Book 2014 Page 1385
Document 2014 1385 Type 06 018 Pages 11
Date 6/13/2014 Time 1:02:07PM
Rec Amt $57.00

DEBORAH L PEYTON, RECORDER/REGISTRAR
DELAWARE COUNTY IOWA

ew
Heritage Farm Mngmt
P.O. Box 2396
Waterloo IA 50704

Prepared by: Larry L. Anfinson, 726 W. 4th Street, Waterloo, IA 50702 (319) 235-9507
After recording, return to: Larry L. Anfinson, 726 W. 4th Street, Waterloo, IA 50702

RIGHT OF FIRST REFUSAL TO PURCHASE AND/OR LEASE

This Agreement is made this 24th day of Feb., 2014, by and between Ann Fabric, a single person, Ann C. Fabric, a single person, Natalie E. Fabric and I. Robert Matloff, wife and husband, Gomez Family Trust, and Pamela M. Taylor and J. D. Rebstock, wife and husband, and Emily A. Taylor, a single person, (hereinafter referred to as "Landowners") and David Hoefer and Michelle Hoefer, husband and wife, (hereinafter referred to as "Hoefers").

WHEREAS, Landowners, own collectively the following described real estate:

> N ½ SW ¼, Section 5, N ½ SE ¼ Section 6, W ½ NW ¼, Section 20, NE ¼ Section 19, and E ½ NW ¼ Section 19, all in Township 89, Range 6 West of the 5th P.M., Delaware County, Iowa.

(the "Property")

AND

WHEREAS, Hoefers are currently renting all of the Property described above from Landowners;

AND

WHEREAS, Hoefers desire a Right of First Refusal to continue to rent the Property from Landowners and also desire a Right of First Refusal to purchase the Property and Landowners are willing to grant Hoefers a Right of First Refusal to rent the Property and also a Right of First Refusal to purchase the Property based upon the terms and conditions contained herein.

NOW, THEREFORE, based upon the mutual promises and conditions contained herein, the parties agree as follows:

1. Lease of Real Estate

Hoefers shall have an ongoing Right of First Refusal to lease the Property from Landowners for a period of five (5) years, commencing March 1, 2014, and extending

through February 28, 2019. Commencing March 1, 2019, Hoefers, at their option, shall have the right to extend the Right of First Refusal to Lease the Property as stated herein for an additional twenty (20) years, extending the Right of First Refusal to lease the Property through February 28, 2039. In order to extend said Right of First Refusal to Lease, Hoefers must provide written notice to Landowners. Within thirty (30) days of providing notice to Landowners, the parties agree to sign an amendment to the Right of First Refusal to Purchase and/or Lease, effectively extending the Right of First Refusal to Lease the Property from Landowners through February 28, 2039. Assuming Hoefers are not in default of any existing lease between the parties, Landowners shall first offer to Hoefers the right to lease the Property, specifying the type of lease and the terms of said lease that they desire. Hoefers shall have ten (10) days after receipt of the Notice from Landowners specifying the type of lease and terms of lease for the Property to exercise this Right of First Refusal, which shall be exercised by written Notice to the Landowners of their intent to exercise and lease the Property. If Hoefers do exercise the Right of First Refusal, Hoefers shall be required to lease all the Property as specified in the Notice to them upon the same terms and conditions as contained in said Notice. If Hoefers fail to notify Landowners of their election to lease within the ten (10) day period of time, Hoefers shall be deemed to have waived the Right of First Refusal to lease the property as specified in the Notice. Landowners may then lease the Property to any other party as long as the terms and conditions of said lease are the same or higher than was offered to the Hoefers., and, if this were to happen, Landowners agree to provide evidence to Hoefers of any such new lease upon Hoefers request.

2. Failure to Exercise Right of First Refusal to Lease

If Hoefers fail to exercise their Right of First Refusal to Lease any of the Property, the Right of First Refusal to lease said property subject to that Notice shall expire. Hoefers shall not have any future Right of First Refusal to lease with regard to any part of the Property to which they have failed to exercise their Right of First Refusal to lease.

3. Sale of Real Estate

If Landowners should decide that they wish to sell any or all of the Property, Landowners shall first notify Hoefers of their intention to sell and Hoefers and Landowners shall have thirty (30) days to negotiate the sale of the Property to Hoefers. If Landowners and Hoefers are unable to agree on a sale price within said thirty (30) days, Landowners and Hoefers agree that they will hire an independent appraiser to appraise said Property that is being proposed to be sold by any or all of the above Landowners. The parties agree to split equally the cost of said appraisal. Hoefers shall then have the opportunity, but not be required, to purchase that part or all of the Property then offered for sale for the appraised value. If Hoefers decide not to purchase for the appraised value, Landowners shall be free to sell said Property to any other party upon any terms or conditions as agreed to between Landowners and said third party. .

If for some reason, the parties are not able to agree on an independent appraiser to appraise said real estate, each party shall hire their own appraiser to appraise said real estate. If the two appraisers arrive at fair market values that are within ten percent (10%) of each other, the parties agree that the two fair market values shall be added together and then split equally to determine the appraised value for this real estate. If the fair market values as determined by the two appraisers are not within ten percent (10%) of each other, the two appraisers shall contact a third appraiser who shall review the two appraisals and

do his or her own investigation and appraisal. The decision of the third appraiser shall be made within ten (10) days after his or her selection and the average price determined by the three appraisers shall be final and binding on both parties. This final determination shall be the fair market value for the real estate that Landowners desire to sell. Each party shall pay their own appraiser, and the cost of the third appraiser shall be split equally between the parties. Hoefers shall then have the opportunity to decide whether of nor they wish to purchase the Property for the appraised value and, should they decide not to purchase, Landowners shall be free to sell said real estate to any other party upon any terms or conditions as agreed to between Landowners and said third party. . If Hoefers decide not to purchase, Hoefers shall execute any documentation required by Landowners in order to release their Right of First Refusal to Purchase, to insure that said Property is marketable. In addition, the Right of First Refusal to Lease any such property sold to a third party shall expire upon said sale to said third party.

4. Notification/Closing

Any notifications required under this agreement shall be given in writing to the other party and shall be delivered to that party's last known address. For the sale of any part or all of the Property, closing shall occur at a time and place as mutually agreed by the parties, except, failing an agreement between the parties, closing shall occur within forty-five (45) days following Hoefer's decision, which decision shall be made by Hoefers within five (5) days of the final determination of the appraised fair market value as provided in Paragraph No. 3 above.

5. Right of First Refusal to Purchase Term

The Right of First Refusal to Purchase granted to Hoefers shall commence March 1, 2014, and continue for a period of twenty-five (25) years, extending through February 28, 2039, which date shall be the final date for the exercise of this Right of First Refusal to Purchase. The Right of First Refusal to Purchase shall not be conditioned upon the Hoefers having a valid and current lease upon any or all of the Property that Landowners may desire to sell. Said Right of First Refusal to Purchase shall continue regardless of the current Tenant of said Property that Landowners may desire to sell.

6. Closing Expenses/Attorney Fees/Real Estate Taxes

Upon the exercise of a Right of First Refusal to Purchase by Hoefers, Landowners and Hoefers shall be responsible and pay all of the typical expenses allocated to each party in connection with the sale of real estate, pursuant to the standard practice of the sale of farmland in Delaware County, Iowa, including a proration of real estate taxes to date of closing.

7. Excluded Transfers

Hoefers' Right of First Refusal to Purchase from Landowners shall not be applicable to any intra-family transfers by Landowners. Landowners may transfer the Property to other family members, by sale, gift, bequest, inheritance or any other type of conveyance. Intra-family transfers shall include, but not be limited to, transfers to children, grandchildren, great-grandchildren and spouses, or limited liability companies, corporations, or revocable trusts owned entirely by said Landowners' family members.

8. Amendment

This Agreement may be amended only by an instrument in writing signed by all parties, or their legal representatives.

9. Binding Effect

This Agreement shall be binding upon the respective parties, their heirs, legal representatives, any valid assigns, transferees, and successors of the parties hereto. In addition, the Right of First Refusal to Lease and/or Purchase given to Hoefers as a part of this Agreement, shall extend to any children of Hoefers, so that any child of Hoefers shall also be entitled to the same benefits and obligations in connection with the Right of First Refusal to Lease and/or Purchase any or all of the property.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the date first above written.

David Hoefer

Michelle Hoefer

STATE OF IOWA)
) ss.
COUNTY OF Delaware)

This instrument was acknowledged before me on June 13, 2014, by David Hoefer and Michelle Hoefer, husband and wife.

Notary Public in and for the State of Iowa

My Commission Expires:

JEFFREY L. TROENDLE
COMMISSION # 156288
MY COMMISSION EXPIRES
3/24/17

Ann Fabric

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on March 4th, 2014, by Ann Fabric, a single person.

Notary Public in and for the State of Arizona

My Commission Expires: 5-29-15

BRAD FLAHART
Notary Public - Arizona
Maricopa County
My Comm. Expires May 29, 2015

Ann C. Fabric

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on _____, 2014, by Ann C. Fabric, a single person.

Notary Public in and for the State of Arizona

My Commission Expires:

Natalie E. Fabric

I. Robert Matloff

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on 3/14, 2014, by Natalie E. Fabric and I. Robert Matloff, wife and husband.

Notary Public in and for the State of Arizona

My Commission Expires: 01-19-2017

EKATERINA WAINSHTOK
NOTARY PUBLIC - ARIZONA
Maricopa County
My Commission Expires
January 19, 2017

Ann Fabric

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on _____, 2014, by Ann Fabric, a single person.

_____
Notary Public in and for the State of Arizona

My Commission Expires:

Ann C. Fabric

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on 5-28-14, 2014, by Ann C. Fabric, a single person.

Jessica Joy Pruitt
Notary Public - Arizona
Maricopa County
My Commission Expires
December 13, 2016

_____
Notary Public in and for the State of Arizona

My Commission Expires: 12-13-2016

Natalie E. Fabric

I. Robert Matloff

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on _____, 2014, by Natalie E. Fabric and I. Robert Matloff, wife and husband.

_____
Notary Public in and for the State of Arizona

My Commission Expires:

Emily A. Taylor

STATE OF TEXAS)
) ss.
COUNTY OF Dallas)

This instrument was acknowledged before me on March 5, 2014, by Emily A. Taylor, a single person.

Notary Public in and for the State of Texas

My Commission Expires: 6.28.15

ALISON EDNEY
Notary Public
STATE OF TEXAS
My Comm. Exp. June 28, 2015

Pamela M. Taylor

J. D. Rebstock

STATE OF FLORIDA)
) ss.
COUNTY OF Alachua)

This instrument was acknowledged before me on February 24th, 2014, by Pamela M. Taylor and J. D. Rebstock, wife and husband

Notary Public in and for the State of Florida

My Commission Expires:
09/05/2016

Notary Public State of Florida
Kelsey Simmons
My Commission EE 831625
Expires 09/03/2016

Gomez Family Trust

BY: _____
Cynthia Marie Taylor Gomez
a/k/a Cynthia Taylor Gomez Co-Trustee

BY: _____
W. Alexander Gomez Co-Trustee

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on _____, 2014, by Cynthia Marie Taylor Gomez/, a/k/a Cynthia Taylor Gomez, and W. Alexander Gomez, Co-Trustees of the Gomez Family Trust.

_____
Notary Public in and for the State of California

My Commission Expires:

All-Purpose Acknowledgment

State of California

County of Sacramento

On 3/4/14 (date) before me, Matthew Perkins, Notary Public (name, title of officer), personally appeared Cynthia Gomez and W. Alexander Gomez (name(s) of signer(s)), 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.

MATTHEW T. PERKINS
Commission # 2030338
Notary Public - California
Sacramento County
My Comm. Expires Jun 22, 2017

WITNESS my hand and official seal.

Signature Matthew T. Perkins (Seal)