Book 2013 Page 3362
Document 2013 3362 Type 06 018 Pages 3
Date 10/24/2013 Time 9:56:51AM
Rec Amt $17.00

DEBORAH L PEYTON, RECORDER/REGISTRAR
DELAWARE COUNTY IOWA

BOS GRW

Prepared by & Return to: George Davis, P.O. Box 304, Dyersville, Iowa 52040-0304 Phone: 563-875-9112

WAIVER OF REQUIRED SETBACK DISTANCE FOR LIVESTOCK CONFINEMENT BUILDING

THIS AGREEMENT is made this 13th day of September, 2013, between Daniel Bockenstedt and Allen L. Bockenstedt, each a single person, whose address is 3163 182nd Street, Dyersville, Iowa 52040, and who is referred to in this Agreement as Grantors, and Daniel A. Bagge and Myrna R. Bagge, husband and wife, whose address is 140 15th Avenue S.W., Dyersville, Iowa 52040, and who is referred to in this Agreement as Grantees.

Recitals

1. Ownership of real estate.

a. Grantors are the owners of real estate located in Delaware County, Iowa, and described:

> West Half of the Northeast Quarter and the Northwest Quarter of the Southeast Quarter in Section 15, and the Northwest Quarter of the Northeast Quarter of Section 14, all located in Township 89 North, Range 3 West of the 5th P.M.

b. Grantees are the owners of real estate located in Delaware County, Iowa, and described:

> The North one-half (N1/2) of the Northwest Quarter (NW1/4) and the Southeast Quarter (SE1/4) of the Northwest Quarter (NW1/4) of Section Fifteen (15), Township Eighty Nine (89) North, Range Three (3), West of the 5th P.M., together with any easements and servient estates appurtenant thereto, subject to easements of record

2. Grantees desire to construct a livestock confinement building (hereafter Livestock Confinement) on their property.

3. The Iowa Administrative Code currently requires a setback of 1875 feet between the Livestock Confinement and an occupied residence in an unincorporated area.

4. Grantees desire to construct the Livestock Confinement at a distance of 1750 feet to the Grantors' occupied residence.

Terms

In consideration of the mutual promises, warranties and covenants contained in this Agreement, the parties agree as follows:

1. **Waiver of required setback distance.** Grantors approve of Grantees' plans to construct a Livestock Confinement at a distance of 1750 feet from the Grantors' occupied residence, even though the Iowa Administrative Code currently requires a setback distance of 1875 feet. Grantors hereby waive any right or cause of action created by said setback under the Code of Iowa. This waiver shall run with the land and shall be binding upon the parties' heirs, successors and assigns.

2. **Construction and maintenance.** Grantees agree to maintain the Livestock Confinement according to all state and county regulations. Grantees will maintain the Livestock Confinement in order to minimize potential damage to Grantors' property and prevent interference with Grantors' use of their property.

3. **Prohibition against expansion of Livestock Confinement without approval.** Grantees agree that any expansion of the Livestock Confinement, regardless of direction of expansion, shall require written approval by Grantors.

4. **Liability Insurance.** Grantees agree to obtain and maintain liability insurance to insure the Livestock Confinement.

5. **Arbitration.** If any differences shall arise between the parties as to their rights or liabilities under this Agreement the difference shall be determined by a panel of three arbitrators. One arbitrator shall be selected by each of the parties. The two arbitrators shall select a third. The decision of the majority of the arbitrators shall be final as to the contents and interpretation of this Agreement and as to the proper mode of carrying the decision into effect.

Signed this 13th day of September, 2013, by Grantors.

by Daniel Bockenstedt Agent "without Prejudice" UCC 1-308
Daniel Bockenstedt

by Allen L Bockenstedt without Prejudice ucc-1-308
Allen L. Bockenstedt

STATE OF IOWA, COUNTY OF DUBUQUE

This record was acknowledged before me on the 13th day of September, 2013, by Daniel Bockenstedt and Allen L. Bockenstedt.

TERRIE L. ELLEDGE
Commission Number 115688
My Commission Expires
September 15, 2015

Terrie L. Elledge
Notary Public in and for the State of Iowa

Signed this 13th day of September, 2013, by Grantees.

Daniel A Bagge
Daniel A. Bagge

Myrna R. Bagge
Myrna R. Bagge

STATE OF IOWA, COUNTY OF DUBUQUE

This record was acknowledged before me on the 13th day of September, 2013, by Daniel A. Bagge and Myrna R. Bagge.

Terrie L. Elledge
Notary Public in and for the State of Iowa

TERRIE L. ELLEDGE
Commission Number 115688
My Commission Expires
September 15, 2015