible) but without any evidence of delivery, it can be of no importance whatever what the intention to convey his property to another, but unless the deed is delivered to the grantee, or someone for him, title cannot pass, and the undelivered deed is a nullity."

The trial court found in its memorandum decision that MRS. KRESSER's intent was a factor. The trial judge failed to distinguish between intent to convey vs. the intent to deliver.

The stipulation of facts do not contain any facts where DELLA intended a "present" delivery. It is absurd to assume she knew recording was delivery. If intent is a legal factor, however, her WILL bequest to the appellants unequivocally shows her intent to devise to all four "sons".

Remember, her hand-written codocil affirming the "all four" devise was written only 9 months before the preparation of the ill-fated deed. This too was in existence at her death.

So, her expressions (R145 para 26 and 27) to her relatives of her intent to grant the property to the respondents (her natural sons) are diametrically opposed by her expressions

in her will (R142, para 7 and 8) and her codicil (R142 and 143, para 10) granting to the appellants (stepsons) and, of course, her natural sons.

The weight given by law to writings over oral expressions is fundamental. The parol evidence rule, although this present case involves a will rather than a contract, perhaps states the policy of the law best; see Fox Film Corp. vs. Ogden Theatre Co., 17 P2 294: (paraphrased)

" . . . where parties to a contract (will in this case) have deliberately put their engagement in writing in such terms as import a legal obligation without any uncertainty as to object or extent of such engagement, it is conclusively presumed that the entire engagement of the parties, and the extent and manner of their undertaking, have been reduced to writing, and all parol evidence of prior or contemporaneous conversations or declarations tending to substitute a new and different contract for the one evidence by the writing in incompetent."

The parol statements of DELLA'S intent have no legal effect. What matters here are DELLA'S acts. Again, DELLA'S acts of 1. Placing the deed in a safe deposit box under her exclusive control, 2. exclusive control of the home, and 3. no communication to the respondents of the existence of the deed all rebut any inference of delivery by recording.

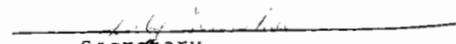
RESPECTFULLY SUBMITTED



DEL B. ROWE
Attorney for Appellants

Certificate of Mailing

I hereby certify that I mailed a true and correct copy of the foregoing APPELLANT'S BRIEF, postage pre-paid from Salt Lake City, Utah to: LESTER A. PERRY, ESQ., 276 East 400 South Salt Lake City, Utah 84111 on this 26th day of September, 1983.



Secretary

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425 South 400 East
Salt Lake City, Utah 84111
Telephone: 322-1076

IN THE SUPREME COURT
OF THE STATE OF UTAH

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DELBERT KRESSER and
EDWARD KRESSER

Appellant,

vs.

VAUGHN PETERSON and
GLADE ARTHUR PETERSON

Respondent.

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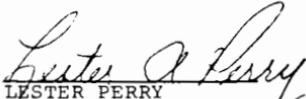
STIPULATION FOR
MISSING EXHIBITS

Supreme Court No. 19285

---oooOooo---

The parties by and through their respective attorneys stipulate that Deposition exhibits 1, 3, and 4 attached hereto and by reference made a part hereof are and should have been part of The Pre-Trial order as exhibits and therefore part of this record before The Supreme Court.

DATED this 20th day of September 1983.


LESTER PERRY
Attorney for Respondent


DEL B. ROWE
Attorney for Appellant

THE CONTINENTAL BANK & TRUST CO.

SAFE DEPOSIT RENTAL AGREEMENT



I, _____ Secretary
 of _____
 a corporation do hereby certify that

We, the undersigned, co-partners doing business under the
 firm name and style of —

Company, hereby certify that —

and _____ and

 whose signatures appear herein, are the duly elected and

_____ and

 whose signatures appear herein, are —

written _____
 respectively of this Corporation, and by virtue thereof
 and of the By-Laws of this Corporation and of the resolu-
 tion of its Board of Directors, duly passed on the

_____ and

 respectively,

day of _____, 19__

of this Company, and that they are authorized to enter
 into the foregoing Safe Deposit Rental Agreement, to have
 access to the safe deposit box hereto leased, and to remove
 any or all the contents therefrom for storage until such
 time as advice to the contrary is received by
 said bank.

they are authorized to enter into the foregoing Safe Deposit
 Rental Agreement and to have access to the safe deposit
 box hereto leased, and to remove any or all of the con-
 tents therefrom until such time as advice to the contrary
 in writing is received by said bank.

IN WITNESS WHEREOF, we have hereunto set our
 hands and seals, the day and year first above written.
 Signatures of Partners —

WITNESS my hand and seal of said Corporation, the
 day and year first above written

Attest: Secretary

APPOINTMENT OF DEPUTY

REVOCAION OF DEPUTY

is hereby authorized to have full access to the safe and con-
 tents thereof.

Date _____

Date _____

Appointed of _____

Signature of
 Deputy _____

as Deputy is hereby revoked.

Address of
 Deputy _____

Tenant _____

Signature
 Tenant _____

Tenant _____

Signature
 Tenant _____

Tenant _____

RELEASE

The above lease is hereby cancelled and terminated and
 receipt of all property and contents placed in the safe or
 deposit box hereto referred to, and compliance by said
 bank with all terms of the within lease, is hereby acknowl-
 edged and said bank is hereby released of all liability

Date Oct 10, 1981

 Loyal V. Peterson

Recorded at Request of Della P. Kresser
at 4:30 P M. Fee Paid \$ 220 KATH L. BLISS, COUNTY CLERK
by Della P. Kresser Dep Book _____ Page _____ Ref. 887-189-12
Mail tax notice to _____ Address 2140 So 1800 E apt

2933125 WARRANTY DEED 8/4/106

Della P. Kresser grantor
of Salt Lake City, County of Salt Lake, State of Utah, hereby
CONVEY and WARRANT to _____

Della P. Kresser, Lloyd V. Peterson and Glade A. Peterson,
her sons as joint tenants at the common law
and not as tenants in common, with full rights
of survivorship.

of Salt Lake City, Utah STANTEED for the sum of
Ten and no/100 ----- (-\$10.00) DOLLARS.

the following described tract of land in Salt Lake County County,
State of Utah:

All of Lots 36 and 37, Bl. 3, Idlewild Addition, a
subdivision of part of the Northeast quarter of Section
21, Township 1 South, Range 1 East, Salt Lake Meridian,
in the City of Salt Lake, County of Salt Lake, State of
Utah, according to the plat thereof recorded in the
office of the County Recorder of said County.

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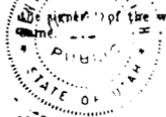
WITNESS, the hand of said grantor, this 15th day of
April, A. D. 1977

Signed in the Presence of Della P. Kresser

STATE OF UTAH,
County of Salt Lake } ss.

On the 15th day of April, A. D. 1977,
personally appeared before me Della P. Kresser

My commission expires 12-31-79 Residing in Salt Lake City, Utah
Robert M. Starch
Notary Public



WILL OF DELLA PYPER KRESSER

I, Della Pyper Kresser, residing at 2140 South 18th East, Salt Lake City, Salt Lake County, State of Utah, being of sound and disposing mind and memory, and not acting under any duress, menace, fraud, or undue influence of any person whatsoever, do make, publish, and seal to this my Last Will and Testament, and hereby revoke any and all Wills heretofore made by me.

I nominate and appoint my son Lloyd Vaughn Peterson Executor of my estate who shall serve without giving bond for the faithful performance of his duty.

I give, devise, and bequeath the house and property at 2140 South 18th East in Salt Lake County, State of Utah, described as follows:

All of Lots 25 and 27, Block 3 1/2 in the 11th Addition in Salt Lake County, State of Utah,

to Lloyd Vaughn Peterson, Glida Arthur Peterson, Edward Kresser, and Delbert Kresser in equal shares.

All of the remaining property which I own or may be entitled to dispose of, give, devise, and bequeath to my sons Lloyd Vaughn Peterson, and Glida Arthur Peterson in equal shares.

IN WITNESS WHEREOF, I hereunto subscribe my name in Salt Lake City and County, State of Utah this 16th day of July, 1970.

Della Pyper Kresser

The foregoing instrument consisting of one page was at the date hereof by the said Della Pyper Kresser declared in the presence of all of us by the said testator to be her Last Will and Testament. We sign at the same time in the presence of all of us, and we, the signers at her request and in her presence and in the presence of each other, sign our names hereto as attesting witnesses, believing the said Della Pyper Kresser at the time of subscribing our names as witnesses as aforesaid, of sound mind and memory.

Rita M. Currier
Address 173 S. 3rd E.
Provo, Utah 84601

Walter J. Currier
Address 111 S. 2nd E. Provo, Utah 84601

John J. Currier
Address 111 S. 2nd E. Provo, Utah 84601

In my wish that at the time of my death that my son Lloyd have first opportunity to purchase my house at 2140 S.O. 18th East. Della Pyper Kresser. July 2 - 1970

Witness
Ada Peterson
- Oct 2nd 1970