

## **Case Research**

TRANSAMERICA TITLE INS. CO.

TA-  
#06033062

WHEN RECORDED MAIL TO:

Recorded at the request of:

REYWEST DEVELOPMENT CORPORATION  
4247 W. ADAMS, SUITE #1  
PHOENIX, AZ 85009



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Document

OF  
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### CROSS EASEMENT AGREEMENT

THIS CROSS EASEMENT AGREEMENT of August 10, 1994, is made between JOE PANZERA and MARGARET PANZERA, husband and wife (hereafter "Panzeras"), of 9151 Boul St. Laurent, Montreal, Quebec, Canada H2N1N2 and REYWEST DEVELOPMENT CORPORATION, an Arizona corporation (hereafter "Reywest"), of 4247 W. Adams, Suite 1, Phoenix, AZ 85009.

#### RECITALS:

A. Panzeras are owners of a tract of land described as follows and hereafter referred to as "Parcel 1":

Lot Three (3), SCOTTSDALE INDUSTRIAL AIRPARK #7, according to the plat of record in the office of the Maricopa County Recorder in Book 234 of Maps, page 27.

B. Reywest is the owner of a tract of land described as follows and hereafter referred to as "Parcel 2":

Being a portion of Lot Four (4), SCOTTSDALE INDUSTRIAL AIRPARK #7, according to the plat of record in the office of the Maricopa County Recorder in Book 234 of Maps, page 27.

C. Parcel 1 and Parcel 2 adjoin each other and the parties wish to create a common driveway between Parcel 1 and Parcel 2 for the benefit of each of them. (Exhibit 1).

D. Panzeras wish to grant and Reywest wishes to receive an easement for a common driveway across those parts of Parcel 1 described as follows and hereafter referred to as the "Panzeras easement premises": (Exhibit 1).

24-ZN-2016

12/12/2016

The North 15 feet of the East 76 feet of Lot Three (3), SCOTTSDALE INDUSTRIAL AIRPARK #7, according to the plat of record in the office of the Maricopa County Recorder in Book 234 of Maps, page 27.

E. Reywest wishes to grant and the Panzeras wish to receive an easement for a common driveway across those parts of Parcel 2 described as follows and hereafter referred to as the "Reywest easement premises": Exhibit 1.

The South 15 feet of the East 76 feet of a portion of Lot Four (4), SCOTTSDALE INDUSTRIAL AIRPARK #7, according to the plat of record in the office of the Maricopa County Recorder in Book 234 of Maps, page 27.

NOW, THEREFORE, in consideration of \$10.00 and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the following grants, agreements, and covenants and restrictions are made:

1. Grants of Cross Easements.

A. Panzeras hereby grant to Reywest, and its successors and assigns, as an easement appurtenant to Parcel 2, a perpetual non-exclusive easement for ingress and egress for a common driveway over the Panzera easement premises.

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B. Reywest hereby grants to Panzeras, and their successors and assigns, as an easement appurtenant to Parcel 1, a perpetual non-exclusive easement for ingress and egress over and across the Reywest easement premises.

The cross easements created by this agreement are superior and paramount to the rights of either of the parties to this agreement in the respective servient estates so created, and the parties further agree that it is a covenant that shall run with the land.

The cross easements created by this Agreement are granted for the sole purpose of permitting Reywest and the Panzeras, and their respective successors and assigns and their authorized employees, agents, lessees, users, invitees and licensees to make commercially reasonable use, on a non-exclusive and mutual basis, of the cross easements. Apart from the cross easements created by this Agreement, this Agreement shall not grant Reywest any rights in Parcel 1, nor shall it grant Panzeras any rights in Parcel 2. The cross easements created by this Agreement shall not constitute a grant or dedication to the general public.

2. Use of Cross Easement Premises.

The cross easements granted herein are for the purpose of creating a common driveway 30 feet in width for the benefit of both Parcel 1 and Parcel 2. Use of the easement premises is not confined to the present uses of Parcel 1 and Parcel 2, but all uses shall be commercially reasonable, non-exclusive and mutual. Exclusive use of the easement premises is not granted. The right to use the easement premises, for ingress and egress, is expressly reserved by each party. Neither party shall have the right to park any motor vehicles on the easement premises.

3. Division of Dominant Tenement.

If either Parcel 1 or Parcel 2 is hereafter divided into two parts by separation of ownership or by lease, both parts shall enjoy the benefit of the common driveway easements created hereby.

4. Parking.

Both parties covenan<sup>Unofficial Document</sup> vehicles shall not be parked on the easement premises. In addition, no vehicles whose destination is Parcel 1 shall park on Parcel 2 and no vehicles whose destination is Parcel 2 shall park on Parcel 1.

5. Maintenance of Easement.

The parties agree to share equally the costs and expenses of maintaining the above described easements in reasonable repair during the term of these easements. The repairs and maintenance to be undertaken and performed under this agreement shall include the filling of chuck holes, resurfacing of the common driveway, and providing for drainage of the common driveway. Either party may notify the other of the necessity for repairs. If the parties do not agree on the reasonable repairs to be undertaken within thirty (30) days, either party may make the repairs and the party paying for such repairs shall have a claim against the other for one half of the cost of such repairs.

If a party fails to reimburse the other party for its share of the costs of such repairs and maintenance, the other party shall have a right to record against the

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PANZERA 052694

parcel of the non-contributing party an assessment lien securing payment of such obligation, together with interest thereon at a rate equal to five percent (5%) above the publicly announced prime rate of Bank of America, from the date of invoice to the date of repayment, together with reasonable attorneys' fees and all other enforcement costs and expenses. Such lien shall have the force of a real estate mortgage which may be foreclosed in the manner of a real estate mortgage. Such lien shall be subordinate to the lien of any bona fide mortgage or deed of trust on the non-contributing party's parcel, and the holder of such a mortgage or deed of trust shall not be liable for the costs of care, maintenance or repair of the easement premises unless and until it actually acquires fee ownership of one of the benefitted parcels, and then its liability shall be limited to the costs accruing during the period of its own fee title ownership.

Any additional improvements deemed necessary or advisable, but not included within the maintenance and repairs specified above, shall not be undertaken under this agreement except with the prior, express written consent of each of the parties and an assumption by each of the parties in writing of their proportionate share of the financial liability for the cost of such additional cost of improvements, provided, however, if the parties are unable <sup>Unofficial Document</sup> to reach an agreement either party may make such improvements at its own cost, but such shall be of a nature as will not interfere with the other party's use of the easement premises as intended by this agreement.

6. Running of Benefits and Burden.

All provisions of this instrument, including the benefits and burdens, run with the land and are binding upon and inure to the benefit of the heirs, assigns, successors, customers, employees, suppliers, patrons, tenants and personal representatives of the parties hereto.

7. Termination of Covenant Liability.

Whenever a transfer of ownership of either parcel takes place, liability of the transferor for breach of covenant occurring thereafter automatically terminates.

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PANZERA 052694

8. Attorneys' Fees; Governing Law; Jurisdiction and Venue.

Either party may enforce this instrument by appropriate action and should he prevail in such litigation, he shall recover as part of his costs a reasonable attorney's fee.

This Agreement shall be construed according to the laws of the State of Arizona. The state and federal courts in Arizona shall have exclusive jurisdiction over any disputes or matters arising out of this Agreement. The parties hereby consent and submit to the jurisdiction of such courts and agree that Maricopa County, Arizona, shall be the exclusive venue for any such action.

9. Release of Easement.

The parties herein and their successors and assigns may terminate this instrument by recording a release in recordable form.

10. Notices.

Any notice or report required under this agreement shall be sent to the parties at the addresses respectively indicated in this agreement, unless such addresses change by written notice to each person concerned, in which Unofficial Document the new address given shall be used for the sending of such notice or report. Any required notice shall be made by regular or certified mail, properly addressed and postage prepaid.

11. Preliminary Title Report.

Each party shall provide a Preliminary Title Report for their respective parcel to verify fee ownership that shall not be more than sixty (60) days old. Notwithstanding the foregoing, Panzeras hereby represent to Reywest that they have fee simple title to Parcel 1, free and clear of any lien or encumbrance which, if foreclosed or enforced, could have the effect of cutting off or disturbing the easement rights created hereunder. Notwithstanding the foregoing, Reywest hereby represents to Panzeras that it has a fee simple title to Parcel 2, free and clear of any lien or encumbrance which, if foreclosed or enforced, could have the effect of cutting off or disturbing the easement rights created hereunder.

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12. Construction Escrow.

Estimated construction and engineering funds shall be equally divided and deposited by both parties into an escrow account established at Transamerica Title to be held until successful completion and acceptance by the Engineer of Record and the City of Scottsdale. Such funds must be deposited before any construction can occur. Funds equal to \$7,500.00 each shall be deposited by the parties before construction can start. Such funds shall not include demolition of existing driveway by Panzera, which shall be at Panzera's separate and sole expense.

13. Indemnification.

Should injury, damage, claim, expense or liability arise out of the acts or omissions of one of the owners (or its tenants, employees, agents, customers, patrons, suppliers or business visitors) upon or in connection with the use of the easement areas, or any part thereof, such owner shall indemnify, defend and hold the other owner harmless for, from and against such injury, damage, claim, expense or liability, including reasonable attorneys' fees and court costs.

14. Counterparts.

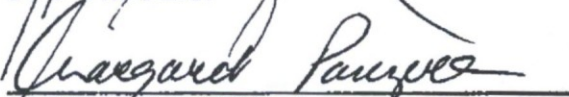
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This Agreement may be signed in duplicate counterparts but shall not become binding upon the parties until signed by both or until each has signed a duplicate counterpart.

DATED: August 10, 1994

PANZERAS:

  
\_\_\_\_\_  
JOE PANZERA

  
\_\_\_\_\_  
MARGARET PANZERA

CROSS.EASEMENT  
PANZERA 052694


REYWEST DEVELOPMENT CORPORATION,  
an Arizona corporation

*[Signature]*  
By: CHRISTOPHER GRACE  
Its: Vice President

STATE OF ARIZONA     )  
                              ) ss.  
COUNTY OF MARICOPA )

On this date, before me, a Notary Public, personally appeared Joe Panzera and Margaret Panzera, known to me or satisfactorily proven to be the persons whose names are subscribed to this instrument, and acknowledged that they executed the same. If this persons' names are subscribed in a representative capacity, they are for the principal named and in the capacity indicated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal August 18, 1994

*[Signature]*  
Notary Public  


My Commission Expires:

Mar 30/95

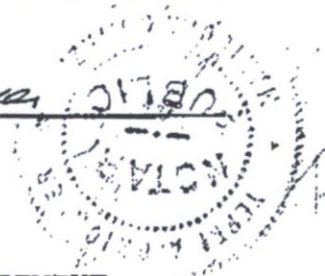
Unofficial Document

STATE OF ARIZONA     )  
                              ) ss.  
COUNTY OF MARICOPA )

On this date, before me, a Notary Public, personally appeared Christopher Grace, the Vice President of Reywest Development Corporation, an Arizona corporation, known to me or satisfactorily proven to be the person whose name is subscribed to this instrument, and acknowledged that he executed the same. If this person's name is subscribed in a representative capacity, it is for the principal named and in the capacity indicated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal August 10, 1994

*[Signature]*  
Notary Public



My Commission Expires:

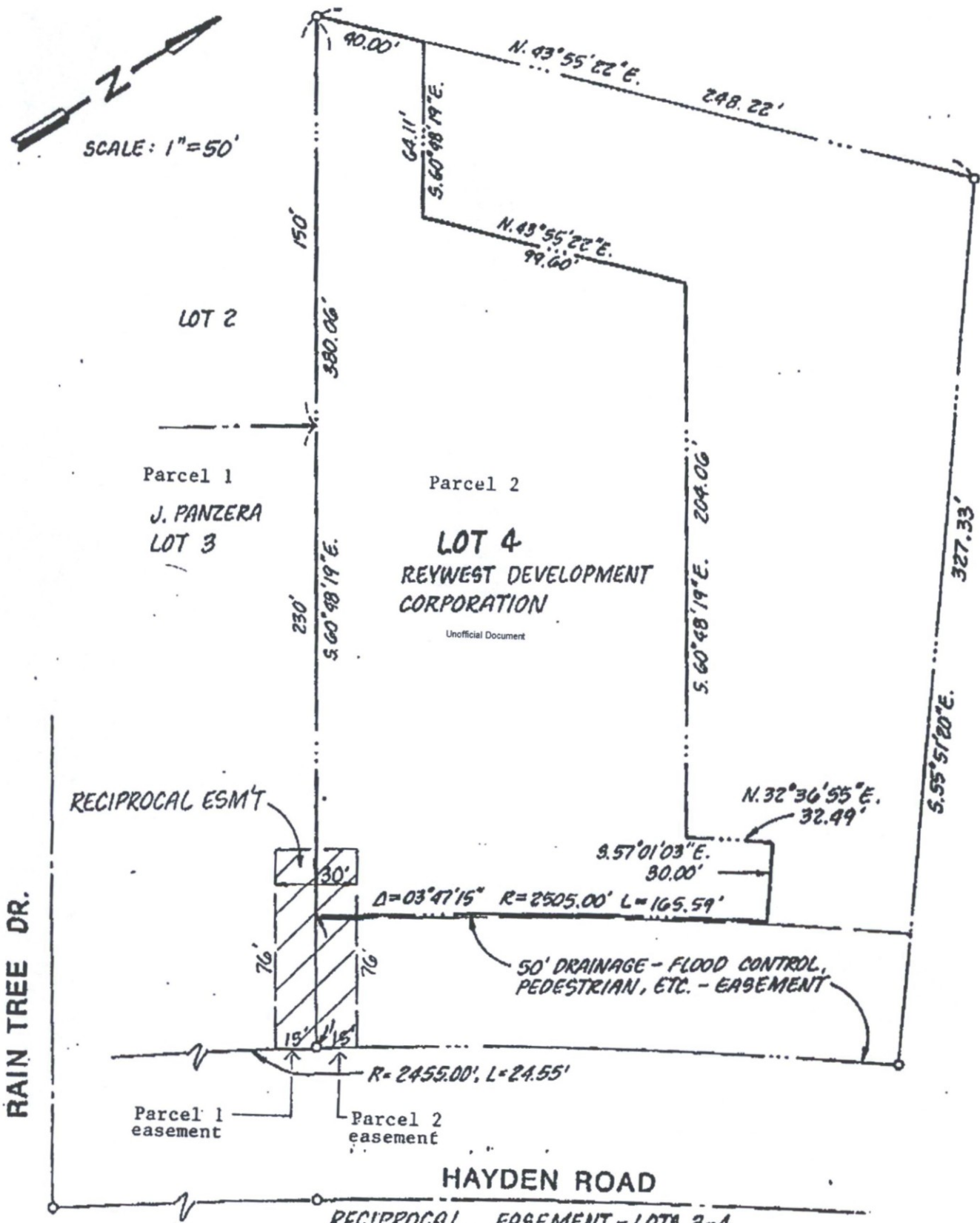
12-6-97

CROSS. EASEMENT  
PANZERA 052694





SCALE: 1"=50'



BOOK 234, PAGE 27  
OF RECORDS

RECIPROCAL EASEMENT - LOTS 3-4  
SCOTTSDALE INDUSTRIAL AIRPARK  
UNIT 7

(PARCEL 1)  
(PANZERA)  
DESCRIPTION  
OF A RECIPROCAL  
INGRESS EGRESS EASEMENT  
FOR LOT 3 AND 4

BEING A PORTION OF LOT 3, SCOTTSDALE INDUSTRIAL AIRPARK NO. 7,  
ACCORDING TO BOOK 234 OF MAPS, PAGE 27, RECORDS OF MARICOPA COUNTY,  
ARIZONA.

BEGINNING AT A POINT ON THE NORTHWESTERLY RIGHT OF WAY LINE OF  
HAYDEN ROAD, ALSO BEING ON THE DIVIDING LINE OF LOT 3 AND 4 AS SHOWN  
ON THE PLAT OF RECORD, BOOK 234 OF MAPS, PAGE 27.

THENCE SOUTHWESTERLY ALONG SAID RIGHT OF WAY LINE AND ALONG A  
CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 2455.00 FEET, AN  
ARC LENGTH OF 15.00 FEET, A CENTRAL ANGLE OF 00°21'00" AND A RADIAL  
BEARING OF SOUTH 60°48'19" EAST;

THENCE NORTH 60°48'19" WEST A DISTANCE OF 76.00 FEET;

THENCE NORTH 29°11'41" EAST A DISTANCE OF 15.00 FEET TO A POINT ON THE  
DIVIDING LINE OF SAID LOT 3 AND 4;

THENCE SOUTH 60°48'19" EAST ALONG THE DIVIDING LINE OF SAID LOTS 3 AND  
4 A DISTANCE OF 76.00 FEET TO THE POINT OF BEGINNING.

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PREPARED BY:

O'NEILL ENGINEERING, INC.  
2001 WEST CAMELBACK ROAD  
SUITE 200  
PHOENIX, AZ 85015

JOB NO. 1804  
AUGUST 9, 1994



(PARCEL 2)  
(REYWEST)  
DESCRIPTION  
OF AN  
INGRESS EGRESS EASEMENT  
FOR LOT 3 AND 4

BEING A PORTION OF LOT 4, SCOTTSDALE INDUSTRIAL AIRPARK NO. 7,  
ACCORDING TO BOOK 234 OF MAPS, PAGE 27, RECORDS OF MARICOPA COUNTY,  
ARIZONA.

BEGINNING AT A POINT ON THE NORTHWESTERLY RIGHT OF WAY LINE OF  
HAYDEN ROAD, ALSO BEING ON THE DIVIDING LINE OF LOT 3 AND 4 AS SHOWN  
ON THE PLAT OF RECORD, BOOK 234 OF MAPS, PAGE 27.

THENCE NORTH 60°48'19" WEST ALONG THE DIVIDING LINE OF SAID LOTS 3 AND  
4 A DISTANCE OF 76.00 FEET;

THENCE NORTH 29°11'41" EAST A DISTANCE OF 15.00 FEET;

THENCE SOUTH 60°48'19" EAST A DISTANCE OF 76.00 FEET TO A POINT ON THE  
NORTHWESTERLY RIGHT OF WAY LINE OF HAYDEN ROAD;

THENCE SOUTHWESTERLY ALONG SAID RIGHT OF WAY LINE AND ALONG A  
CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 2455.00 FEET, AN  
ARC LENGTH OF 15.00 FEET, A CENTRAL ANGLE OF 00°21'00" AND A RADIAL  
BEARING OF SOUTH 60°27'19" EAST TO THE POINT OF BEGINNING.

PREPARED BY:

O'NEILL ENGINEERING, INC.  
2001 WEST CAMELBACK ROAD  
SUITE 200  
PHOENIX, AZ 85015

JOB NO. 1804  
AUGUST 9, 1994

