IOWA STATE BAR ASSOCIATION
Official Form No. 143

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40-601
DELAWARE COUNTY IOWA
FILED
90 SEP 7 AM 11 42
BOOK 126 PAGE 338
JOAN SHEPPARD
RECORDER
$25.00

BILLY J. SMITH & WIFE
TO
PAMELA SUE JOHNSON

Billy J. Smith
RR, Box 62 1A
Delhi, Ia 52223

SPACE ABOVE THIS LINE FOR RECORDER

REAL ESTATE CONTRACT (SHORT FORM)

IT IS AGREED between BILLY J. SMITH and DORIS E. SMITH, husband and wife

, ("Sellers"), and PAMELA SUE JOHNSON

,("Buyers")

Sellers agree to sell and Buyers agree to buy real estate in Delaware County, Iowa, described as:

Lot Two (2) of East Shore Lots in the Northwest corner of the Northwest Quarter (NW¼) of the Southwest Quarter (SW¼) of Section Twenty Nine (29) and in the Northeast corner of the Northeast Quarter (NE¼) of the Southeast Quarter (SE¼) of Section Thirty (30), Township Eighty Eight (88) North, Range Four (4), West of the Fifth Principal Meridian, according to plat recorded in Book 2 Plats, Page 98½.

See Exhibit B attached hereto and made a part hereof by this reference for additional real estate being sold to Buyer.

with any easements and appurtenant servient estates, but subject to the following: a. any zoning and other ordinances, b. any covenants of record; c. any easements of record for public utilities, roads and highways; and d. (consider: liens; mineral rights; other easements; interests of others.)

(the "Real Estate"), upon the following terms:

1. **PRICE.** The total purchase price for the Real Estate is Fifty-Nine Thousand Nine Hundred & Fifty---------- Dollars ($ 59,950.00) of which Nineteen Thousand & Nine Hundred & Fifty---- Dollars ($ 19,950.00) has been paid. Buyers shall pay the balance to Sellers at , or as directed by Sellers, as follows: Interest only on the unpaid balance to be paid October 1, 1990 and on the 1st of each month thereafter. Buyer may prepay any portion of unpaid principal balance without penalty but such prepayments must be a minimum of $1,000.00 per prepayment. Buyer shall make total principal payments of at least $5,000.00 on or before October 1, 1995. The full unpaid principal and interest is due October 1, 1998.

2. **INTEREST.** Buyers shall pay interest from September 5, 1990 on the unpaid balance, at the rate of 10% percent per annum, payable the 1st of each month.

Buyers shall also pay interest at the rate of 10% percent per annum on all delinquent amounts and any sum reasonably advanced by Sellers to protect their interest in this contract, computed from the date of the delinquency or advance.

3. **REAL ESTATE TAXES.** Sellers shall pay taxes pro-rated to September 5, 1990.

and any unpaid real estate taxes payable in prior years. Buyers shall pay all subsequent real estate taxes. Any proration of real estate taxes on the Real Estate shall be based upon such taxes for the year currently payable unless the parties state otherwise.

4. **SPECIAL ASSESSMENTS.** Sellers shall pay all special assessments which are a lien on the Real Estate as of ~~the date of this contract or~~ September 5, 1990. All other special assessments shall be paid by Buyers.

5. **POSSESSION.** Sellers shall give Buyers possession of the Real Estate on September 5, 19 90, provided Buyers are not in default under this contract.

6. **INSURANCE.** Sellers shall maintain existing insurance upon the Real Estate until the date of possession. Buyers shall accept insurance proceeds instead of Sellers replacing or repairing damaged improvements. After possession and until full payment of the purchase price, Buyers shall keep the improvements on the Real Estate insured against loss by fire, tornado, and extended coverage for a sum not less than 80 percent of full insurable value payable to the Sellers and Buyers as their interests may appear. Buyers shall provide Sellers with evidence of such insurance.

For Extension, See Book 11 Page 268 11/19/94

For Release, See Book 13 Page 318 5/19/93

FILE No. 40-601
RECORDING FEE $ 25.00
TRANSFER FEE $

FILED FOR RECORD THE 7 DAY OF September, 19 90 AT 11:42
O'CLOCK A. M. BOOK 126 PAGE 338

STATE OF IOWA, DELAWARE COUNTY
Joan Sheppard, Recorder
LD

7. **ABSTRACT AND TITLE.** Sellers, at their expense, shall promptly obtain an abstract of title to the Real Estate continued through the date of this contract _____, and deliver it to Buyers for examination. It shall show merchantable title in Sellers in or conformity with this contract, Iowa law and the Title Standards of the Iowa State Bar Association. The abstract shall become the property of the Buyers when the purchase price is paid in full, however, Buyers reserve the right to occasionally use the abstract prior to full payment of the purchase price. Sellers shall pay the costs of any additional abstracting and title work due to any act or omission of Sellers, including transfers by or the death of Sellers or their assignees.

8. **FIXTURES.** All property that integrally belongs to or is part of the Real Estate, whether attached or detached, such as light fixtures, shades, rods, blinds, awnings, windows, storm doors, screens, plumbing fixtures, water heaters, water softeners, automatic heating equipment, air conditioning equipment, wall to wall carpeting, built-in items and electrical service cable, outside television towers and antenna, fencing, gates and landscaping shall be considered a part of Real Estate and included in the sale except: (consider: rental items.) _____.

9. **CARE OF PROPERTY.** Buyers shall take good care of the property; shall keep the buildings and other improvements now or later placed on the Real Estate in good and reasonable repair and shall not injure, destroy or remove the property during the term of this contract. Buyers shall not make any material alteration to the Real Estate without the written consent of the Sellers.

10. **DEED.** Upon payment of purchase price, Sellers shall convey the Real Estate to Buyers or their assignees, by Warranty deed, free and clear of all liens, restrictions, and encumbrances except as provided herein. Any general warranties of title shall extend only to the date of this contract, with special warranties as to acts of Sellers continuing up to time of delivery of the deed.

11. **REMEDIES OF THE PARTIES.**

a. If Buyers fail to timely perform this contract, Sellers may, at Seller's option, either (i) forfeit Buyers' rights in this contract as provided in the Iowa Code, and all payments made by Buyers shall be forfeited or (ii) upon thirty days written notice by Sellers to Buyers of Sellers' intention to accelerate the payment of the entire balance because of such failure (during which thirty days such failure is not corrected) Sellers may declare the entire balance immediately due and payable, and thereafter this contract may be foreclosed in equity; the Court may appoint a receiver; and the period of redemption after sale on foreclosure may be reduced under the conditions of Section 628.26 or Section 628.27 of the Iowa Code.

b. If Sellers fail to timely perform their obligations under this contract, Buyers shall have the right to terminate this contract and have all payments made returned to them.

c. Buyers and Sellers are also entitled to utilize any and all other remedies or actions at law or in equity available to them.

d. In any action or proceeding relating to this contract the successful party shall be entitled to receive reasonable attorney's fees and costs as permitted by law.

12. **JOINT TENANCY IN PROCEEDS AND IN REAL ESTATE.** If Sellers, immediately preceding this contract, hold title to the Real Estate in joint tenancy with full right of survivorship, and the joint tenancy is not later destroyed by operation of law or by acts of Sellers, then the proceeds of this sale, and any continuing or recaptured rights of Sellers in the Real Estate, shall belong to Sellers as joint tenants with full right of survivorship and not as tenants in common; and Buyers, in the event of the death of either Seller, agree to pay any balance of the price due Sellers under this contract to the surviving Seller and to accept a deed from the surviving Seller consistent with paragraph 10.

13. **JOINDER BY SELLER'S SPOUSE.** Seller's spouse, if not a titleholder immediately preceding acceptance of this offer, executes this contract only for the purpose of relinquishing all rights of dower, homestead and distributive shares or in compliance with Section 561.13 of the Iowa Code and agrees to execute the deed for this purpose.

14. **TIME IS OF THE ESSENCE.** Time is of the essence in this contract.

15. **PERSONAL PROPERTY.** If this contract includes the sale of any personal property, Buyers grant the Sellers a security interest in the personal property and Buyers shall execute the necessary financing statements and deliver them to Sellers.

16. **CONSTRUCTION.** Words and phrases in this contract shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to the context.

17. **ADDITIONAL PROVISIONS.** The following items shall remain with the property and be considered part of the sale: Refrigerator, stove, dishwasher, water heater, window airconditioner, recirculating pump in pumphouse.

Dated: September 5, 19 90

Pamela Sue Johnson
Pamela Sue Johnson

BUYERS

Billy J. Smith
Billy J. Smith

Doris E. Smith
Doris E. Smith

SELLERS

STATE OF IOWA, COUNTY OF DELAWARE, ss:

On this 5 day of September, 19 90, before me, the undersigned, a Notary Public in and for said State, personally appeared Pamela Sue Johnson, Billy J. Smith & Doris E. Smith

to me known to be the identical persons named in and who executed the foregoing instrument and acknowledged to me that they executed the same as their voluntary act and deed.

RICHARD GENE STENDER
MY COMMISSION EXPIRES
6-7-93

Richard Gene Stender, Notary Public in and for Said State.

EXHIBIT A

ADDENDUM TO REAL ESTATE CONTRACT

Dated: September 5, 19 90.

BETWEEN: BILLY J. SMITH and DORIS E. SMITH,

husband and wife SELLERS

AND: PAMELA SUE JOHNSON,

Pamela Sue Johnson BUYERS

WAIVER OF HOMESTEAD EXEMPTION:

I/~~We~~ understand that homestead property is in many cases protected from the claims of creditors and exempt from judicial sale; and that by signing this contract, I~~/We~~ voluntarily give up my/~~our~~ right to this protection for this property with respect to claims based upon this contract.

Pamela Sue Johnson
Pamela Sue Johnson

BUYERS

BUYERS

EXHIBIT B

In addition to the real estate described on the first page of this Real Estate Contract which this Exhibit B is a part, Sellers agree that the following described real estate is also being sold to the Buyer subject to the terms of the Real Estate Contract (Short Form) to which this Exhibit is attached. The real estate is legally described as:

> All lake frontage running to the middle of the Maquoketa River bed with regard to the following described real estate situated in Delaware County, Iowa: Lot Two (2) of the East Shore Lots in the Northwest corner of the Northwest Quarter (NW¼) of the Southwest Quarter (SW¼) of Section Twenty-nine (29), and in the Northeast corner of the Northeast Quarter (NE¼) of the Southeast Quarter (SE¼) of Section Thirty (30), all in Township Eighty-eight (88) North, Range Four (4) West of the Fifth P.M., as shown by recorded plat in Book 2 Plats, Page 98½.

The above described property in this Exhibit B is subject to the following covenants:

> 1. Same is subject to the existing Flood Plain Rights and the Buyer shall hold the Sellers harmless with regard to flooding of the property conveyed.
>
> 2. The Buyer and her successors are restricted from changing or altering lake frontage without the written permission of the Sellers.

When the Real Estate Contract (Short Form) of which this Exhibit B is a part is fulfilled, the Sellers shall convey by Quit Claim Deed the foregoing described real estate. It is acknowledged between the parties that the foregoing described real estate contained in this Exhibit B is not otherwise the subject of any of the terms and conditions of the Real Estate Contract (Short Form), that the Sellers do not warrant that they own title to the real estate described in this Exhibit B and that they are acknowledging to the Buyers that Buyers are entitled to whatever rights the Sellers have to use and possess said real estate as long as they are not

in default on the Real Estate Contract (Short Form) of which this Exhibit B is a part. At the time that the Quit Claim Deed is given as stated in this Exhibit B, the Sellers shall also set over to the Buyer the Certificate of Membership which the Sellers have in the Lake Delhi Recreation Association, Inc. The Sellers also agree that in the event it is necessary prior to the time the Contract is fulfilled for them to acknowledge that the Buyer is entitled to Sellers right under the Membership Certificate in the Lake Delhi Recreation Association, Inc., that the Sellers will execute such documents as may be necessary to acknowledge that the Buyer has the right to exercise Sellers rights in the Recreation Association subject to Sellers rights to cancel such Right of Membership in the event of the forfeiture of Real Estate Contract (Short Form), of which this Exhibit is a part.