

documents are deemed sufficient to meet the requirements of this provision. Certainly the Integration Statement submitted by O'K provided the required information as to residency. Further, O'K submitted a copy of his financial statement (which is included in Exhibit 1 to the Motion to Strike), containing his residence mailing address. While DuRoss may feel that this is inadequate, it still meets the technical requirement that "representative" documents be produced. In any event, O'K disagrees with the contention that "Mr. O'Kane has failed to produce any documents to demonstrate this claim...."

3. Nevertheless, O'K does agree that he could have produced additional representative documents which would have provided more sufficient proof of his residency. The fact is that O'K was in the process of assembling such documents but simply did not have them to counsel in time for the production order deadline. Those documents, which include the deed for O'K's claimed residence, are attached hereto as Exhibit 1.

4. Regardless of the sufficiency of O'K's compliance with the SDP, the proper remedy for DuRoss under the rules was to make a Supplemental Document Production Request under Section 1.325(c)(3) of the Commission's Rules. Indeed, that section of the rules specifically contemplates the instant circumstance, stating "Supplemental requests for documents based on materials exchanged pursuant to the Standardized Document Production Order and Standardized Integration Statement must be filed no later than ten days after those standardized exchanges." In fact, to be technical, O'K could refuse to produce any additional documentation of his residency because DuRoss has never filed the re-

quired Supplemental request, much less done so within the prescribed ten day period. Nevertheless, in the interest of avoiding needless litigation, O'K has produced the documentation set forth in Exhibit 1 hereto.

5. Furthermore, in the Commission's Memorandum Opinion and Order, FCC 91-154, released May 15, 1991, the Commission stated, at F.N. 3, "With further regard to the standardized document production order and integration statement, we agree with the FCBA's comment that disputes over the sufficiency of an exchange should not be elevated to a question of whether an applicant should be dismissed."

6. In filing a Motion to Strike O'K's claim for credit for local residency, DuRoss has elevated the dispute over the sufficiency of the SDP exchange beyond what the Commission intended. The rules are not to be used as a lever to obtain an advantage over a competitor. The rules are to be used to expedite the process of discovery and limit the Presiding Judge's involvement as much as possible. This would have been accomplished by DuRoss making the required Supplemental production request. By filing his Motion to Strike, DuRoss has unnecessarily involve the Presiding Judge in the discovery process and thus thwarted the purposes of the new discovery rules. The Motion to Strike should be denied.

Respectfully submitted,

KEVIN O'KANE

By _____
James L. Oyster
Counsel

Law Offices
JAMES L. OYSTER
Rt. 1, Box 203A
Castleton, VA 22716
(703) 937-4800
November 30, 1993

RECEIVED

NOV 30 1988

United States of America

FCC - MAIL ROOM

FEDERAL COMMUNICATIONS COMMISSION



LOW POWER TELEVISION / TELEVISION TRANSLATOR
BROADCAST STATION CONSTRUCTION PERMIT

Official Mailing Address:

KEVIN O'KANE
RR 2, BOX 73, BURLERSON RD
MUNNSVILLE, NY 13409

Authorizing Official:

Keith A. Larson
Keith A. Larson
Chief, LPTV Branch
Video Services Division
Mass Media Bureau

Grant Date: 11-20-88

Call sign: W12BZ

This permit expires 3:00 am.
local time 18 months after
grant date specified above

Permit File No.: BNPTVL-890624UM

This permit modifies Permit No.: JA0702RJ

Subject to the provisions of the Communications Act of 1934, as amended, subsequent acts and treaties, and all regulations heretofore or hereafter made by this Commission, and further subject to the conditions set forth in this permit, the permittee is hereby authorized to construct the radio transmitting apparatus herein described. Installation and adjustment of equipment not specifically set forth herein shall be in accordance with representations contained in the permittee's application for construction permit except for such modifications as are presently permitted, without application, by the Commission's Rules.

This permit shall be automatically forfeited if the station is not ready for operation within the time specified (date of expiration) or within such further time as the Commission may allow, unless completion of the station is prevented by causes not under the control of the permittee. See Sections 73.3598, 73.3599 and 73.3534 of the Commission's Rules.

Equipment and program tests shall be conducted only pursuant to Sections 74.13 and 74.14 of the Commission's Rules.

Name of permittee:

KEVIN O'KANE

Station Location:

NY-ROME

Frequency (MHz): 204.0 - 210.0 Offset: Zero

Channel: 12



Contract to Purchase

Subsidiary of Arthur L. Pratt Enterprises Inc.

30 Glenwood Ave. (Rt. 46 S.
Oneida, New York 13421
Telephone: (315) 363-0380

THIS IS A LEGALLY BINDING CONTRACT - YOU ARE ENTITLED TO SEEK COMPETENT LEGAL ADVICE. COMMISSIONS OR FEES FOR REAL ESTATE SERVICES TO BE PROVIDED ARE NEGOTIABLE BETWEEN REALTOR AND SELLER.

Buyer: Kevin O'Kane of 3949 * 9 Road, Cozenovia, NY

Price: hereby offers Forty eight thousand - five hundred Dollars \$ 48,500.00

Property: for the real property located, with all buildings located thereon, in the Town of Stockbridge County of Madison State of New York, known as Burleson Rd, Minerva, NY and consisting of a lot measuring approximately 0.5 acre Premises are owned by Cindy M. Slue of _____

For a more specific description reference is hereby made to deed(s) covering said premises.

1. Fixtures and Other Property

A. This conveyance shall include, free and clear of all liens, all of the following specified items if presently on the premises: all lighting fixtures, heating and plumbing fixtures, window and door shades, screens, venetian blinds, storm windows and doors, window valances, curtains and drapery rods, garage door opener, fireplace screens, chandeliers, awnings, linoleum floor coverings, wall to wall carpeting, television antennas and other antennas and lead-in wires, electric water pump, sump pump, hot water heater, water softener, kitchen sink and disposal unit, built-in items including dishwasher, oven and range, exhaust fans, ventilators, air conditioners, all other items of equipment and personal property attached to the buildings and used in connection therewith and all fences and used building materials owned with and now on said property. Also included shall be the following personal property which shall be transferred by a warranty Bill of Sale in favor of this Buyer: Refrigerator and stove and Compact included with property. All items accepted as is as covered

B. Sales tax, if any, on personal property sold with this real estate shall be paid by Seller from the purchase price.

2. Deposit

Buyer hereby deposits with Pratt Realty a personal check in the amount of \$15,000.00 Said deposit to be held until the acceptance of this offer at which time any note or check shall be converted to cash and held in escrow by said Realtor and become part of the purchase price. On rejection of this offer, deposit is to be returned. Buyer further agrees to deposit additional cash to be held in escrow by Pratt Realty on or before _____, 19__ in the amount of _____

3. Terms and Conditions (Paragraphs A. - B. - C. do not apply unless filled in)

A. The Buyer agrees to assume and pay the first mortgage lien now on said premises which provides for \$ _____ monthly payments that include interest at _____ % per annum, plus escrow, if any, and upon which there is now due approximately \$ _____

B. The Buyer will give to the Seller a (first) (second) purchase money note and mortgage upon said real property, in customary form, in the amount of \$ _____ Said mortgage shall also provide for:

1. Payment at the rate of \$ _____ per month to include interest at the rate of _____ % per annum with privilege of prepayment on any payment due with no prepayment penalty. The entire balance and accrued interest shall be due and payable _____ years from date of transfer. (Not) assumable upon a subsequent transfer of the property.
2. (No) escrow payment equal to 1/12 total annual taxes and insurance.
3. First payment to be in _____ days after passing of deed or on _____
4. Penalty for late payment (2% of payment if 15 days late).

C. This agreement is conditioned upon the Buyer receiving a commitment by _____ 19__ (Unless Extended By Seller's) on a first mortgage loan in the amount of \$ _____ for a term of _____ years at the prevailing interest rates which interest not to exceed _____ % per annum. Buyer agrees to make his mortgage application, in good faith, within _____ days after acceptance of this offer and to diligently process the same. Upon receiving such commitment, the Buyer will notify the Seller through Pratt Realty and carry out his part of this agreement. In the event that the Buyer is unable to secure a commitment for said mortgage loan, or seller's are unwilling to extend commitment date he will immediately notify the Seller through said Realtor and his deposit will be refunded and this contract shall become null and void.

D. Balance of purchase price in cash or by bank cashiers check will be paid as follows: \$7,000.00 Full balance payable 10/15/89 \$40,000.00

4. Property Examination:

Buyer acknowledges that he has inspected the property and is satisfied with its condition and that neither Seller nor his representatives have made any representation upon which Buyer relies with respect to the subject property covered by this Agreement, except as set forth herein.

5. Title Documents and Marketability of Title:

A. At least 30 days before the closing, Seller is to furnish a copy of a good and sufficient (warranty deed with lien covenant) or (executor's) or (administrator's) deed to the premises, bankruptcy search, ten year tax search, water search and an official abstract company title search commencing with a warranty deed at least forty years old, showing good and marketable title, free of liens and encumbrances, except zoning restrictions, except restrictions running with the land common to the tract or subdivision, except common driveways, except all rights of way and easements heretofore granted to utility companies and: except the following restrictions, covenants or rights of way: _____

At the closing, Seller will furnish the fully executed deed described above, capital gains statement and any other closing documents tradi-

7/15/89, 10:00 AM, NO WALKER AT 4 CURT NOT TO JOSE GARAGE. K.O.K.

ALL DOCUMENTS FILED

Application No. Permit No. *88-210* :
RECEIVED

NOV 30 1988

Building Department
TOWN OF WESTMORELAND

FCC - MAIL ROOM

County of ONEIDA

Location: *Jenkins Rd. 500' N. of Cooper St.*

Certificate of Occupancy

No. *90-9*

Date *5-1-1990*

THIS CERTIFIES that the building located at premises indicated above, conforms substantially to the approved plans heretofore filed in this office with Application for Building Permit dated *11-1-1988*, pursuant to which Building Permit was issued, and conforms to all of the requirements of the applicable provisions of the law.

The occupancy for which this certificate is issued is *a single family dwelling*

This certificate is issued to *John Cieskowitz*
(owner, lessee or tenant)

of the aforesaid building.

Donald Youngling
Superintendent of Buildings

(The Certificate of Occupancy will be issued only after affidavits or other competent evidence is submitted to the Superintendent of Buildings that the completion of the construction is in compliance with the Town Zoning Ordinance and with other laws, ordinances or regulations affecting the premises, and in conformity with the approved plans. A final electrical, plumbing, heating or sanitation certificate or other evidence of compliance may be required before the issuance of the Certificate of Occupancy.)

Adjustment Date:

May 23, 1990

Dated:

May 23, 1990

STATEMENT OF SALE

Cieslewitz to

O'Kane

Premises:

3353 Jenkins

~~St. ...~~ Road

~~Town~~ Town

of

Westmoreland, ~~Madison~~ ^{Onida} County, New York

Purchase Price

\$ 125,000.00

Insurance Adjustment

Tax Adjustments:

Town

\$ _____; _____ mo. @ \$ _____

Village

\$ _____; _____ mo. @ \$ _____

School

\$ _____; _____ mo. @ \$ _____

TOTAL

\$ 125,000.00

CREDITS TO PURCHASER:

Down Payment

\$ 1,000.00

Mortgage (assumed) (to seller)

Interest from _____ to _____

Revenue Stamps (assumed)

500.00

Gains Tax Affidavit (assumed)

6.00

Discharge of Mortgage (assumed)

13.50

Release of Mortgage (assumed)

16.50

Assumed taxes:

Town

\$ _____; _____ mo. @ \$ _____

Village

\$ _____; _____ mo. @ \$ _____

School

\$ _____; _____ mo. @ \$ _____

Rents:

WARRANTY DEED

THIS INDENTURE, made the 27th day of May, Nineteen Hundred and Ninety

BETWEEN

JOHN CHESE WITZ and JANICE CHESE WITZ, his wife, Cedar Street, Conkany, New York
13424, parties of the first part, and

KEVIN E. DEANE, 6612 Burseson Road, Mannsville, New York
partly of the second part.

WITNESSETH, that the parties of the first part, in consideration of one and 00/100 Dollars (\$1.00) lawful money of the United States, and other good and valuable consideration paid by the party of the second part, do hereby grant and release unto the party of the second part, his heirs and assigns forever,

All that piece or parcel of real property lying and being part of lot 12 of a certain plat of Patent Town of Westwoodland, County of Oneida and State of New York, and bounded and described as follows:

Commencing at a point of reference on the northerly bounds of Cooper Street at its intersection with the westerly bounds of Jenkins Road, said point being marked by an iron pipe found there along said westerly bounds of Jenkins Road the following courses and distances: S 72 degrees 15' 47" W 168.15 feet to an iron pipe found N 15 degrees 47' 55" W 145.5 feet to an iron pipe set, the point of beginning of the premises hereon described, thence S 86 degrees 53' 39" W 437.05 feet to an iron pipe set, thence along a fence line N 15 degrees 56' 34" W 145.51 feet to an iron pipe set, thence N 60 degrees 15' 00" E

* original page is barely legible
(PIRS) 11/30/93

RECORD AND RETURN TO:
Joseph A. Greenman, Esq.
742 James Street
Syracuse, NY 13203

CERTIFICATE OF SERVICE

James L. Oyster hereby certifies that he has sent a copy of the foregoing NOTICE OF APPEARANCE by first class U.S. mail, postage prepaid, or by hand delivery, on or before the 30th of November, 1993, to the following:

J. Richard Carr, Esq.
Law Office of J. Richard Carr
5528 Trent Street
Chevy Chase, MD 20815
Counsel for Kenneth F. Roser, Jr.

Arthur V. Belendiuk, Esq.
Smithwick & Belendiuk
1990 M Street, N.W.
Suite 510
Washington, D.C. 20036
Counsel for Frank B. Duross

James Shook, Esq.
Hearing Branch, Enforcement Division
Mass Media Bureau
Federal Communications Commission
2025 M Street, N.W., Room 7212
Washington, D.C. 20554

James L. Oyster