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7 Attorneys for Plaintiffs Setsuko Mori
8 and Hiroshi Ogino

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF ORANGE**

Judge Geoffrey T. Glass

11 Setsuko Mori and Hiroshi Ogino,

12 Plaintiffs,

13 vs.

14 Brett Murdock, Veronica Murdock, California
15 Bank and Trust, a California Corporation,
16 and all persons unknown claiming any legal
17 or equitable right, title, estate, lien, or interest
18 in the property described in the complaint
adverse to plaintiffs' title, or any cloud on
plaintiffs' title thereto, and DOES 1-20,

Defendants.

Case 30-2017-00921063-CU-OR-CJC

Complaint For Quiet Title, Temporary
Restraining Order, Injunction and
Damages (CCP Sections 760.010 et seq. &
321-325)

19 **FIRST CAUSE OF ACTION FOR QUIET TITLE**

20 (Against All Defendants)

21
22 1. This action seeks to quiet title in a piece of property 14.5" wide by 15' long at the
23 adjacent back side yards of two properties, 407 Maple Avenue, Brea, California, and 406
24 Pine Avenue, Brea, California.

25 2. Plaintiffs Setsuko Mori and Hiroshi Ogino have owned the Property at 406 Pine
26 Avenue, Brea, California since May 10, 1989. A true and correct copy of their grant deed is
27 attached hereto as Exhibit A.

28 3. The legal description of 406 Pine Avenue, Brea, California, is as follows:

1 The Westerly 165 feet of that portion of Lot 5 of Tract No. 79, as shown on a Map recorded
2 in Book 10, page 28, of Miscellaneous Maps, records of Orange County, California,
3 described as follows:

4 Beginning at the most Northerly corner of Lot 1 of Tract No. 651, as shown on a Map
5 recorded in Book 24, at page 31 of Miscellaneous Maps, records of Orange County,
6 California, and running thence South 65° 50' East along the Northeasterly line of Tract No.
7 651, 345 feet to the center line of Maple Avenue as shown on said Map; thence North 24°
8 09' 30" East along the Northeasterly extension of the center line of said Maple Avenue,
9 124.25 feet; thence North 65° 50' West parallel with the Northeasterly line of said Tract No.
10 651, 345 feet to the Northwesterly line of Lot 5 of said Tract No. 79; thence South 24° 09' 30"
11 West along the Northeasterly line of said Lot 5, 124.25 feet to the point of beginning.

12 EXCEPTING therefrom the Southwesterly 62.25 feet thereof.

13 EXCEPTING also, therefrom the Westerly 30 feet of said lot included in Pine Street.

14 4. Defendants Brett Murdock and Veronica Murdock have owned the property at
15 407 Maple Avenue, Brea, California, since July 15, 2015. A true and correct copy of their
16 Grant Deed is attached hereto as Exhibit B.

17 5. The legal description of the July 15, 2015 Grant Deed to 407 Maple is as follows:
18 That portion of Lot 5 of Tract No. 79, as shown on a Map thereof recorded in Book 10, Page
19 128 of Miscellaneous Maps, records of said Orange County, described as follows:

20 Beginning at a point in the Northwesterly line of said Lot 5, distant thereon North 24° 12'
21 14" East 124.25 feet from the most Northerly corner of Lot 1 of Tract No. 651 as shown on a
22 map thereof recorded in Book 24, Page 31 of Miscellaneous Maps, records of said Orange
23 County, running thence South 65° 47' 46" East parallel with the East line of Maple Street as
24 shown on said map of Tract No. 651, 150 feet to the True Point of Beginning of this
25 description, Thence North 24° 12' 14" East parallel with the East line of Maple Street as
26 shown on said Map of Tract No. 651, 124.75 feet; Thence South 65° 47' 46" East parallel
27 with the East line of Maple Street as shown on said Map of Tract No. 651, 195.10 feet to a
28 point on the Northeasterly extension of the Center Line of South Maple Avenue, as shown
on said Map of Tract No. 651; Thence South 24° 12' 14" West parallel with the East line of
Maple Street, 124.25 feet; Thence North 65° 47' 46" West 195.10 feet to the True Point of
Beginning.

6. Defendant California Bank & Trust, a California Corporation, owns a lien against
the property at 407 Maple Avenue.

7. Defendants designated as all persons unknown, claiming any legal or equitable
right, title, estate, lien or interest in the property described in the complaint adverse to
plaintiffs' title, or any cloud on plaintiffs' title thereto ("the Unknown Defendants") claim

1 rights, titles, estates, liens, or interests in the Property adverse to plaintiff's title, and their
2 claims constitute a cloud on plaintiffs' title.

3 8. Plaintiffs are unaware of the true names and capacities of defendants sued herein
4 as Does 1-20 and therefore sues such defendants by such fictitious names. Plaintiffs will
5 amend this complaint to allege their true names and capacities when ascertained. Plaintiff
6 is informed and believes, and thereon alleges that each of the fictitiously named
7 defendants claims some right, title, estate, lien or interest in the Property adverse to
8 plaintiff's title, and their claims constitute a cloud on plaintiffs' title.

9 9. In about 1995, Plaintiffs Ogino and Mori built a chain link fence, extending the line of
10 the block wall along their Northeasterly side property line. The intent was to claim the
11 entire 62' width of their lot. The three adjacent neighbors cooperated in building the chain
12 link fence. There was no formal or informal boundary agreement. Hiroshi Ogino and
13 Setsuko Mori planned the fence and built the fence to exclusively claim property that they
14 believe is part of 406 Pine Avenue. They have never made any statement that they were
15 willing to relinquish the property at any time. The Property strip claimed by Hiroshi
16 Ogino and Setsuko Mori extends the line of the existing block wall along their
17 Northeasterly line, and including the chain link fence, encroaches 10.5" plus 4 inches for
18 the fence thickness on a monument which Brett Murdock alleges is the true property line
19 for a distance of 15 feet. The legal description is as follows:

20 A strip of property commencing at a point 14.5" from the monument near the 120'
21 marker on the Northeasterly Property line of 406 Pine Avenue in a direction perpendicular
22 to the Northeasterly property line, and continuing from that point parallel to the
23 Northeasterly property line of 406 Pine Avenue for a distance of 15 feet, thence 14.5" in a
24 direction parallel with the back property line of 406 Pine Avenue, and thence 15 feet to the
25 True Point of Beginning (the "Strip of Land").

26 10. Plaintiffs Setsuko Mori and Hiroshi Ogino have paid property taxes on the land
27 to which they claim quiet title for at least 11 years. The Assessor Parcel Map P.M. 131-4,5
28 dated March 1983 and revised 5/04/06, a true and correct copy of which is attached hereto
as Exhibit 3 indicates that the 406 Pine northern side property line extends in a straight line
from the street to the end of the chain link fence at the back of the property, and forms a

1 lot that has been assessed at 62' wide. The chain link fence line is visible from the street
2 and is along the line of the block wall. The entire width of the property is required to equal
3 62' of assessed width, including the section bounded by the chain link fence for the past 22
4 years. The 406 Pine lot has been assessed and has been paying taxes on the 14.5" by 15'
5 strip of land at least since the Parcel Map dated May 4, 2006.

6 11. Plaintiffs Setsuko Mori and Hiroshi Ogino have continuously occupied the land
7 for 22 years, with a chain link fence built along the property line. They have continuously
8 used the fenced property as the only access to their back yard for their lawn mower and
9 other wheeled tools and containers for about 22 years. Their occupation of the land has
10 been open, notorious, adverse to any other claim of ownership, and continuous for 22
11 years.

12 12. Defendant Brett Murdock, over the objections of plaintiffs, has caused plaintiffs'
13 chain link fence to be torn down as of May 17, 2017. Although Defendant Brett Murdock
14 has produced a survey as of May 12, 2017, the survey lines shown reduce Plaintiffs' lot to
15 substantially less than a 62 foot width as described on Plaintiffs' grant deed, and Plaintiffs'
16 object to Defendant Brett Murdock's survey.

17 13. Plaintiffs' request a judgment quieting title to the Strip of Land, a strip of
18 property 14.5" by 15 feet along the Northeasterly Property line of Plaintiffs' property,
19 either

20 a. By adverse possession,

21 b. By prescriptive easement should plaintiffs' be unable to prove payment of
22 property taxes, or

23 c. By survey, should a survey show that the disputed property belongs to Plaintiffs,
24 and is necessary for their legally described property width of 62'.

25 14. Defendant has already trespassed, destroyed and removed Plaintiffs' fence, and
26 threatened to destroy or obscure the monument by building a common wall with the wall
27 encroaching substantially on even Defendant Brett Murdock's survey line.

28 15. Plaintiffs request nominal damages for trespass.

1 16. Plaintiffs request general damages for trespass and destruction of property.

2 17. Plaintiffs request special damages for the costs to demolish any improvements
3 placed by defendants on plaintiffs' property, and the costs to restore the chain link fence.

4 18. Defendant Brett Murdock's acts in threatening to excavate and construct his
5 forms, footings, and wall on the common line of the survey he obtained is wrongful, and
6 necessitated the bringing of this action to prevent a wrongful taking of property. Plaintiff
7 requests attorneys fees and costs for defending plaintiffs property rights.

8 19. Defendants' threat to invade Plaintiffs' surveyed property and adversely
9 possessed property requires a temporary restraining order and a permanent injunction.
10 Even if no other relief is granted, an injunction is properly granted to prohibit the
11 continuation of acts that obstruct the owners' free use of the land.

12 PRAYER FOR RELIEF

13 Wherefore, Plaintiffs Pray as Follows:

14 1. For judgment quieting title in a strip of property commencing at a point 14.5"
15 from the monument near the 120' marker on the Northeasterly Property line of 406 Pine
16 Avenue in a direction perpendicular to the Northeasterly property line, and continuing
17 from that point parallel to the Northeasterly property line of 406 Pine Avenue for a
18 distance of 15 feet, thence 14.5" in a direction parallel with the back property line of 406
19 Pine Avenue, and thence 15 feet to the True Point of Beginning (the "Strip of Land").

20 2. For a restraining order preventing Defendants from excavating, building forms
21 upon, pouring foundations within, trespassing upon, or otherwise disturbing plaintiffs'
22 quiet enjoyment of the Strip of Land.

23 3. For an injunction preventing Defendants from excavating, building forms upon,
24 pouring foundations within, trespassing upon, or otherwise disturbing plaintiffs' quiet
25 enjoyment of the above Strip of Land.

26 4. For nominal damages for trespass,

27 5. For general damages for trespass and destruction of property,
28

1 6. For specific damages for costs to demolish any structure built by Defendants
2 upon Plaintiffs' land and to restore and rebuild the chain link fence demolished by
3 Defendants.

4 7. For costs costs of suit incurred herein;

5 8. For attorneys' fees as permitted by law and statute; and

6 9. For such other and further relief as the Court may deem proper.
7

8 Dated: May 17, 2017
9

10 LAW OFFICE OF RUSSELL P. NOWELL
11
12
13

14 *Russell P. Nowell*

15 Russell P. Nowell, Attorneys for

16 Plaintiffs Hiroshi Ogino and

17 Setsuko Mori
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1 VERIFICATIONS

2 I, Setsuko Mori, am a plaintiff in the above-entitled action. I have read the foregoing
3 complaint and know the contents thereof. The same is true of my own knowledge, except
4 as to those matters which are alleged on information and belief, and as to those matters, I
5 believe them to be true.

6 I declare under penalty of perjury under the Laws of the State of California that the
7 foregoing is true and correct.

8 Dated: May 17, 2017

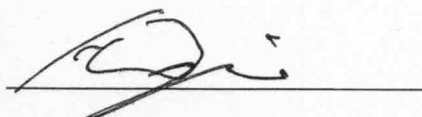
9
10 

11 Setsuko Mori

12
13 I, Hiroshi Ogino, am a plaintiff in the above-entitled action. I have read the
14 foregoing complaint and know the contents thereof. The same is true of my own
15 knowledge, except as to those matters which are alleged on information and belief, and as
16 to those matters, I believe them to be true.

17
18 I declare under penalty of perjury under the Laws of the State of California that the
19 foregoing is true and correct.

20 Dated: May 17, 2017

21
22 

23 Hiroshi Ogino

89-246403

WHEN RECORDED MAIL TO:
Hiroshi Ogino
Setsuko Mori
406 S. Pine Avenue
Brea, Ca. 92621

NO OWNERSHIP
STATEMENT
\$20.00

Recorded at the request of
CHICAGO TITLE INS. CO.
8:00 MAY 10 1989
A.M.
Official Records
Orange County, California
Lee A. Branch, Recorder

ESCROW NUMBER: 23099-JP
ORDER NUMBER: 602680 5

\$7.00
C18

SPACE ABOVE THIS LINE FOR RECORDER'S USE

MAIL TAX STATEMENTS TO:

Hiroshi Ogino
Setsuko Mori
406 S. Pine Avenue
Brea, Ca. 92621

PAID
DOC TRANSFER TAX
LEE A. BRANCH
ORANGE CO. RECORDER

DOCUMENTARY TRANSFER TAX \$ 238.70
Computed on the consideration or value of property conveyed OR
Computed on the consideration or value less liens or encumbrances
remaining at time of sale.
Burrows Escrow *Joyce Hatcher*
Signatures of Deedman or Agent delivering, and First Name

AP# 284-F1-26

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
Daniel L. Risky and Irene V. Risky, husband and wife as joint
tenants.

hereby GRANT(S) to
Hiroshi Ogino and Setsuko Mori, HUSBAND AND WIFE AS JOINT TENANTS.

the real property in the City of Brea
County of Orange

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

State of California, described as

Dated April 3, 1989

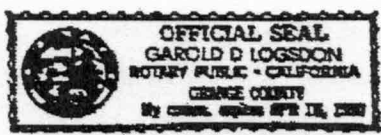
STATE OF CALIFORNIA
COUNTY OF ORANGE
On April 8, 1989

before me, the undersigned, a Notary Public in and for said State, personally appeared
Daniel L. Risky
Irene V. Risky

Daniel L. Risky
Daniel L. Risky
Irene V. Risky
Irene V. Risky

personally known to me (or proved to me on the basis of satisfactory
evidence) to be the person(s) whose name(s) have subscribed to the
within instrument and acknowledged to me that he/she/they executed
the same.

WITNESS my hand and official seal.
Signature *Garold D. Logsdon*



(This seal for official records only)

EX. A

The Westerly 165 feet of that portion of Lot 5 of Tract No. 79, as shown on a Map recorded in Book 10, page 28, of Miscellaneous Maps, records of Orange County, California, described as follows:

Beginning at the most Northerly corner of Lot 1 of Tract No. 651, as shown on a Map recorded in Book 24, at page 31 of Miscellaneous Maps, records of Orange County, California, and running thence South $65^{\circ}50'$ East along the Northeasterly line of said Tract No. 651, 345 feet to the center line of Maple Avenue as shown on said Map; thence North $24^{\circ}09'30''$ East along the Northeasterly extension of the center line of said Maple Avenue, 124.25 feet; thence North $65^{\circ}50'$ West parallel with the Northeasterly line of said Tract No. 651, 345 feet to the Northwesterly line of Lot 5 of said Tract No. 79; thence South $24^{\circ}09'30''$ West along the Northwesterly line of said Lot 5, 124.25 feet to the point of beginning.

EXCEPTING therefrom the Southwesterly 62.25 feet thereof.

EXCEPTING also, therefrom the Westerly 30 feet of said lot included in Pine Street.





12.00

2015000367151 8:00 am 07/15/15

10 406 G02 3 02

412.50 412.50 0.00 0.00 6.00 0.00 0.00 0.00

RECORDING REQUESTED BY
First American Title Company

AND WHEN RECORDED MAIL DOCUMENT TO:
Brett Murdock and Veronica Murdock
614 E Date-St
Brea, CA 92821

Space Above This Line for Recorder's Use Only

A.P.N.: 284-191-23

File No.: OSA-4911993 (WS)

GRANT DEED

The Undersigned Grantor(s) Declare(s): DOCUMENTARY TRANSFER TAX \$825.00; CITY TRANSFER TAX \$;

- computed on the consideration or full value of property conveyed, OR
- computed on the consideration or full value less value of liens and/or encumbrances remaining at time of sale,
- unincorporated area; City of **Brea**, and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, **FAYE L. SULLIVAN, AS SUCCESSOR TRUSTEE UNDER DECLARATION OF TRUST DATED APRIL 30, 2003**

hereby GRANTS to **Brett Murdock and Veronica Murdock, husband and wife as community property with right of survivorship**

the following described property in the City of **Brea**, County of **Orange**, State of **California**:

THAT PORTION OF LOT 5 OF TRACT NO. 79, AS SHOWN ON A MAP THEREOF RECORDED IN BOOK 10, PAGE 28 OF MISCELLANEOUS MAPS, RECORDS OF SAID ORANGE COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTHWESTERLY LINE OF SAID LOT 5, DISTANT THEREON NORTH 24° 12' 14" EAST 124.25 FEET FROM THE MOST NORTHERLY CORNER OF LOT 1 OF TRACT NO. 651 AS SHOWN ON A MAP THEREOF RECORDED IN BOOK 24, PAGE 31 OF MISCELLANEOUS MAPS, RECORDS OF SAID ORANGE COUNTY, RUNNING THENCE SOUTH 65° 47' 46" EAST PARALLEL WITH THE NORTHEASTERLY LINE OF SAID TRACT NO. 651, 150 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE NORTH 24° 12' 14" EAST PARALLEL WITH THE EAST LINE OF MAPLE STREET AS SHOWN ON SAID MAP OF TRACT NO. 651, 124.75 FEET; THENCE SOUTH 65° 47' 46" EAST PARALLEL WITH THE NORTHEASTERLY LINE OF SAID TRACT NO. 651, 195.10 FEET TO A POINT ON THE NORTHEASTERLY EXTENSION OF THE CENTER LINE OF SOUTH MAPLE AVENUE, AS SHOWN ON SAID MAP OF TRACT NO. 651; THENCE SOUTH 24° 12' 14" WEST PARALLEL WITH THE EAST LINE OF MAPLE STREET, 124.25 FEET; THENCE NORTH 65° 47' 46" WEST 195.10 FEET TO THE TRUE POINT OF BEGINNING.

EX. B

Date: **06/18/2015**

A.P.N.: 284-191-23

File No.: OSA-4911993 (WS)

Dated: **June 18, 2015**

FAYE L. SULLIVAN, AS SUCCESSOR
TRUSTEE UNDER DECLARATION OF
TRUST DATED APRIL 30, 2003



FAYE L. SULLIVAN, Trustee

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

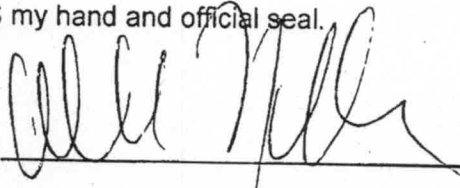
State of California
County of LOS ANGELES

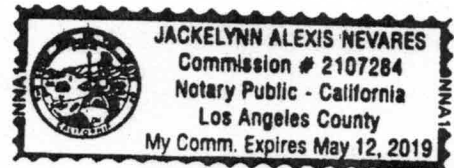
On JUNE 30, 2015 before me, JACKELYNN ALEXIS NEVARES/NOTARY Public
(insert name and title of the officer)

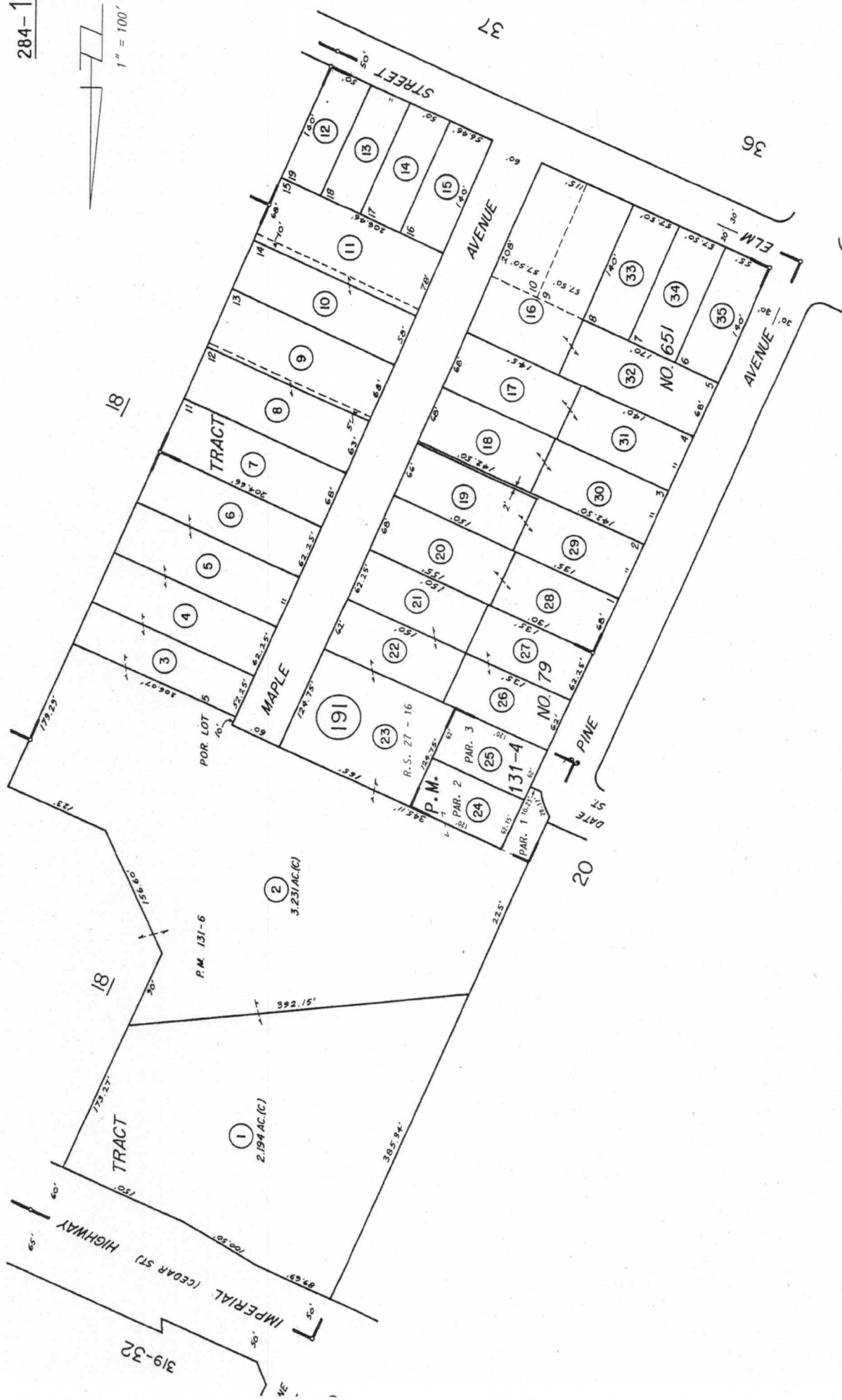
personally appeared FAYE L SULLIVAN
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (Seal)





NOTE - ASSESSOR'S BLOCK & PARCEL NUMBERS SHOWN IN CIRCLES
ASSESSOR'S MAP BOOK 284 PAGE 19 COUNTY OF ORANGE

TRACT NO. 79
TRACT NO. 651
PARCEL MAP
M.M. 10-28
M.M. 24-31
P.M. 131-4,5

MARCH 1983

A.C

05/04/06