Recorded: 7/10/2020 at 8:48:44.0 AM
County Recording Fee: $32.00
Iowa E-Filing Fee: $3.00
Combined Fee: $35.00
Revenue Tax:
Delaware County, Iowa
Daneen Schindler RECORDER
BK: 2020 PG: 2305

Prepared By: Daniel H. Swift, 108 N. Madison St., P.O. Box 207, Manchester, IA 52057, (563) 927-4901

Affidavit Explanatory of Title

WE, THE UNDERSIGNED, Thomas A. Pfalzgraf and Candace M. Pfalzgraf aka Candace Pfalzgraf, husband and wife, upon first being duly sworn on oath do depose and state the following in connection with the hereinafter described real estate, to wit:

> All lake frontage running to the middle of the Maquoketa River bed with regard to the following described estate: Lot Fourteen (14) of "Clair-View Acers at Delhi, Iowa" in Sections Twenty-Three (23) and Twenty-Six (26), Milo Township, Delaware County, Iowa, according to plat thereof recorded in Book 2, Plats, Page 200; same being a part of the Southwest Quarter (SW ¼) of the Southeast Quarter (SE ¼) of Section Twenty-Three (23), Township Eighty-Eight (88) North, Range Five (5), West of the Fifth Principal Meridian;
>
> This deed is subject to the following covenants: Same is subject to the existing flood plain rights and the grantees shall hold the grantors harmless with regard to flooding of the property conveyed.
>
> Subject to Real Estate Transfer, Declaration of Value exemption 428A.2(10) & (21).

This real estate has been in our possession since October 15, 1988. Attached hereto and identified as Exhibit "A" is a copy of the Real Estate Contract entered into with the sellers of the property. We have been in open, notorious, uncontested, and outright possession of this real estate since October 15, 1988, as shown by the attached Exhibit "A".

This real estate was conveyed by predecessors in title, Roy P. Schumacher and Ruth H. Schumacher, husband and wife, to our predecessors in title, Michael T. Staebell and Mary Jane Staebell, husband and wife, by Quitclaim Deed dated May 3, 1983, and filed of record with the Delaware County Recorder on October 28, 1988, in Book 2010, page 956.

This real estate was subsequently conveyed by our predecessor and titled to us by Quitclaim Deed dated October 15, 1998, and recorded on October 22, 1998, in the Office of the

Delaware County Recorder in Book 140, Page 258. The real estate description conveyed in this Quitclaim Deed was in error. The description should have been the description shown in this Affidavit. The intent was to convey the real estate described herein.

This real estate is adjacent to the real estate conveyed by Warranty Deed to Jerry Montgomery and Natalie Montgomery, husband and wife. The real estate described herein is the real estate which is covered by water and the flow of the Maquoketa River, but provides access to the Maquoketa River and the impounded body of water.

The Affiants have been in open, actual, notorious, continuous, and uncontested possession of this real estate since October 15, 1988. No claims have been made since that time in regard to ownership.

The Quitclaim Deed delivered to the Affiants inadvertently did not describe the entire right being conveyed, but the Quitclaim Deed was for the purpose and intent of conveyance as herein set forth in this Affidavit and in the Special Warranty Deed being delivered to Montgomery's conveying this real estate.. The Affiants have been paying real estate taxes to the Delaware County Treasurer on this real estate since October 15, 1988, and have been in uncontested and unchallenged possession of same since said date.

FURTHER AFFIANTS SAYETH NOT.

DATED THIS 23 DAY OF JUNE 2020.

Thomas A. Pfalzgraf, Affiant

Candace M. Pfalzgraf aka Candase Pfalzgraf, Affiant

SUSAN K MEYER
Commission Number 798639
My Commission Expires
8-9-22

INDIVIDUAL ACKNOWLEDGMENT

STATE OF IOWA, COUNTY OF DELAWARE

This record was acknowledged before me on this 23 day of June 2020, by Thomas A. Pfalzgraf.

Signature of Notary Public

SUSAN K MEYER
Commission Number 798639
My Commission Expires
8-9-22

INDIVIDUAL ACKNOWLEDGMENT

STATE OF IOWA, COUNTY OF DELAWARE

This record was acknowledged before me on this 23 day of June 2020, by Candace M. Pfalzgraf aka Candace Pfalzgraf.

Susan K Meyer
Signature of Notary Public

NOTARIAL SEAL IOWA
SUSAN K MEYER
Commission Number 798639
My Commission Expires
3-9-22

THE IOWA STATE BAR ASSOCIATION

FOR THE LEGAL EFFECT OF THIS FORM, CONSULT YOUR LAWYER

Exhibit "A"

REAL ESTATE CONTRACT (SHORT FORM)

IT IS AGREED between Michael T. Staebell and Mary J. Staebell, husband and wife.

_____, Sellers, and Thomas A. Pfalzgraf and Candace Pfalzgraf, husband and wife.

_____, Buyers:

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

Lot #14, Clairview Acres

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.)_____

designated the Real Estate, upon the following terms:

1. **PRICE.** The total purchase price for the real estate is Forty One Thousand Five Hundred and 00/100---------- Dollars ($ 41,500.00) of which Five Thousand and 00/100---------- Dollars ($ 5,000.00) has been paid. Buyers shall pay the balance to Sellers at their address, or as directed by Sellers, as follows: $5,000.00 principal payment to be made on or before April 15, 1989; $31,500.00 balance to be paid a the rate of $1,575.00 per year due and payable on the anniversary date of this contract as payment on principal plus additional interest at the rate of 10% per annum until paid; entire amount due under this contract will become due and payable by balloon payment on or before October 15, 1998 at which time the entire balance under this contract with additional interest will be due and payable or contract will be renegotiated.

2. **INTEREST.** Buyers shall pay interest from the signing of this contract upon the unpaid balance, at the rate of 10 percent per annum, payable yearly.

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 proration of real estate taxes to September 1, 1989.

_____

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 _____. All other special assessments shall be paid by Buyers.

5. **POSSESSION.** Sellers shall give Buyers possession of the Real Estate on October 15, 19 88.

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.

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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 conformity with this agreement, 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 life 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 in 1.a. through 1.d. Any general warranties of title shall extend only 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, the Sellers may forfeit it as provided in The Code, and all payments made shall be forfeited or, at Seller's option, upon thirty days written notice of 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. 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 Code.

b. If Sellers fail to timely perform this contract, Buyers have the right to 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 contact, 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 the 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 share or in compliance with Section 516.13 of The 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, the 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.** See attached.

Dated this 6 day of October, 19 88.

Thomas Pfalzgraf
Candace Pfalzgraf BUYERS

Michael T. Staebell
Michael T. Staebell SELLERS
Mary J. Staebell
Mary J. Staebell

Buyers' Address

Sellers' Address

STATE OF IOWA, COUNTY OF _____, ss:

On this _____ day of October, 19 88, before me, the undersigned, a Notary Public in and for said State, personally appeared Thomas Pfalzgraf and Candace Pfalzgraf, husband and wife and Michael T. Staebell and Mary J. Staebell, husband and wife,

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.

_____, Notary Public in and for Said State.

17. ADDITIONAL PROVISIONS. Buyers also are entitled to two stoves, refrigerator, air conditioner, boat lift, two bedrooms, except dresser, and Jenny Lind bed and items named on information sheet listed by Becker Realty; this contract supercedes Uniform Offer and Acceptance Contract dated September 27, 1988.