Book 2021 Page 1452
Document 2021 1452 Type 06 006 Pages 4
Date 4/21/2021 Time 2:09:05PM
Rec Amt $22.00

Daneen Schindler, RECORDER/REGISTRAR
DELAWARE COUNTY IOWA

Prepared by and return to: Carr & Carr Attorneys, PO Box 333, Manchester, Iowa 52057 (563) 927-4164
Grantor: S & R Construction, Inc. Grantee: Laura Kaune

WALL IN COMMON AGREEMENT

WHEREAS, Laura Kaune, a single person, is the owner of the following described real estate:

> Lot One (1) of S & R Construction Subdivision a Subdivision of the East One-Half (E½) of Lot 55 of Henry Acers' Addition Sec. 20, T89N, R5W of the Fifth P.M., City of Manchester, Delaware County, Iowa, according to plat recorded in Book 2020, Page 3554.

WHEREAS, S & R Construction, Inc. is the owner of the following described real estate:

> Lot Two (2) of S & R Construction Subdivision a Subdivision of the East One-Half (E½) of Lot 55 of Henry Acers' Addition Sec. 20, T89N, R5W of the Fifth P.M., City of Manchester, Delaware County, Iowa, according to plat recorded in Book 2020, Page 3554.

WHEREAS, a structure is located on both of the above described Lots and a Wall in Common, hereinafter "Party Wall" separates, and is shared by, each of the structures; and

WHEREAS, in order to maintain high quality, private residences and to insure a consistent, harmonious character to such properties and preserve the residential suitability to each owner thereof, it is deemed desirable to place certain restraints on the above described properties.

NOW THEREFORE: the parties adopt and prescribe the following provisions which shall run with the land and be binding on all future owners:

1. The cost of maintaining the Party Wall shall be borne equally by the owners of the lots on either side of said Party Wall.

2. In the event of damage or destruction of the Party Wall, shared monolithic slab, or shared roof where joined (collectively "Common Structure") from any cause, other than the negligence of either party hereto, the owners of the lots on either side of said Common Structure shall repair or rebuild said Common Structure. The cost of such repair or rebuilding shall be borne equally by the owners whose lots adjoin said Common Structure. Each such owner shall have the right to full use of said Common Structure so repaired or rebuilt. If either owner's negligence shall cause damage to or destruction of said Common Structure, such negligent party shall bear the entire cost of repair or reconstruction. If either party shall neglect or refuse to pay his share, or all of such costs in case of negligence, the other party may have such Common Structure repaired or restored. Any nonpayment shall be a lien against the real estate for which costs are owed, in addition to being a personal obligation of the non-paying party. The paying party may file a Notice of Lien on the non-paying party's adjoining real estate in the County Recorder's Office and such Notice shall constitute a valid lien. The lien may be enforced through an action in the Iowa District Court against the owner personally. The party having such Common Structure repaired shall, in addition to the above remedies, be entitled to recover attorney's fees and shall be entitled to all other remedies provided herein or by law.

3. Neither owner shall alter or change the Common Structure in any manner, non-structural interior decoration excepted, and such Common Structure shall remain in the same location as when originally erected. Each adjoining owner to said Common Structure shall have a perpetual easement in that part of the premises of the other on which said Common Structure is located, for the purposes of such Common Structure and any other additional area necessary to repair, replace, and maintain same.

4. Each owner shall keep all exterior walls of his structure in good condition and repair at his sole cost and expense. No owner shall do or permit to be done any act or thing that would tend to depreciate the value of the properties including, but not limited to, introducing variance in design, colors, siding, or roofing. The properties are to remain uniform.

5. Each owner shall maintain the roof over his structure in good condition and in such manner so as not to damage other the other portion. Each owner shall share equally in the costs to repair or maintain the roof over the Party Wall due to normal wear or physical damage. If both roofs must be replaced, replacement will be coordinated between the owners.

6. An owner who, by his negligence, disinterest or willful act causes the Party Wall or roof to be exposed to the elements, shall bear the whole cost of furnishing the necessary protection against such elements and shall pay all damages resulting from such exposure. The cost of normal and timely weatherproofing and maintenance of the roof shall be in accordance with Paragraph 5.

7. If any monolithic slab repairs are required, the entire monolithic foundation must be involved in the repair process. Owners of both properties must cooperate regarding repairs to the slab. Each party shall share equally in any necessary repair.

8. In the event it shall be necessary for any owner to retain an attorney for the enforcement of any of such owner's rights under this Agreement or for the recovery of any monies due to such owner hereunder, and if it is necessary to bring suit for the enforcement of such rights or such recovery, the prevailing party in such suit shall recover from the losing party all court costs and reasonable attorney's fees, as determined by the court, in addition to any other relief or recovery awarded by the Court.

   Enforcement of this agreement shall be by proceeding at law or in equity against any person or persons violating or attempting to violate the same seeking either to restrain violation or to recover damages or both.

   Invalidation of any one of the provisions herein by judgment or court order shall in no way effect any of the other provisions which remain in full force and effect.

Dated this 19 day of April, 2021.

Laura J. Kaune
Laura Kaune

S & R Construction, Inc.
By: Steve Pettlon, President

NOTARIAL SEAL IOWA
SUSAN K MEYER
Commission Number 798639
My Commission Expires

STATE OF IOWA)
DELAWARE COUNTY)

This instrument was acknowledged before me on this 19 day of April, 2021 by Laura Kaune.

Susan K Meyer
Notary Public in and for the State of Iowa

STATE OF IOWA)
DELAWARE COUNTY)

This instrument was acknowledged before me on this 19 day of April, 2021 by Steve Pettlon as President of S & R Construction, Inc.

Susan K Meyer
Notary Public in and for the State of Iowa

