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DEBORAH L PEYTON, RECORDER/REGISTRAR
DELAWARE COUNTY IOWA

Entered for taxation 19th day
of June AD 2015
Carla H. Becker, Auditor
By D. Hildebrand, Deputy

AFFIDAVIT OF POSSESSION AND EXPLANATORY OF TITLE

THE IOWA STATE BAR ASSOCIATION
Official Form No. 154
Recorder's Cover Sheet

Preparer Information: (name, address and phone number)
Henry E. Nathanson, PO Box 74210, Cedar Rapids, IA 52407-4250, Phone: (319) 366-1000

Taxpayer Information: (name and complete address)
John M. Hinrichs, 344 20th St SE, Cedar Rapids, IA 52403

Return Document To: (name and complete address)
Henry E. Nathanson, PO Box 74210, Cedar Rapids, IA 52407-4250

Grantors:
Marvin F. Hinrichs

Grantees:
John M. Hinrichs
Brian Hall, Brett Hall, and Jennifer Hall Gonzalez

Legal Description: See Page 2

Document or instrument number of previously recorded documents:

AFFIDAVIT OF POSSESSION AND EXPLANATORY OF TITLE

TO WHOM IT MAY CONCERN: STATE OF IOWA, LINN COUNTY, ss:

The undersigned first being duly sworn (affirmed) upon oath deposes and states:

That John M. Hinrichs, Brian Hall, Brett Hall, and Jennifer Hall Gonzalez are now the record titleholders of the following described real estate situated in Delaware County, to-wit:

The W½ SW¼ Section 35, all in Township 87 North, Range 6, West of the 5th P.M., located in Delaware County, Iowa.

That said John M. Hinrichs and Brian Hall, Brett Hall, and Jennifer Hall Gonzalez are now in complete actual and sole possession of all of said real estate except as may be herein stated. That this affidavit is made from the personal knowledge of the undersigned who is familiar with said real estate, its titleholders, and its parties in possession; and is for the purpose of confirming title to the above described real estate under the provisions of Sections 614.17 and 614.17A, Code of Iowa, and other statutes relative thereto.

By way of explanation of the state of the title to the above-described real estate, I wish to state the following. On or about February 22, 1995, Grace Hinrichs and Marvin F. Hinrichs, husband and wife, made a contract regarding disposition of their estates and executed wills to carry out the contractual terms. At that time, Marvin F. Hinrichs owned the above-described real estate. The contract stated that the real estate would go to "the descendants of the first party" (Marvin F. Hinrichs) upon the death of Marvin F. Hinrichs.

In the Last Will and Testament that Marvin F. Hinrichs made and signed the same date, as contemplated in the contract, he granted Grace Hinrichs a life estate in the above-described property, and he specified who he wanted his "descendants" to be in regard to that real estate. In Article IV of his will, Marvin Hinrichs stated, "I purposely make no provision in the Will for my daughter, Kathleen M. Hall, and for the children adopted through my second marriage, being Darrell Kula, Dwayne Kula and Deborah McGraw, for reasons I deem sufficient."

He left one-half of the remainder interest in the above-described property to John M. Hinrichs, his son, and the other one-half to be divided equally among Brian Hall, Brett Hall, and Jennifer Hall, the children of his daughter Kathleen M. Hall. Jennifer Hall married after the execution of the will and is now known as Jennifer Hall Gonzalez.

Marvin F. Hinrichs died in March of 2008. His will was not admitted to probate within five years after he died. Iowa Code sec. 633.331 prohibits administration of that will after that deadline has passed, and also prohibits an intestate administration of the estate after that deadline has passed.

If Marvin F. Hinrichs' property is regarded as having passed intestate because his will

could not be admitted to probate, Iowa Code secs. 633.212 and 633.219 govern the disposition of the real estate. Grace Hinrichs inherited a one-half interest in the above-described property as his surviving spouse. She died on August 23, 2013. Her will was admitted to probate and her estate was administered in Dubuque County case number ESPR044905. Copies of the agreement and wills were filed in the court file. John M. Hinrichs and Carol Ruden, the daughter of Grace Hinrichs, served as co-executors.

Mr. Hinrichs filed a claim in the estate on behalf of himself and this niece and nephews, demanding specific performance of the contract. Ms. Ruden recognized the claim and executed a court officer deed in performance of the contract, and conveyed the Grace Hinrichs estate's one-half interest in the above-described property to John M. Hinrichs as to a one-half interest and to Brian Hall, Brett Hall, and Jennifer Hall as to the other one-half interest.

Marvin Hinrichs' children inherited the other one-half interest because Grace was not their mother. His children are John M. Hinrichs, Kathleen M. Hall, Darrell Kula, Dwayne Kula, and Deborah McGraw. However, the rights of Kathleen M. Hall, Darrell Kula, Dwayne Kula and Deborah McGraw were fixed and determined by contract. The contractual wills did not leave them anything. Any interest passing to them would have amounted to a violation of the contractual wills. They held any such interest in equity as trustees for John M. Hinrichs, Brian Hall, Brett Hall, and Jennifer Hall, who as remaindermen (residual beneficiaries) of the contractual wills were entitled to demand specific performance of that contract. To that end, Darrell Kula, Dwayne Kula, and Deborah McGraw each signed special warranty deeds conveying any contingent interest that they may have had to John M. Hinrichs, Brian Hall, Brett Hall, and Jennifer Hall Gonzalez.

I hereby request that the auditor enter this information on the transfer books pursuant to Iowa Code section 558.66.

Dated this 2nd day of June, 2015.

John M. Hinrichs, Affiant

Signed and sworn to (or affirmed) before me this 2nd day of June, 2015, by John M. Hinrichs.

Signature of Notary Public

HENRY E. NATHANSON
COMMISSION NUMBER 187911
MY COMMISSION EXPIRES
12/12/2017