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DELAWARE COUNTY IOWA
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Prepared by Stephen W. Scott, 100 W. 12th St., Dubuque, IA 52004-0703 563-588-0547

EASEMENT AGREEMENT

This Easement Agreement is made and entered into this 8th day of August, 2002, by and between David Felderman and Shannon Felderman, husband and wife, and hereinafter referred to as "Felderman"; and David Schmerbach and Penny Schmerbach, husband and wife, hereinafter referred to as "Schmerbach".

WITNESSETH:

1. Felderman is the owner of the following described real estate which is hereinafter referred to as: "Felderman's Property:"

> Commencing at a point on the east line of the southwest quarter of the southeast quarter of Section 24, Township 88 North, Range 5 West of the 5th P.M., 2012.8 feet south of the northeast corner of the northwest quarter of the southeast quarter of said section 24 and running thence north 67° 06' west 592 feet to the point of beginning; thence north 19° 47' east 103.4 feet thence north 59° 11' west 45.7 feet, thence south 19° 47' west 109.8 feet thence south 67° 6' east 45 feet to the point of beginning; also the right of use of roadway described in deed to Harold H. Brown dated August 6, 1938, and filed for record in Book 66, page 446, Delaware County, Iowa, with others rightfully using the same.
>
> and
>
> All lake frontage running to the middle of the Maquoketa River bed with regard to the following described real estate:
>
> Commencing at a point on the east line of the southwest quarter of the southeast quarter of Section 24, Township 88 North, Range 5 West of the 5th P.M., 2012.8 feet south of the northeast corner of the northwest quarter of the southeast quarter of said section 24 and running thence north 67° 06' west 592 feet to the point of beginning; thence north 19° 47' east 103.4 feet thence north 59° 11' west 45.7 feet, thence south 19° 47' west 109.8 feet thence south 67° 6' east 45 feet to the point of beginning; also the right of use of roadway described in deed to Harold H. Brown dated August 6, 1938, and filed for record in Book 66, page 446, Delaware County, Iowa, with others rightfully using the same.
>
> and
>
> PT SW SE ADJ TO SHANNON FELDERMAN'S PROPERTY @ CAMP O DELHI AS FURTHER DESCRIBED: Commencing at a point on the east line of the southwest quarter (SW 1/4) of the southeast quarter (SE 1/4) of Section Twenty-Four (24), Township Eighty-Eight (88) North, Range Five (5), West of the 5th P.M., which is 2012.8 feet south of the northeast corner of the northwest quarter (NW1/4) of the southeast quarter (SE 1/4) of Section Twenty-Four (24) and running thence north 67° 06' west 592 feet; thence north 19° 47' east 103.4 feet to the point of beginning; thence north 59° 11' west 45.74 feet; thence north 19° 47' east 35.05 feet to the southerly line of a platted roadway as shown on the plat of Camp-O-Delhi as recorded in book 5 plats, page 78; thence along said southerly line south 39° 57' 57" east 51.97 feet; thence south 19° 47' west to the point of beginning.

These three parcels of property adjoin each other and are informally referred to in this Agreement as "cottage lot", "beach/lake lot" and "parking lot."

2. Schmerbach is the owner of the following described real estate referred to as "Schmerbach's Property" and legally described as:

> Lot 79 in the Sub-division of Camp-O-Delhi, Camp-O-Delhi, Inc., Delaware County, Iowa. Also the right of use of the roadway described in deed of A. R. Wheeless and Josie M. Wheeless, husband and wife, to Harold H. Brown, dated August 6, 1938, and filed August 9, 1938, in Book 66, of deed records of the Office of the Recorder of Delaware County, Iowa, in common with others rightfully using same.

3. Both the Felderman Property and the Schmerbach Property were previously owned by Felderman. Before that, both properties were owned by Charles and Vivian Riniker, Vivian being the mother of Shannon Felderman and Penny Schmerbach. Cottages are located on both the Felderman Property and the Schmerbach Property. These cottages are served by a common well located under the cottage on the Felderman Property. Propane fuel is provided to both cottages from a tank located on the Felderman Property. Pedestrian access to both cottages is from a stairway running in a north-south direction on the Felderman Property leading from the area of the parking lot near the Camp-O-Delhi subdivision road to the cottage on the cottage lot of the Felderman Property. The only access to the parking area on the northerly part of Schmerbach's Property is across the parking lot and northerly portion of the cottage lot on the Felderman Property. There is a shed used by Felderman that lies partially on Felderman's Property but primarily on Schmerbach's Property. There is a deck on the southwesterly corner of the cottage on the Felderman Property and the steps accessing this deck enter partially upon the Schmerbach's Property. There is a floating dock to the south of the Schmerbach Property which is owned by Felderman.

4. In order to provide each party with the maximum use of the parties' property, the parties have entered into this Easement Agreement. Because Shannon Felderman and Penny Schmerbach are half sisters, certain of the easements granted in this document are personal to Shannon Felderman and David Felderman and Penny Schmerbach and David Schmerbach and do not run with the land.

5. The approximate location of the well, water lines driveway, steps, propane tank, as well as the general location of the easements granted are shown on Exhibit "A" attached. This diagram is not to scale but is intended to give general information regarding the location of these items referred to in this Easement Agreement.

6. Felderman and Schmerbach desire to reduce to writing their mutual agreements as to the use of water, gas, shed, pedestrian way, steps and driveway easements which Felderman will be providing to Schmerbach. Therefore, Felderman and Schmerbach enter into the Easement Agreements set forth in this Agreement.

I. WATER EASEMENT

1. **Agreement To Provide Water**. Felderman shall supply water to meet the reasonable needs of Schmerbach for normal domestic residential. Felderman does not guarantee the purity, quality or quantity of the water furnished, and it is understood and agreed that Schmerbach shall use the water provided at their own risk. Felderman does not guarantee continuous, adequate supply of water to Schmerbach and in the event the well runs dry or suffers a significant mechanical failure, Felderman is not obligated to re-drill a new well or repair the existing well. In the event that it becomes necessary to drill a new well or in the event of a mechanical failure or break down of the well, pump, storage tank, or other equipment used in the connection of the operation of said well, pump or system, Felderman shall not be liable to Schmerbach for damages caused by the failure to supply water.

2. **Expenses For Repairs, Maintenance And Replacement**. Felderman shall be solely responsible for the maintenance, repair and replacement of the water line running from the common well system which exclusively serves Felderman's premises. Schmerbach shall be solely responsible for the maintenance, repair and replacement of the water line running from the common well system which exclusively services Schmerbach's premises.

If it becomes necessary for Schmerbach to repair the portion of its water line which runs across the property of Felderman, Schmerbach shall have the right to enter upon Felderman's Property for the purposes of performing necessary repairs, maintenance and replacement and access is hereby granted for those purposes. If such acts require excavation or other disturbance of Felderman's grounds, Schmerbach, at its sole expense, will grade and seed or sod that portion of Felderman's Property so affected to the condition it was in before said repairs, maintenance and replacement were undertaken.

The costs of repairs, maintenance and replacement of the common well system which supplies water to both parties individual lines shall be shared equally by and between the parties.

The common well system consists of the well, pump and any line that supplies water to the individual lines servicing each respective residence. It shall not include the individual lines of the parties.

The parties anticipate that from time to time repairs and maintenance of the common well and water system will be required. Once either party determines that a repair is necessary, that party shall advise the other party of the nature and extent of the repair. If the cost of the repair will not exceed $70.00, then either party can initiate the repair and both parties will share equally in the cost of that repair to the common well system. If the repair, maintenance or replacement will exceed $70.00, then neither party shall commence those repairs, maintenance or replacement tasks without the consent of the other party. In those cases where the cost exceeds $70.00, neither party shall be obligated to continue with this Water Easement Agreement and either party may at that time give notice to the other party that this Water Easement shall terminate. If the parties agree that the repair, maintenance or replacement expense exceeding $70.00 shall be completed, then each party shall bear one-half of the cost for that repair, maintenance or replacement of the common well system. If, under those circumstances, either party gives notice to the other party that the Water Easement shall terminate, Schmerbach can then connect to the Camp-O-Delhi community water system and Felderman can elect whether Felderman will repair the well system or connect to the Camp-O-Delhi community water system.

3. **Turning Water System On and Off**. There is a shut off valve for both water supply lines located within Felderman's cottage. These cottages are customarily used on weekends during the spring, summer and early fall of each year. During those months, when neither of the parties is customarily present, the water valve is generally shut off. Schmerbach is given an access easement to that portion of the Felderman residence that must be traversed in order to gain access to this shut off valve. If either party believes it will be the last party to make use of the water system during the spring, summer and early fall for the weekend, they shall turn off the water supply valve. From late fall to early spring, the water system shall remain inoperative to avoid freezing pipes. Because each party will customarily evacuate the water from the water supply lines during this period of cold weather to avoid freezing, when either party decides to begin use of the water system in the spring, that party shall advise the other party that the water system has been activated. Provided, however, that the water system shall not be operated in the spring of the year until April 1, without the consent of the other party and the water system will be turned off for the winter season on October 15 and neither party shall use the water system during the period of winter shut off without the express consent of the other party.

4. **Charges For Water and Pump Electricity**. The electricity necessary to operate the common well system runs through Felderman's electrical system. Schmerbach shall reimburse Felderman in an amount equal to $50.00 per year for such electricity and water, with payment, payable on May 1 of each year. If the rate for electricity increases by more than 25%, and the expense for electricity to operate the pump is calculated to exceed $100 per year, the annual charge may be proportionally increased at Felderman's option to a charge related to the cost of operating the pump.

5. **Default In Payment**. In the event that Schmerbach shall default in any payment due Felderman for Schmerbach's share of repairs, maintenance and replacement; or annual payment for water and electricity, after same shall become due Felderman shall give a 30 day written notice of the default to Schmerbach after which the water

services may be discontinued if the charges have not been paid in full. Either party, upon breach or non-compliance of any of the provisions of this Water Agreement by the other party, may pursue all remedies available to said party at law or equity, including that of injunction, specific performance or suit for damages.

6. **Use of Subdivision System.** The Camp-O-Delhi Homeowner's Association has installed a community well system which is available for both the Felderman Property and the Schmerbach Property. This agreement shall not prevent either party from connecting to the community well and water system of Camp-O-Delhi. If Schmerbach does so, Schmerbach may elect to terminate the "Water Easement" portion of this Easement Agreement at any time and shall then cap its individual water line at its expense. Unless Schmerbach elects to so terminate, the Water Easement shall continue and Schmerbach shall remain liable for its share of expenses. If Felderman elects to obtain water supply from the Camp-O-Delhi community well system, then Felderman shall give 10 days notice of that decision to Schmerbach and this Water Easement shall terminate in its entirety. If the election to terminate is made before June 1 of any year, then Schmerbach shall owe no fee to Felderman for that year and any payment made shall be refunded. If the decision to terminate is made after June 1, then Schmerbach shall owe the regular annual fee unless they have not utilized water from the system at any point that calendar year.

7. **Schmerbach's Access Easement for Connection to Camp-O-Delhi System.** In the event that the Water Easement is terminated or Schmerbach elects to use the community well and water system of Camp-O-Delhi, then Felderman grants to Schmerbach an easement to install, maintain and repair a water line under the "Driveway Easement" designated on Exhibit "A" attached to allow Schmerbach access to connect to the community water system. This easement will include the right to do such excavation as is necessary to repair and maintain such water line provided that Schmerbach shall return the Driveway Easement to the condition that it was in prior to any excavation or repair work. The easement granted under these circumstances shall run with the land and shall be binding upon the heirs, executors, administrators, assigns and successor in interest of the parties hereto.

8. **Duration of Easement; Binding On Other Parties.** If either Shannon and David Felderman, or their survivor, or David or Penny Schmerbach, or their survivor, sells that parties' respective interest in the property to a third party, the then owner of the Felderman Property can terminate this Easement Agreement at any time without prior notice due to the need for the owner of the Schmerbach Property to enter into the cottage on the Felderman Property.

All rights and duties created hereunder may continue after David and Penny Schmerbach or their survivor sells the Schmerbach Property, but only for so long as Shannon Felderman and David Felderman, or their survivor, allows. Felderman may terminate this Agreement at any time by giving written notice to the then owners of the Schmerbach Property or their heirs, executors, administrators, assigns, guests or successors in interest. Felderman may subsequently file a written termination of this water easement with the Delaware County Recorder, although such a filing is not necessary to terminate the easement.

II. EASEMENT FOR DRIVEWAY

The lot (referred to as "parking lot" on Exhibit "A") at the northerly portion of the Felderman Property is used primarily for parking vehicles. There is no direct access to the Schmerbach Property for motor vehicles as the Schmerbach Property is not adjacent to any public roadway. (Schmerbach Property does have access to a public road for pedestrians by means of an easement located to the west of lots 77 and 78 and along the water frontage south of lots 78 and 79.) This Driveway Easement is given in order that access is available to park vehicles on the Schmerbach Property by means of a roadway or access easement over the parking lot on the northerly part of the Felderman Property.

Felderman grants Schmerbach an easement for driveway purposes on the following terms:

1. **Driveway Usage.** Schmerbach shall have the right to use the graveled portion of the existing driveway as depicted as "Driveway Easement" on Exhibit "A" for ingress and egress of motorized vehicle and pedestrian traffic.

2. **Construction, Maintenance and Repair.**

The surface and area in the Felderman parking lot shall be maintained at the equal expense of both parties. The access driveway located on the cottage lot of the Felderman Property shall also be maintained at the equal expense of both parties. The roadway and parking spaces on Schmerbach's Property shall be maintained at the sole expense of Schmerbach.

Both parties acknowledge that the times that each party and its guests, invitees and licensees will use the common driveway will vary. Neither party shall be liable to the other party or the guests, invitees or licensees of the other party for injuries to persons or property resulting from the failure to perform maintenance duties. Each party will hold the other party harmless from claims asserted by that party's guests, invitees or licensees.

3. **Frequent Long-Term Use Prohibited.** Neither party shall operate or allow to be operated any motor vehicle with a total weight exceeding 3,800 lbs. on the common driveway. This provision shall not prohibit usage of vehicles with weight exceeding 3,800 lbs. if usage is sporadic.

4. **Roadway and Easement Kept Open.** The common driveway shall be kept clear of non-moving vehicles and other impediments to traffic which would prevent or unduly inhibit the ingress and egress of the parties.

5. **Duration Of Easement; Binding on Other Parties.** All rights and duties created in this easement for driveway shall run with the land described in this Agreement and shall be binding upon the heirs, executors, administrators, assigns and successors in interest of the parties hereto. References to Felderman and Schmerbach refer to the owners of Felderman Property and the Schmerbach Property respectively, and not necessarily to the individuals named in the initial paragraph of this Agreement.

6. **Special Easement As Between Shannon Felderman and David Felderman and Penny Schmerbach and David Schmerbach Individually**. In addition to the easement rights afforded above, while the individuals named in this paragraph are owners of the property, namely, Shannon and David Felderman or their survivor owning the Felderman Property and David or Penny Schmerbach or their survivor owning the Schmerbach Property, the parties agree that for their convenience, David and Penny Schmerbach may park on the easterly 8 feet of the parking lot as shown in Exhibit "A" provided that David and Shannon Felderman are allowed to park their vehicles on the northerly portion of Schmerbach's Property and that Schmerbach will keep the access roadway clear and open for Felderman's ingress and egress. This easement agreement is personal between Shannon and David Felderman and Penny and David Schmerbach and shall not run with the land nor be an easement that is binding upon any other subsequent owners of either of the properties.

III. PROPANE GAS EASEMENT

Both cottages are supplied with propane gas from a propane tank located in the northeasterly portion of the Felderman Property.

1. **Grant of Easement**. Felderman grants to Schmerbach the right to use the propane gas from the propane tank on the Felderman property. Felderman also grants to Schmerbach the right to use the existing propane gas line which allows for the transmission of propane gas from the tank to the Schmerbach property, and an easement to enter upon the Felderman property for the repair, maintenance and replacement of the gas transmission line.

2. **Expenses For Repairs, Maintenance and Replacement**. Felderman shall initially be solely responsible for the maintenance, repair and replacement of the propane tank and any common pipeline used to furnish propane to both Properties. Schmerbach shall reimburse Felderman for one-half of the cost of any repairs, maintenance or replacement necessary to the tank, valves or any common pipeline that is used to transmit gas to the pipelines which service each individual cottage.

With respect to the line exclusively serving the Schmerbach residence, that line shall be maintained and repaired exclusively at the expense of Schmerbach. If it becomes necessary to excavate or otherwise disturb Felderman's ground to repair or replace the line exclusively serving the Schmerbach Property, Schmerbach, at their sole expense, will grade and seed or sod that portion of Felderman's Property so affected to the condition it was in before the repairs, maintenance and replacement were undertaken. In the event that repairs are required to the portion of the propane gas line exclusively serving Felderman's cottage, that expense shall be paid by Felderman alone.

3. **Expense For Propane Fuel**. At least annually, Felderman will arrange for the propane tank to be filled and the costs of this fill will be divided equally between Felderman and Schmerbach.

4. **Duration of Easement**. This Easement does not run with the land and is not binding upon either of the parties should Shannon and David Felderman or their survivor sell or convey the Felderman Property or should David and Penny Schmerbach or their survivor sell or convey the Schmerbach Property. A conveyance shall include any Lease or other occupancy whereby either party leases or rents their cottage to a third party for substantially all of the spring, summer and fall occupancy for any two years within a four year period.

Schmerbach may terminate their obligation to share in the cost of the propane gas if, during the time when David or Penny Schmerbach or their survivor occupies the Schmerbach Property, they install their own propane tank and discontinue their use of the propane from the tank located on the Felderman Property. If they do so, they shall not be liable for any subsequent filling of the tank, but shall receive no fund for any tank fill made before their installation of their propane tank.

IV. EASEMENT FOR SHED

1. At the present time, there is a shed owned by Felderman that is located toward the northerly portion of the Felderman and Schmerbach Properties. This shed lies partially on the cottage lot of the Felderman Property but primarily on the Schmerbach Property. This shed has been used primarily as a miniature cabin for the children as opposed to a storage facility.

2. Schmerbach grants Felderman an easement on the Schmerbach Property for the continued placement of this shed in its existing position together with an easement for maintenance abutting the shed so that reasonable repairs and maintenance can be done on the shed.

3. Felderman's use of the shed shall not be exclusive and the children, guests and invitees of Schmerbach shall also be permitted to use the shed. Further, Felderman grants Schmerbach an easement on the Felderman Property for the continued placement of the shed in its existing position together with an easement for maintenance abutting the shed so that reasonable repairs and maintenance can be done on the shed.

4. At such time as the physical condition of the shed becomes structurally unsound and dilapidated, it shall be removed at the joint expense of both parties. It shall not be replaced by another structure at that time and the easement to Felderman on this portion of the Schmerbach Property shall then terminate.

V. DECK STEPS

1. **Easement Granted**. A deck has been constructed on the southwesterly corner of the cottage on the Felderman Property and the steps accessing this deck enter upon the Schmerbach Property. Schmerbach grants an easement to Felderman to allow the continued placement and use of these steps, and for Felderman to traverse portions of the Schmerbach Property as are necessary to allow Felderman and the guests and invitees of Felderman to travel from the deck steps to the other portions of the Felderman Property.

2. **Duration of Easement**. At such time as the conditions of these steps necessitates their repair, then this Easement shall terminate and any new steps shall be constructed so that they are situated entirely on the Felderman Property. Further, if either Shannon and David Felderman or their survivor sells the Felderman Property or Penny Schmerbach and David Schmerbach or their survivor sells the Schmerbach Property, then this Easement shall terminate and the steps shall be removed.

VI. PEDESTRIAN ACCESS EASEMENT

1. In order to gain access to the cottages from the northerly end of the Felderman Property, a ramp and set of steps has been constructed as depicted on the diagram attached as Exhibit "A". This ramp and step system is situated on the Felderman Property.

2. **Easement Granted**. Felderman grants Schmerbach an easement for the use of the ramp and steps for ingress or egress from the parking lot on the Felderman Property to the cottage on the Schmerbach Property. This Easement may be used by Schmerbach and the guests and invitees of Schmerbach. This Easement shall not restrict the use of the ramp and stairs by Felderman.

3. **Passage Kept Open**. The ramp and steps shall be kept clear of impediments to pedestrian travel which would prevent or unduly inhibit the ingress and egress of both parties.

4. **Maintenance and Repairs**. The parties shall jointly maintain and repair the ramp and step system currently in place.

5. **Mutual Waiver**. Each party mutually waives any claims of liability, and hereby releases the other party and the other party's heirs, personal representatives, assigns and successors in interest from any liability for damages to person or property resulting from use of the pedestrian access agreement and shall hold the other party harmless from any claims for injuries or damages incurred as a result of the use of the pedestrian access easement.

6. **Duration of Easement**. This Easement does not run with the land described in this Agreement and shall terminate upon either individual party (Shannon and David Felderman or their survivor or David and Penny Schmerbach or their survivor) selling or conveying the Felderman Property or the Schmerbach Property respectively. This Pedestrian Access Easement shall also terminate at the option of Shannon and David Felderman or their survivor in the event Schmerbach rents or leases the cabin on the Schmerbach Property in such a manner that the primary persons using the cottage on the Schmerbach Property for the majority of any two summers out of any four year period is someone other than David Schmerbach or Penny Schmerbach individually.

VII. RIGHTS AND DEFAULTS NOT WAIVED BY DELAY

Failure of a party to promptly assert rights under this Agreement shall not be a waiver of those rights nor a waiver of any existing or future default.

VIII. REFERENCES TO "SCHMERBACH" AND "FELDERMAN"

References to "Felderman" and "Schmerbach" refer to the then current owners of the Felderman Property and the Schmerbach Property respectively, and not necessarily to the individuals named in the initial paragraph of this Agreement unless the context of the agreement implies otherwise.

Shannon Felderman
Shannon Felderman

Penny Schmerbach

David Felderman
David Felderman

David Schmerbach

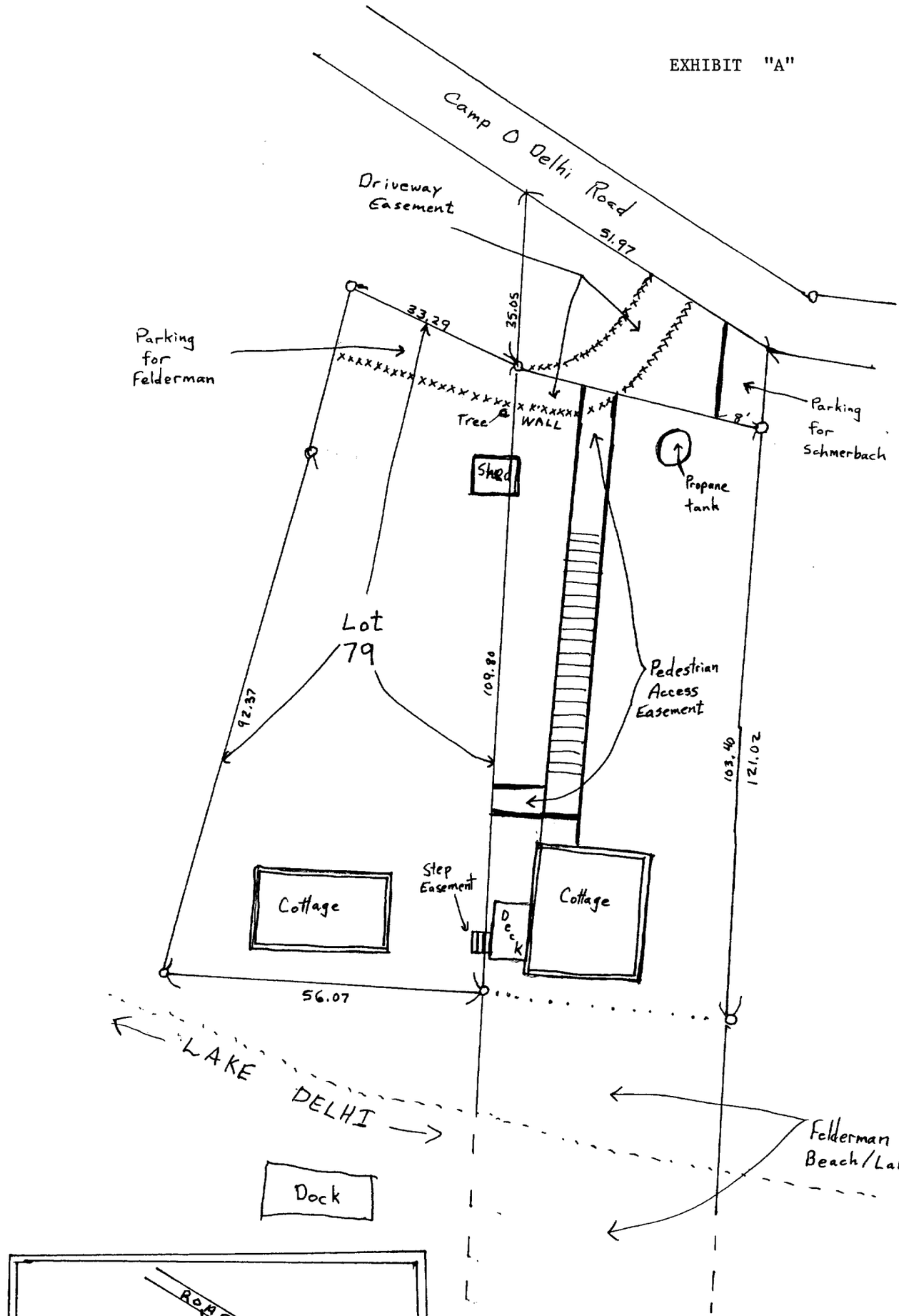
STATE OF IOWA)
) ss.
DUBUQUE COUNTY)

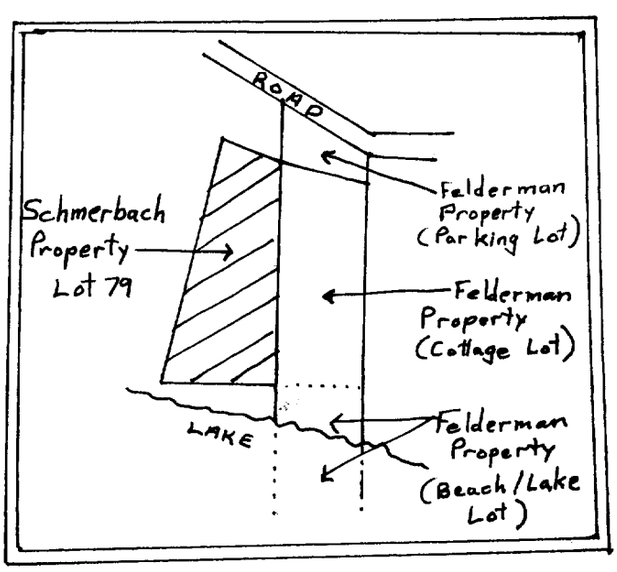
On this 8th day of August, 2002, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Shannon Felderman and David Felderman, wife and husband; and Penny Schmerbach and David Schmerbach, wife and husband, to me known to be the identical person named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

Stephen W. Scott
Notary Public in and for the State of Iowa

NOTARIAL SEAL IOWA
STEPHEN W. SCOTT
COMMISSION # 405725
MY COMMISSION EXPIRES
3-5-03

EXHIBIT "A"





THIS DIAGRAM IS NOT TO SCALE AND IS FOR GENERAL REFERENCE AND INFORMATION ONLY.

Exhibit "A"