

# LAND OF CONFUSION

**Making Sense of Real Property Dispositions**

**Allison Bastian-Rodriguez**

# Instruments of Conveyance

**“A conveyance of an estate of inheritance, a freehold, or an estate for more than one year, in land and tenements, must be in writing and must be subscribed and delivered by the conveyor or by the conveyor's agent authorized in writing.”**

**--Tex. Prop. Code § 5.021**

**Deeds**

**Easements**

**Reservations**

**Leases**



# Terminology



**Grantor/Seller**

**Grantee/Buyer/  
Holder/Beneficiary**

**Fee Simple or "Fee":  
You own the property**





# **What do you want to do?**

- Sell a building?**
- Install a sidewalk?**
- Convey or keep oil  
and gas rights?**
- Let someone  
encroach?**

# ~~❌~~ **Sell a building!**

**(or vacant land, or  
an alley, or a  
parking lot, or...)**

# **Deeds**

## **Implied covenants:**

- 1. Grantor has not previously conveyed title to property**
- 2. Property is free from encumbrances**

## **Warranties:**

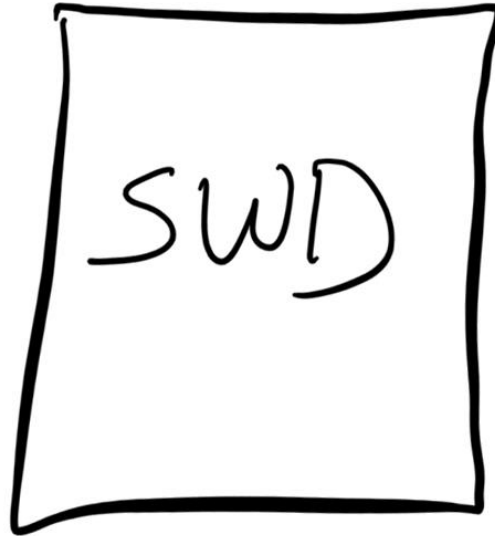
**“Good and indefeasible” title**



# Know your deeds



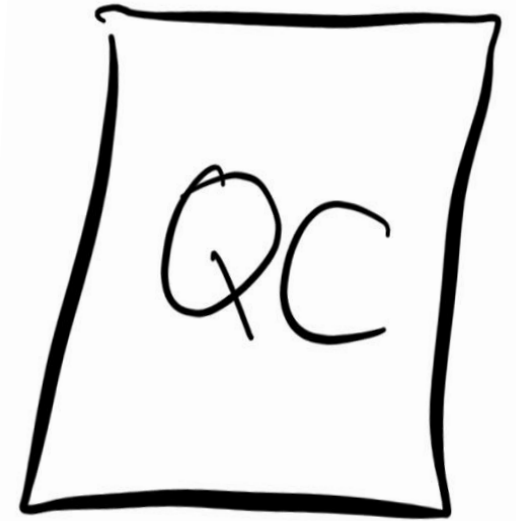
**General  
Warranty  
Deed**



**Special  
Warranty  
Deed**



**No-  
Warranty  
Deed**



**Quitclaim**

# Know your deeds

## General Warranty Deed

- Warrants entire chain of title
- Requires grantor to defend (indemnify!) against title defects (even if defects existed prior to grantor's ownership)

## Special Warranty Deed

- Warrants title only during time of grantor ownership
- Grantor to defend (indemnify!) against title defects only during time of grantor's ownership
- "By, through, or under"

## No- Warranty Deed

- Only conveys with implied covenants
- No warranty against title defects at all

All subject to reservations and exceptions in the deed

## Special Warranty Deed

**Notice of confidentiality rights: If you are a natural person, you may remove or strike any or all of the following information from any instrument that transfers an interest in real property before it is filed for record in the public records: your Social Security number or your driver's license number.**

Date: July 29, 2022

Grantor: Peter Gabriel  
50 Greenwood Drive  
Santa Mosca, TX 78526

Grantor's Mailing Address: Phil Collins  
52 Greenwood Drive  
Santa Mosca, TX 78526

Grantee: Ten and no/100 dollars and other good and valuable consideration

Grantee's Mailing Address: 6.68 acres of real property as depicted on the survey attached as Exhibit A

Consideration: None

Property (including any improvements): None

Reservations from Conveyance: None

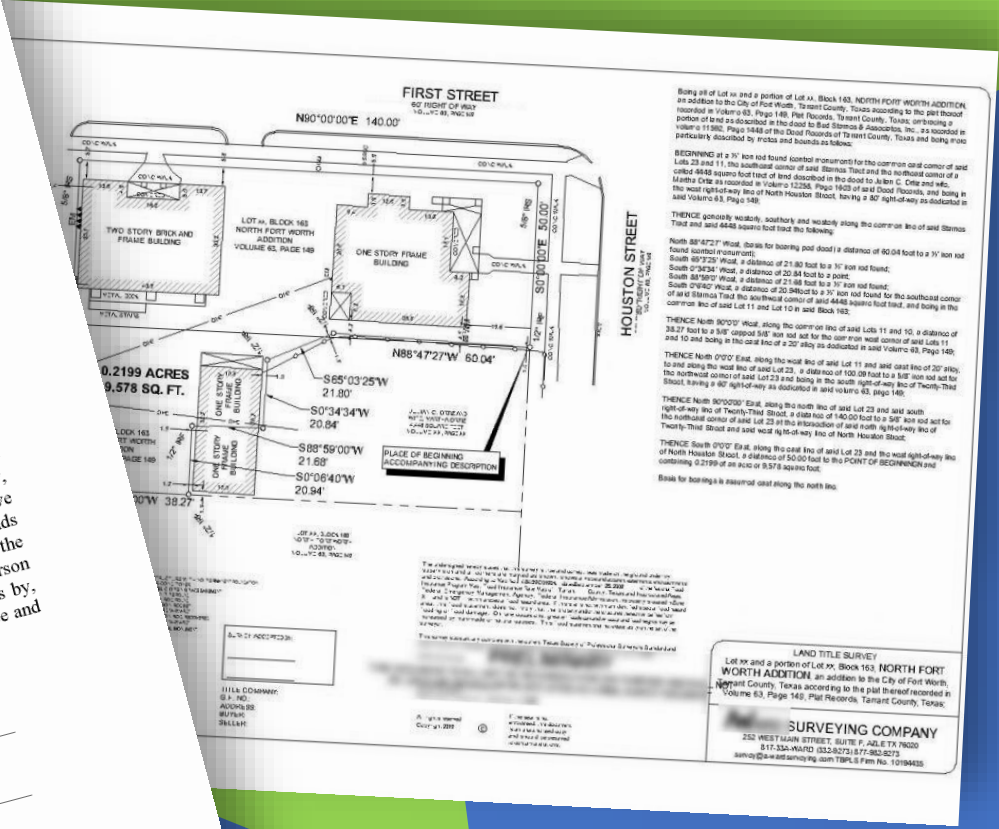
Exceptions to Conveyance and Warranty: None

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof when the claim is by, through, or under Grantor but not otherwise, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

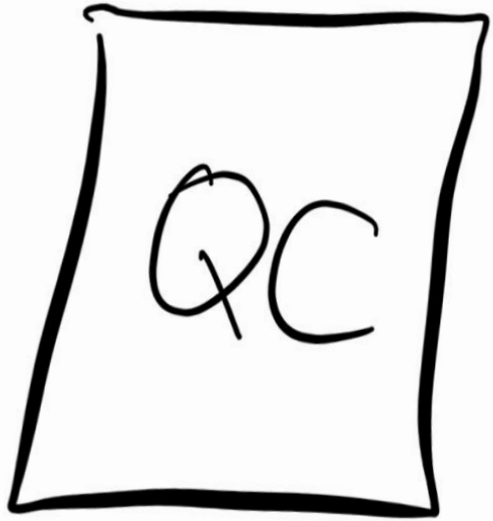
When the context requires, singular nouns and pronouns include the plural.

\_\_\_\_\_  
Peter Gabriel

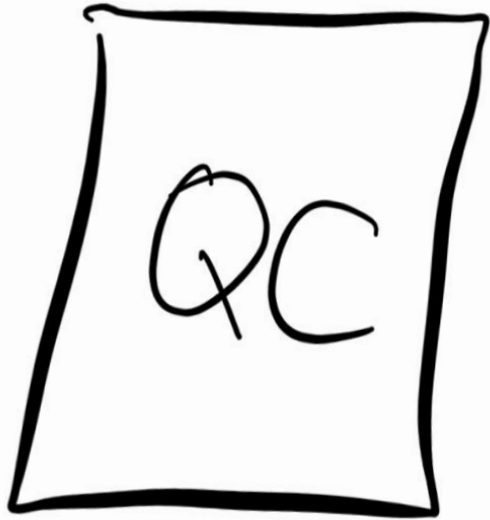
\_\_\_\_\_  
Phil Collins







**Quitclaim**



**Quitclaim**

## **Not a deed.**

- **Does not promise that the grantor holds title to the property.**
- **Offers grantee a chance at title—whatever interests the grantor has (with no promises that there are any).**
- **Title companies generally do not issue title policies with a quitclaim in the chain of title, either**

# **Mineral Rights (Oil, gas, gold, etc.)**

**The rights to mineral deposits existing under the surface of a parcel of property normally belongs to the owner of the surface estate.**

**Mineral rights can be transferred through sale or lease to another party; can also be reserved when selling the surface state.**

**"A mineral estate consists of five interests:**

- 1) the right to develop,**
- 2) the right to lease,**
- 3) the right to receive bonus payments**
- 4) the right to receive delay rentals, and**
- 5) the right to receive royalty payments."**

**French v. Chevron U.S.A., Inc.,  
896 S.W.2d 795,797 (Tex. 1995).**

**The mineral estate is dominant over the surface estate!**

The background of the slide is a photograph of an oil field at sunset. Two pumpjacks are visible in the foreground, silhouetted against the bright orange and yellow sky. The ground is dark and appears to be a dirt or gravel surface. The overall scene is industrial and captures the essence of oil extraction.

# Mineral lease

- **Not your typical lease agreement**
- **Grants limited ownership rights to mineral lessees for the duration of the lease.**
- **Mineral lessee enjoys the same rights to use the surface as any other mineral owner.**
- **Mineral lessees can use as much of the surface as is reasonably necessary for mineral exploration and production (subject to negotiation)**

# Severance by reservation

**For Grantor and Grantor's heirs, successors, and assigns forever, a reservation of all oil, gas, and other minerals in and under and that may be produced from the Property. If the mineral estate is subject to existing production or an existing lease, this reservation includes the production, the lease, and all benefits from it.**





~~☐~~ **Lay a pipeline!**

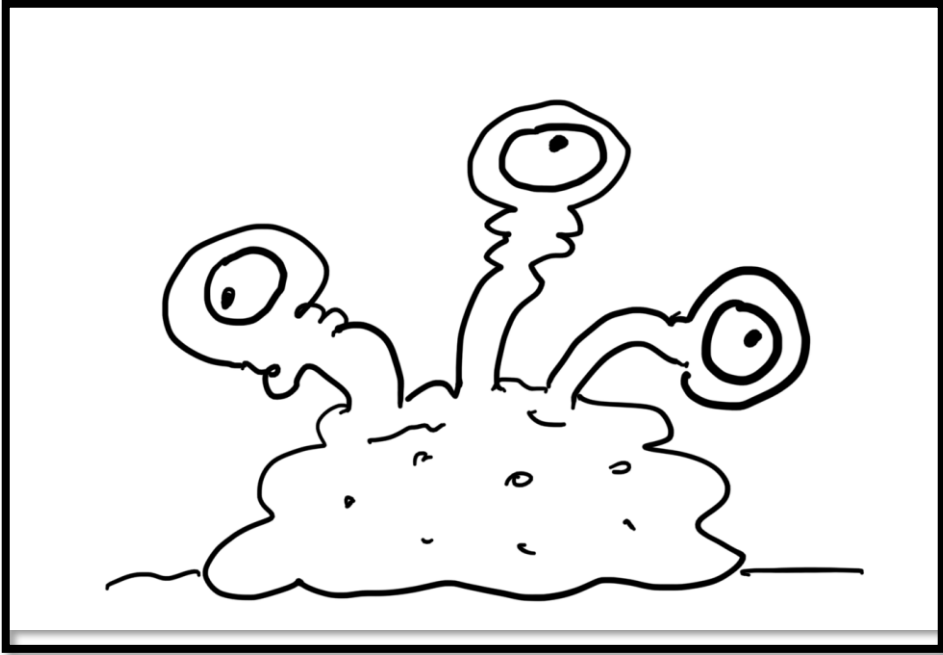
**(or a public street, or a sidewalk, or access other property...)**

# Easements

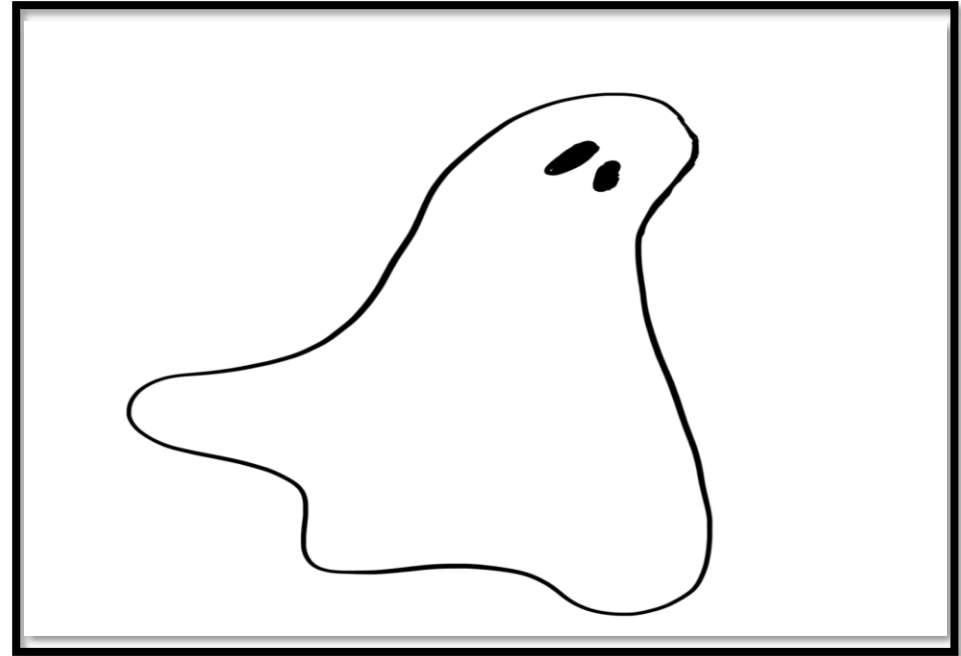
**(Usually)**



# Easements



**Not a Thing**

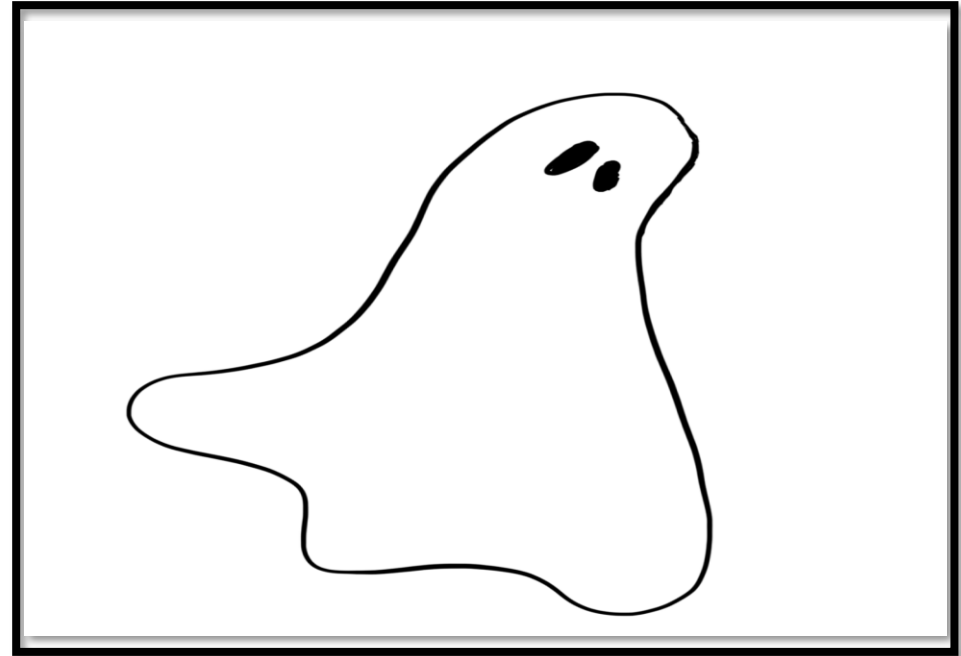


**Incorporeal**

# Easements



**Not a Thing**

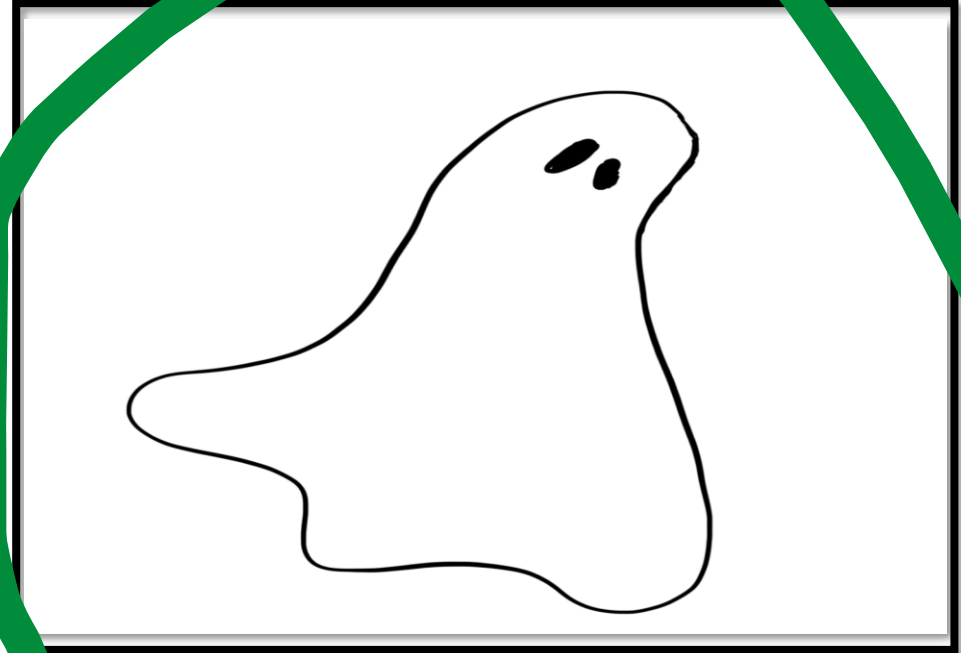


**Incorporeal**

# Easements



**Not a Thing**



**Incorporeal**



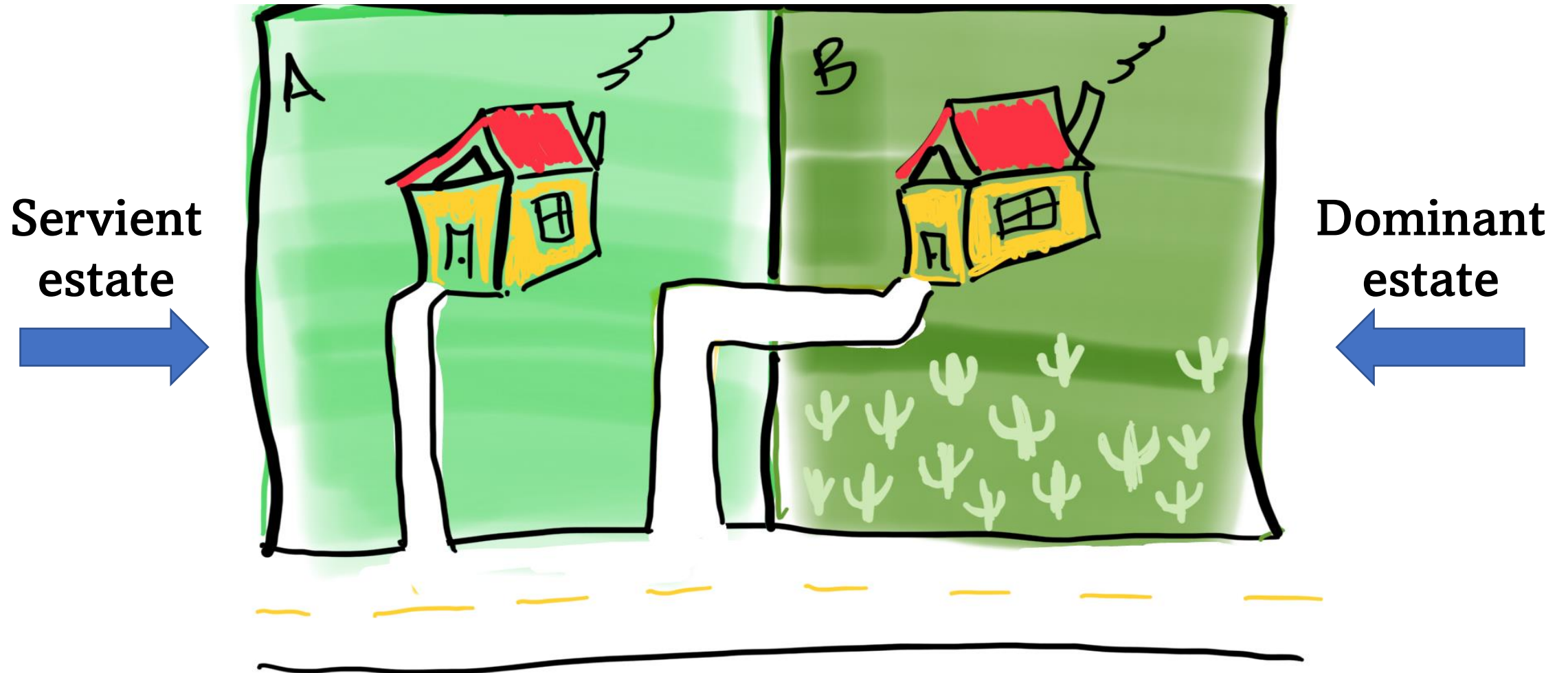
# Easements

- An easement is an interest in real property that does NOT constitute full ownership
- It gives the holder the right to use another's land for a specific purpose.... usually the right of a person (or the public) to use the land of another in a certain manner.
- Easements should not be confused with licenses.  
(A license is NOT an interest in land, but merely permission given to an individual to do some act or acts on the land of another.)

# Easements

## Appurtenant

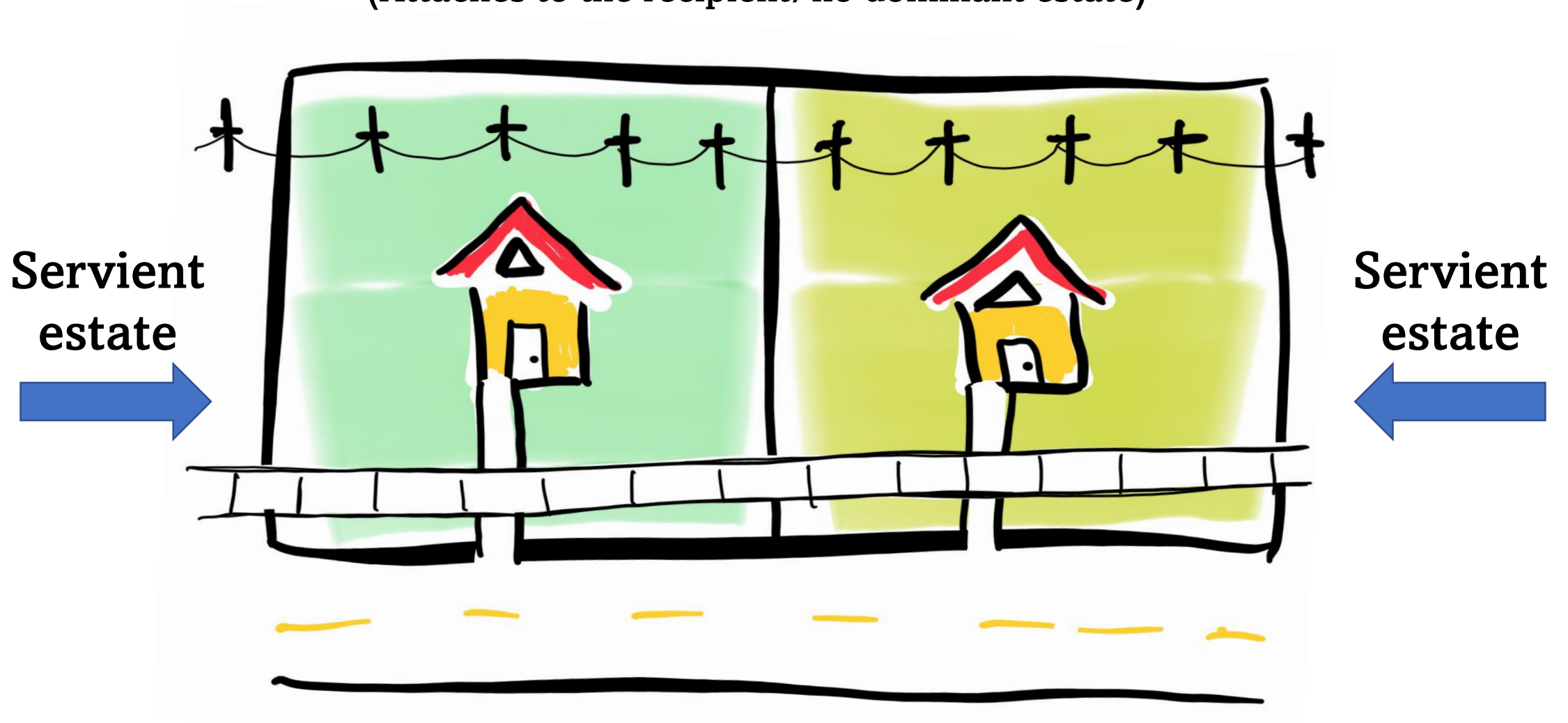
(Runs with the land/dominant estate)



# Easements

## In Gross

(Attaches to the recipient/no dominant estate)



NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

### DRAINAGE EASEMENT

THE STATE OF TEXAS  
COUNTY OF STARR

#### GRANT OF EASEMENT:

**PHIL COLLINS** ("Grantor", whether one or more), for the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, does hereby grant, sell and convey unto **THE CITY OF SLIPPERMEN, TEXAS**, a home rule city located in Starr County, Texas ("Grantee"), an easement and right-of-way ("Easement") upon and across the parcels of real property of Grantor which are more particularly described on Exhibit "A", attached hereto and incorporated herein by reference (collectively, "Easement Tract").

**TO HAVE AND TO HOLD** the same perpetually to Grantee and its successors and assigns, together with the right and privilege at any and all times to enter the Easement Tract, or any part thereof, for the purpose of construction, operation, maintenance, replacement, upgrade and repair of the improvements which are constructed and installed thereon or thereon by Grantee under the terms of this Easement.

Grantor does hereby covenant and agree to **WARRANT AND FOREVER DEFEND** title to the Easement herein granted, unto Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, subject to the matters set forth herein.

#### CHARACTER OF EASEMENT:

The Easement is an easement in gross.

#### PURPOSE OF EASEMENT:

The Easement shall be used for public drainage purposes, including placement, construction, installation, replacement, repair, maintenance, relocation, removal, and operation of a drainage channel and related drainage facilities, and related appurtenances, or making connections thereto.

and until such time as Grantee is satisfied that Grantor has and that this Easement Purpose has been fulfilled by other abandonment must be approved by City Council. Grantor, heirs, legal representatives, successors and assigns, to Grantor, its successors and assigns, against any claim the same or any part thereof.

Grantor covenants that Grantor will not convey any part of the Easement Tract.

Grantor shall continue to enjoy the use of the surface of the Easement Tract which do not interfere with or prevent the use by Grantee. Grantee has the right to trim and cut down trees and structures to the extent reasonably necessary to maintain access to Grantee's facilities in the Easement Tract.

There shall be no agreement between the parties relating to the rights of the Easement Tract. Any oral representation or modification shall be void and of no effect except for any subsequent modification.

This instrument is for the benefit of the respective parties hereto, their heirs, assigns and successors.

Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

#### GRANTOR:

AGREED AND ACCEPTED:

**CITY OF SLIPPERMEN, TEXAS**  
Texas home-rule municipality

By: \_\_\_\_\_

Gabriel, City Manager

City Secretary

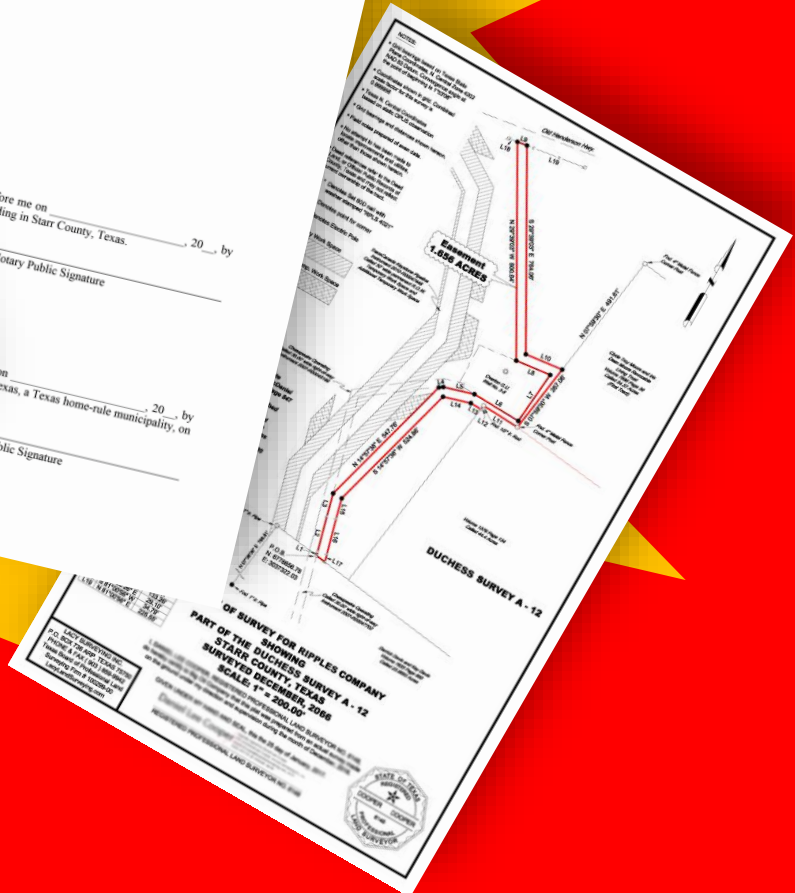
CAS §  
§  
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acknowledged before me on \_\_\_\_\_, 20\_\_ by an individual residing in Starr County, Texas.

Notary Public Signature

before me on \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, an individual residing in Starr County, Texas, a Texas home-rule municipality, on \_\_\_\_\_, 20\_\_.

Notary Public Signature









## **Texas Local Gov't Code 253.008 (Cities)**

### **SALE OF REAL PROPERTY BY PUBLIC AUCTION**

- (a) The governing body of a municipality may sell real property owned by the municipality by public auction or by sealed bid under Section 272.001.
  
- (b) To sell real property by public auction, the governing body of a municipality shall publish notice of the auction before the 20th day before the date the auction is held. The notice for sale of the real property must be published once a week for three consecutive weeks before the date the auction is held in a newspaper of general circulation in the county in which the municipality is located and, if the real property is located in another county, in a newspaper of general circulation in the county in which the real property is located. The notice must include a description of the real property, including its location, and the date, time, and location at which the auction is to be held.

## **Texas Local Gov't Code 263.001 (Counties)**

### **SALE OR LEASE OF REAL PROPERTY**

- (a) The commissioners court of a county, by an order entered in its minutes, may appoint a commissioner to sell or lease real property owned by the county. The sale or lease must be made at a public auction held in accordance with this section unless this chapter provides otherwise.
- (b) The appointed commissioner must publish notice of the auction before the 20th day before the date the auction is held. The notice must be published in English in a newspaper in the county in which the real property is located and in the county that owns the real property if not the same county. The notice must be published once a week for three consecutive weeks before the date the auction is held.
- (a) If the real property is sold, a deed that is made on behalf of the county by the appointed commissioner in conformance with the order entered under Subsection (a) and that is properly acknowledged, proved, and recorded is sufficient to convey the county's interest in the property.



## **Texas Local Gov't Code 272.001**

(Cities, Counties, and certain other local governments)

### **NOTICE OF SALE OR EXCHANGE OF LAND BY POLITICAL SUBDIVISION; EXCEPTIONS.**

- (a) Except for the types of land and interests covered by Subsection (b), (g), (h), (i), (j), or (l), and except as provided by Section 253.008, before land owned by a political subdivision of the state may be sold or exchanged for other land, notice to the general public of the offer of the land for sale or exchange must be published in a newspaper of general circulation in either the county in which the land is located or, if there is no such newspaper, in an adjoining county. The notice must include a description of the land, including its location, and the procedure by which sealed bids to purchase the land or offers to exchange the land may be submitted. The notice must be published on two separate dates and the sale or exchange may not be made until after the 14th day after the date of the second publication.

~~☐~~ **Let someone  
encroach!**

# Licenses

**(Not a Property Interest)**





# Licenses

- **Merely permits certain acts on the property of another**
- **Revocable at the will of the licensor**
- **Licensee is not a tenant; no “eviction” in the event of default**

# Leases

- **Convey exclusive possession of specific property in exchange for payment of rent**
- **Vests a property interest in the tenant during the term of the lease**



**CONSENT TO ENCROACH**

WHEREAS, the CITY OF SLIPPERMEN, TEXAS (hereinafter the "City") has rights to the 20-foot alley/right of way located between 1713 S. First Street and 1715 S. First Street, and part of lot 23, Block 32, Finwood Heights Subdivision, City of Slippermen, Starr County, Texas, and as specifically depicted on Exhibit "A," which is incorporated herein for all purposes;

WHEREAS, Phil Collins and Peter Gabriel (hereinafter "Owner") are the owners of 1715 S. First Street and part of lot 23, Block 32, Finwood Heights Subdivision, City of Slippermen, Starr County, Texas, which includes a single-family residence;

WHEREAS, Owner desires to pave a portion of the alley/right of way to allow easier access to their single-family residence;

WHEREAS, Owner recognizes that the encroachment and use of the property by Owner has no effect upon a governmental body and creates no property right as against a governmental body, regardless of the length of time the use has been open, adverse and notorious, nor is Owner seeking to claim title to same by claim of such adverse use;

WHEREAS, Owner further agrees, understands, and represents that the City retains all rights to use the property for public needs, and may need to break the pavement, work in the area, or otherwise damage the pavement or impede access to it and agrees the City shall not be responsible for any such damage or access impairment, and Owner agrees to assume all responsibility in repairing or replacing any pavement destruction or impairment by the City;

WHEREAS, City wishes to preserve, protect, and retain its rights to the right of way;

NOW, THEREFORE, for and in consideration of \$1.00, City hereby consents to the encroachment by Owner, its successors, assigns, agents and representatives. The encroachments to be tolerated herein and for which consent is conditionally granted is limited to the portion of the right of way described and/or depicted on **Exhibit "A"** attached hereto and made a part hereof for all purposes. Improvements other than the heretofore recited Utility Extension are expressly not permitted without additional written consent from City for the other improvements. Provided, however, the consent is limited and conditioned upon the following express conditions:

1. This consent to encroach shall be limited to the purposes of installation and maintenance of the aforementioned pavement for access purposes to Owner's residence within the designated portion of the right of way as described and/or depicted on Exhibit "A".
2. The nature and placement of all tolerated encroachments shall comply with all codes, ordinances, rules, and regulations of the City of Slippermen and any entity with jurisdictional authority. Acceptance of this consent to encroach agreement does not constitute approval of the design or a permit for the construction of the pavement improvements.

3. Owner shall be responsible for the lawful operation, maintenance, upkeep and repair of the pavement improvements, at Owner's sole expense.
4. Owner, its assigns, and successors, hereby indemnifies, defends, and holds the City of Slippermen harmless against all damages, injuries, or fatalities that directly result because of this consent to encroach and shall indemnify and defend the City of Slippermen against any and all claims which may be brought against the City as a direct result of this consent to encroach unless such damages, injuries, or fatalities are due to the negligent and willful acts or omissions of the City or its agents, contractors or representatives.
5. Said encroaching use by Owner is not open and notorious, nor is it adverse because the City is acknowledging it exists and is tolerating such use conditionally. Adverse possession statutes do not run against a governmental entity. Owner declares by acceptance of this consent that no such intent is present.

This consent to encroach shall be of no force of effect unless and until it is accepted by the City who is the owner of the right of way to be encumbered by the pavement improvements.

The cost of filing shall be paid by Owner and such cost advanced shall constitute the consideration for this transaction.

Acceptance of the Consent to Encroach is consent to the terms and conditions of the Consent to Encroach.

ACCEPTED this the \_\_\_\_\_ day of \_\_\_\_\_, 2072.

**CITY OF SLIPPERMEN, TEXAS**

By: \_\_\_\_\_  
Lalo Salamanca, City Manager



# Other documents:

## Correction Deeds

- **Allowed:**
  - **Facial imperfections in title**
  - **Defective legal descriptions/ metes and bounds errors**
  - **Incorrect acreage designation**
  - **Defective description of grantor's capacity**
- **NOT Allowed:**
  - **Adding another parcel**
  - **Adding/changing mineral interests**

## Bill of Sale

- **Transfer of certain personal property (i.e. livestock, trees/timber, used pipeline and oil and gas equipment)**

## Partition Deed

- **Used to divide undivided interests held by joint tenants**
- **May be voluntary or involuntary**

## Transfer on Death Deed

- **Revocable transfer effective at transferor's death**

**DNRB<sup>TX</sup>Z**

**Denton Navarro Rocha Bernal & Zech, P.C.**

attorneys & counselors at law • [rampagelaw.com](http://rampagelaw.com)

**THANK  
YOU!**

**Allison Bastian-Rodriguez**

**[abrodriguez@rampagelaw.com](mailto:abrodriguez@rampagelaw.com)**