

A Affidavit

7-15-96

REC \$15.00  
AND  
R.M.F. \$1.00

FILED NO. 143

BOOK 43 PAGE 552

96 JUL 15 PM 3:30

MICHELLE UTSEER  
RECORDER  
MADISON COUNTY, IOWA

To Who it May Concern:

I, Ina K. Kline, know that the attached Purchase Agreement between Trish Lewiston and John C. Kline for property at 3043 Hickory Ridge Road St. Charles, Iowa, is a exact copy of the original Purchase Agreement. In which I'm unable to get a copy of.

Ina K. Kline  
Ina K. Kline

State of Iowa  
County of Madison

COMPUTER   
RECORDED   
COMPALED

Subscribed and sworn to before me this 15 day  
of July, 1996 by Ina K. Kline



Joan Welch  
Notary Public

My commission expires 1-12-98



PURCHASE AGREEMENT

This form approved by the Greater Des Moines Board of REALTORS®
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TRANSACTION #



TO Trish Lewiston

Date of Agreement 2-24 1996

THE UNDERSIGNED BUYERS hereby offer to buy the real property situated in St. Charles (SELLERS)
as: 3043 Hickory Ridge Road and legally described as: 10 acres with pond -
St. of NW 1/4 of S1/2, NW 1/4 of NW 1/4 - + plus Iowa, locally known

subject to and together with any reasonable easements, zoning restrictions, restrictive covenants, and mineral reservations of record, if any, and agree as follows:
1. PURCHASE PRICE: The Purchase Price shall be \$ 10,000 with this offer; and \$ 115,000 upon acceptance of this offer, both amounts to be held in Trust by the LISTING BROKER, and the balance of the purchase price as designated below. Select (A) (B) (C) (D) and/or (E):

A. NEW MORTGAGE: This Agreement is contingent upon the BUYERS obtaining a commitment in writing for a Conventional mortgage for not more than 30% of the purchase price with note interest at 7.5% or less with a term of no less than 30 years. BUYERS agree to pay all customary loan costs. The SELLERS agree to pay a discount and/or origination fee, if required, of 0% or less, of the new mortgage obtained by the BUYERS. BUYERS agree upon acceptance of this offer to immediately make application for such mortgage with a lender and to make their best effort to obtain a mortgage commitment as above provided. If BUYERS have not obtained a written commitment or loan denial on or before March 10, 1996 then SELLERS may rescind this Agreement by giving written notice to the BUYERS and BROKER stating that if a mortgage commitment has not been obtained within 5 business days of receipt of such notice then this Agreement shall be null and void. If SELLERS do not choose to give such written notice, then this Agreement shall remain valid until the BUYERS have obtained a mortgage commitment or a denial. In addition to the proceeds of aforementioned mortgage, the BUYERS shall pay the balance of the purchase price, \$ 115,000, in cash at the time of closing with adjustment for closing costs to be added or deducted from this amount. SELLERS acknowledge and agree that the property will be taken off the market until SELLERS receive notice of a mortgage commitment or denial from the BUYERS.

B. ASSUMPTION OF MORTGAGE OR CONTRACT: The BUYERS shall pay a portion of the purchase price by assuming and agreeing to pay the mortgage or contract currently on this property with an approximate balance of \$ with principal and interest payments of approximately \$ with current interest of %. SELLERS SHALL PAY INTEREST TO THE DATE OF POSSESSION. If consent of the holder of such mortgage or contract is required then this Agreement is contingent upon such consent. The BUYERS agree in good faith to make their best effort to promptly obtain such consent and to pay all expenses and assumption fees related thereto. If BUYERS have not procured such consent on or before 19, then SELLERS may rescind this Agreement by giving written notice to the BUYERS and BROKER stating that if such consent is not obtained within 5 working days of the receipt of such notice, then this Agreement shall be null and void. ALL PAYMENTS DUE PRIOR TO AND INCLUDING THE DATE OF CLOSING TO BE PAID BY THE SELLERS. The approximate balance of the purchase price, \$ shall be paid in cash at the time of closing with adjustment for closing costs to be added or deducted from this amount. SELLERS acknowledge and agree that the property will be taken off the market until SELLERS receive notice of consent or denial from the BUYERS. If the SELLERS have an escrow account in relation to such mortgage or contract, such account shall be brought current and BUYERS shall: (check one)
Purchase such escrow account and the balance of SELLERS' tax obligation under paragraph 3B, if any, shall be credited to BUYERS at the time of closing.
Assume said escrow account in lieu of SELLERS' tax obligation under paragraph 3B, herein shall not apply.

C. CONTRACT: BUYERS and SELLERS will execute a real estate installment contract with a balance due in the amount of \$ on the form commonly used and accepted in the State of Iowa in which BUYERS agree to pay monthly payments of \$ (including principal and interest) at the rate of %; until the unpaid principal balance, together with accrued interest, is paid in full (if balloon payment, see below), or until the amount due is reduced to the amount of the mortgage now or hereinafter placed on the property by SELLERS, at which time SELLERS shall deliver to BUYERS a warranty deed. Interest shall commence on the date of possession and the first monthly payment shall be 30 days after the date of possession unless otherwise mutually agreed by the parties. The balance of the purchase price, is to be paid in cash at the time of closing, with adjustment for closing costs to be added or deducted from this amount. If SELLERS now have or hereafter place a mortgage(s) on the property, such mortgage(s) may not exceed the real estate contract balance, and the interest rate and amortization thereof shall be no more onerous than the interest rate and amortization on the real estate contract. This Agreement is contingent upon the SELLERS' lender's approval, if required.
This contract have a balloon payment. Date of balloon, if any: 19
This contract allow BUYERS to prepay all or any part of the principal without penalty.
This contract be due and payable in full upon sale or assignment by the BUYERS.
This contract require 1/12 of the annual insurance premium be paid to SELLERS with the monthly payments into an escrow fund established by the SELLERS.

D. CASH: BUYERS will pay the balance of the purchase price in cash at the time of closing with adjustment for closing costs to be added or deducted from this amount. This Agreement is not contingent upon BUYERS obtaining such funds.
E. OTHER FINANCING TERMS:

2. POSSESSION AND CLOSING: Possession is to be given on or about May 1, 1996. Adjustment of interest, rents and all charges attributable to the SELLERS possession are to be made of like date. Closing shall occur after approval of title and PRIOR TO POSSESSION. If for any reason possession is before or after the day of closing the parties shall make a separate agreement with adjustments as of the date of possession. THIS TRANSACTION SHALL BE CONSIDERED CLOSED UPON FILING OF DOCUMENTS AND RECEIPT OF ALL FUNDS BY THE BROKER.

3. TAXES:
A. The SELLERS shall pay all real estate taxes that are liens for prior years and all those that are due and payable in the fiscal year in which possession is given. The SELLERS shall pay their pro-rated share, based upon date of possession, of the real estate taxes for the fiscal year in which possession is given due and payable in the subsequent fiscal year. The BUYERS shall be given a credit for such pro-ration at closing based upon the last known actual real estate taxes payable according to public record. However, if such taxes are not based upon the full assessment of the present property improvements or the tax classification as of the date of possession, such pro-ration shall be based on the current millage and the assessed value as shown by the Assessor's Records on the date of possession. In the event of such partial assessment, it shall be the duty of the SELLERS to so notify the BUYERS and BROKER.
C. If this agreement is for a real estate installment contract, as set forth in paragraph 1C, the tax adjustment provided for in paragraph B above shall be as follows: (select 1, 2 or 3)
1. By SELLERS crediting such taxes to BUYERS at closing and BUYERS paying such taxes as they become due and prior to delinquency.
2. By BUYERS paying 1/12 of the annual taxes to SELLERS on monthly basis pursuant to a normal and customary escrow arrangement. SELLERS shall use these funds to pay the real estate tax prior to their delinquency. BUYERS and SELLERS shall review and make adjustments in the escrow account during the term of the real estate installment contract.
3. SELLERS shall pay all real estate tax installments, or portions thereof, for taxes that accrue prior to possession. BUYERS shall pay all real estate tax installments, or portions thereof, for taxes that accrue after the date of possession. The parties shall pay the installments for which they are responsible as they become due and prior to delinquency.

4. SPECIAL ASSESSMENTS: The SELLERS shall pay in full all special assessments that are certified as liens on the public record at closing. Any preliminary or deficiency assessment which cannot be discharged by payment shall be paid through an escrow account with sufficient funds to pay such liens when payable with any unused funds returned to the SELLERS. All charges for solid waste removal, sewage, and assessments for maintenance that are attributable to SELLERS possession shall be paid by SELLERS.

5. DUTIES OF PARTIES:
A. The BROKER, its agents, employees, and associates make no representations or warranties as to the physical or mechanical condition of the property, its size, value, future value or income potential.
B. SELLERS and BUYERS acknowledge that the SELLERS of real property have a legal duty to disclose MATERIAL DEFECTS of which SELLERS have actual knowledge and which a reasonable inspection by the BUYERS would not reveal.
C. It is clearly understood and agreed by the parties hereto, that FIRST REALTY, LTD. Selling Broker, and all licensees employed by or associated with the Selling Broker represents the Seller and Buyer in this transaction. The Listing Broker and all licensees employed by or associated with the Listing Broker represents the Seller in this transaction. If the same Broker represents both Seller and Buyer, a detailed explanation of the type of representation the Broker will provide to each party is attached to this Agreement. Further, the Buyer and Seller confirm that verbal disclosure of representation was provided to them prior to signing this Agreement.

X Buyer Trish Lewiston Date 2/24/96
Buyer Date
Seller Date
Seller Date

The Listing and Selling Brokers are agents of the parties hereto as outlined above. Their fiduciary duties of loyalty and faithfulness are owed to the party they represent. However, they must treat the other party with honesty and fairness. They must respond to all questions of the parties accurately and must disclose MATERIAL DEFECTS about which they have knowledge. The Brokers, their agents, employees, and associates are not required, however, to discover hidden defects in the property or give advice on matters outside the scope of their real estate license.

**i. CONDITION OF PROPERTY:** The property as of the date of this Agreement including buildings, grounds, and all improvements will be preserved by the SELLERS in its present condition until possession, ordinary wear and tear excepted. The BUYERS shall be permitted to make an inspection of the property prior to possession or closing, whichever is sooner, in order to determine that there has been no change in the condition of the property.

a. If the improvements on the subject property have been previously occupied, the BUYERS may choose one of the following alternatives relative to the condition and quality of the property.

Feb. 10  1. Within 10 days after the final acceptance date BUYERS may, at their sole expense, have the property inspected by a person or persons of their choice to determine if there are any structural, mechanical, plumbing, electrical or other deficiencies. Within this same period, the BUYERS may notify in writing the SELLER'S Selling Agent, as shown herein, of any deficiency. The SELLERS shall immediately notify the BUYERS in writing of what steps, if any, the SELLERS will take to correct any deficiencies before closing. The BUYERS shall then immediately in writing, notify the SELLER'S Selling Agent that (1) such steps are acceptable, in which case this Agreement as so modified, shall be binding upon all parties; or (2) that such steps are not acceptable, in which case this Agreement shall be null and void, and any earnest money shall be returned to BUYERS.

AK  
BUYER'S INT.

SELLER'S INT.  2. BUYERS acknowledge that they have made a satisfactory inspection of the property and are purchasing the property in its existing condition.

b. **NEW CONSTRUCTION:** If the improvements on the subject property are under construction or are to be constructed, this Agreement shall be subject to approval of plans and specifications by the parties within \_\_\_\_\_ days of final acceptance of this Agreement. New construction shall have the warranties implied by law, specifically made by suppliers of materials/appliances, or specifically tendered by the contractor. The BROKER and its agents make no warranties as to the quality of construction or materials.

c. At closing a Groundwater Hazard Statement will be filed by the SELLERS regarding the following items: 1. wells; 2. solid waste disposal; 3. hazardous wastes; and 4. underground storage tanks located on the property. If any of these are located on the property, they are as follows:

7. **TERMITE INSPECTION:** SELLERS, at their expense, shall have the property inspected for termites or other wood destroying insects by a licensed Termite Inspector prior to closing. If active termite infestation or damage due to prior infestation is discovered, SELLER shall have the option of either having the property treated for infestation by a licensed pest Exterminator and having any damage repaired to the BUYERS satisfaction, or declaring the Agreement void. This provision shall not apply to fences, trees, shrubs, or outbuildings other than garages. Provided however, BUYERS may accept the property in its existing condition without such treatment or repair.

3. **INCLUDED PROPERTY:** Included with the property shall be all fixtures that integrally belong to, are specifically adapted to or are a part of the real estate, whether attached or detached, such as: attached wall to wall carpeting, built-in appliances, light fixtures (including light bulbs), water softeners (except rentals), shutters, shades, rods, blinds, venetian blinds, awnings, storm windows, storm doors, screens, television antennas, air conditioning equipment (except window type), door chimes, automatic garage door openers, electrical service cables, bathroom mirrors, fencing, shelving, gates, bushes, trees, shrubs, and plants. Also included shall be the following: Acacia (partial) - Carpeting Stone Refrigerator

The following items shall not be included: NONE

3. **SURVEY:** The BUYERS may, 10 days prior to closing, have the property surveyed at their expense. If the survey, certified by a Registered Land Surveyor, shows any encroachment on said property or if any improvements located on the subject property encroach on lands of others, such encroachments shall be treated as title defects.

1. **RENTAL PROPERTY:** If this property is currently used as rental property, this Agreement (is/is not) contingent upon SELLERS providing BUYERS evidence of compliance with local zoning and housing code ordinances, if applicable, unless otherwise provided herein.

1. **INSURANCE:** SELLERS shall bear the risk of loss or damage to the property prior to closing or possession, whichever first occurs. SELLERS agree to maintain existing insurance and BUYERS may purchase additional insurance. In the event of substantial damage or destruction prior to closing, this Agreement shall be null and void, unless otherwise agreed by the Parties. The property shall be deemed substantially damaged or destroyed if it cannot be restored to its present condition on or before the closing date. Provided however, BUYERS shall have the right to complete the closing and receive insurance proceeds regardless of the extent of damages.

2. **JOINT TENANCY:** If SELLERS' title is held in joint tenancy this Agreement shall not sever such joint tenancy. If BUYERS are husband and wife, their interest hereunder shall be held in joint tenancy unless otherwise specifically indicated.

3. **ABSTRACT AND TITLE:** SELLERS shall promptly provide an abstract of title continued to and including the date of acceptance of this Agreement. Such abstract shall be delivered to an attorney for a title opinion for the BUYERS, such attorney to be selected by the BUYERS or their mortgagee. The SELLERS agree to make every reasonable effort to promptly perfect the title in accordance with such opinion so that upon conveyance, title shall be deemed marketable in compliance with this Agreement, the land title laws of the State of Iowa, and the Iowa Title Standards of the Iowa Bar Association. If closing is delayed due to SELLERS' inability to provide marketable title, this Agreement shall continue in force and effect until either party rescinds the Agreement after giving 10 days written notice to the other party and the BROKER. The SELLERS shall not be entitled to rescind unless they have made a reasonable effort to produce marketable title.

4. **REMEDIES OF THE PARTIES:** If the SELLERS fail to fulfill this Agreement they will pay the BROKER the commission in full. The BUYERS shall have the right to have all payments returned, and/or to proceed by an action at law or in equity, and the SELLERS agree to pay costs and reasonable attorney fees, and a receiver may be appointed. BROKER may maintain an action at law against SELLERS for the collection of BROKER'S commission. If the BUYERS fail to fulfill this Agreement, SELLERS may forfeit the same as provided in Chapter 656 of the Code of Iowa, and all payments made herein shall be forfeited, or the SELLERS may proceed by an action at law or in equity. The BUYERS agree to pay costs and reasonable attorney fees, including the BROKER'S commission and any other expenses incurred by the SELLERS, and a receiver may be appointed. The failure of BUYERS to perform under this Agreement shall not relieve SELLERS of the obligation to pay the BROKER'S commission. For purposes of collecting the BROKER'S commission, BROKER shall be deemed a third party beneficiary to this Agreement and may maintain an action at law against the BUYERS for the collection thereof.

5. **COURT APPROVAL:** If the property is an asset of any estate, trust or conservatorship, this Agreement is contingent upon Court approval unless declared unnecessary by BUYERS' attorney. If necessary, the appropriate fiduciary shall promptly obtain Court approval and conveyance shall be made by Court Officer's Deed.

6. **FUNDS:** It is agreed that at time of closing, funds of the purchase price, received from the BUYERS and/or BUYER'S lender, may be used to apply to the purchase price to pay taxes and other liens, same to be handled under supervision of the BROKER and subject to approval of BUYERS' attorney on title questions needed to produce marketable title. SELLERS hereby appoint the BROKER to receive such funds and make such payments and disbursements.

7. **NOTICE:** Any notice required under this Agreement shall be deemed given when it is received in writing either by hand delivery or by certified mail return receipt requested. Persons designated for receipt of any notice for the purpose of this Agreement shall be as follows:

For the SELLERS: \_\_\_\_\_  
Address: \_\_\_\_\_

X For the BUYERS: John & Lisa  
X Address: 1902 W. Chester Ottumwa, IA

Copies of all such notices shall be also sent to the Listing Agent and Selling Agent as designated in this Agreement, or their BROKERS.

8. **GENERAL PROVISIONS:** In the performance of each part of this Agreement, time shall be of the essence. This Agreement shall be binding on and inure to the benefit of the heirs, executors, administrators, assigns and successors in interest of the respective Parties. This Agreement shall survive the closing. Paragraph headings are for the convenience of reference and shall not limit nor affect the meaning of this Agreement. Words and phrases herein, including any acknowledgement hereof, shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to the context.

9. **OTHER PROVISIONS:** First Realty, Ltd. and its sales associates make no representation or warranty, expressed or implied, to either party as to the implementation of the Real Estate Tax Abatement Program offered or to be offered by any municipality and/or such program's applicability to the real property described in this purchase agreement.

10. **ADDITIONAL PROVISIONS:** Balance to be paid upon delivery of deed / abstract (marketable title)

11. **ACCEPTANCE:** When accepted, this Agreement shall become a binding contract. If this offer is not accepted on or before 2-25 19 96 it shall become null and void and all payments shall be repaid to the BUYERS without liability on the part of the BROKER to either party. If accepted by the SELLERS on a later date and such acceptance is ratified in writing or other form by BUYERS, then this Agreement will be valid and binding. We, the SELLERS, hereby accept this offer this 21 day of February, 19 96 and agree to pay FIRST REALTY, LTD., BROKER, a commission as provided in the listing contract. If this property is not listed, the commission shall be 7 % of the final purchase price.

**THIS IS A LEGAL BINDING CONTRACT. IF NOT UNDERSTOOD, SEEK COMPETENT LEGAL ADVICE.**

SELLERS' SIGNATURES

Patricia Lewister  
SELLER SS# \_\_\_\_\_

BUYERS' SIGNATURES

John & Lisa  
BUYER SS# \_\_\_\_\_

SELLER SS# \_\_\_\_\_

BUYER SS# \_\_\_\_\_

ADDRESS AND PHONE

Washburn-Brown / Lori Ruppe  
LISTING PERSON

1902 W. Chester Ottumwa, IA 682-9523  
ADDRESS AND PHONE

Patricia Lewister  
LISTING SALESPERSON

SELLERS ATTORNEY

BUYERS ATTORNEY