



Document 2013 1616

Book 2013 Page 1616 Type 06 013 Pages 9

Date 6/04/2013 Time 2:35 PM

Rec Amt \$47.00

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CHEK

LISA SMITH, COUNTY RECORDER
MADISON COUNTY IOWA

Fence Dispute (Denny Busch + Frank Elderk)

Type of Document

PREPARER INFORMATION: (name, address, phone number)

Bill Rhoads
2450 Knoll Ridge Trail
Winterset Iowa 50273
515-468-3743

TAXPAYER INFORMATION: (name and mailing address)

✓ **RETURN DOCUMENT TO:** (name and mailing address)

Bill Rhoads
2450 Knoll Ridge Trail
Winterset Iowa 50273

GRANTOR: (name)

GRANTEE: (name)

LEGAL DESCRIPTION: (if applicable)

See page: See Exhibit B and C

Document or instrument of associated documents previously recorded:

(if applicable) 2011-576

NOTICE OF FINDINGS

Lincoln TOWNSHIP, Madison COUNTY

Denny Busch

Complaining Party

P.O. Box 6363
Saint Joseph MO. 64506

Address

vs.

Frank Elderkin

Responding Party

2082 Camelot Drive
Lewisville, Tx. 75067

Address

Now on this 28 day of May, 20 13, a controversy having arisen between the parties named above, adjoining landowners, as to the erection and maintenance of a partition fence, it comes on for hearing before Lincoln + Webster Township Trustees, Madison County, State of Iowa, acting as fence viewers upon the request of one of the landowners, pursuant to Chapter 113 of the Code.

The Trustees, after providing all parties in interest with due notice or accepting waiver of same, after inspection of the property and fences and being fully advised in the premises, FINDS:

That the complaining party is the owner of the following described real estate, to-wit: (Insert full legal description.)

see Exhibit C

and

That the responding party is the owner of the following described real estate, to-wit: (Insert full legal description.)

see Exhibit B

and

That there is a partition fence between said tracts of real estate which should be maintained and repaired according to Iowa law,

and

That the Trustees further find that the parties should build, repair and/or maintain their respective portions of said partition fence as is hereinafter ordered.

IT IS THEREFORE HEREBY ORDERED AND ADJUDGED by the Trustees of said Township as follows, to-wit:

1. That the complaining party, his/her grantees and successors in interest shall erect and/or maintain that part of the said partition fence described as follows, to wit:

See Exhibit D

2. That the responding party, his/her grantees and successors in interest shall erect and/or maintain that part of the said partition fence described as follows, to-wit:

See Exhibit D

3. That said partition fence shall be a "lawful" fence.

4. (Insert other legal requirements to be made of one or both parties including date when work is to be completed.)

See Exhibit D

5. That the costs of this proceeding to be paid on entry of this Order shall be borne as follows:

Recording Fees \$ _____ Copy Fees \$ _____

Trustee Fees \$ _____ Clerk Fees \$ _____

Complaining party shall pay \$ _____; responding party shall pay \$ _____.

IN WITNESS WHEREOF, we have hereunto signed our names as Trustees of Lincoln + Webster Township, Madison County, State of Iowa.

Dated at 2:00 PM, Iowa, this 4 day of June, 2013.

TOWNSHIP TRUSTEES ACTING AS FENCE VIEWERS

TRUSTEE

Kim Wildis

TRUSTEE

Jim Busch

TRUSTEE

(At least two Trustees must sign.)

Attest:

[Signature]

Township Clerk

APPEALS MAY BE MADE BY FILING A NOTICE OF APPEAL WITH THE CLERK OF DISTRICT COURT WITHIN 20 DAYS AFTER THE DATE OF THIS DECISION.

STATE OF IOWA, COUNTY OF Madison, SS.

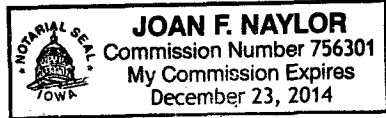
I, Bill Rhoads, being first duly sworn on oath depose and state that I am the Township Clerk of Lincoln Township, Madison County, Iowa; that I do hereby certify that the foregoing Order of Fence Viewers was recorded in the Township book under the date of _____; and that the foregoing Order is a true and correct copy of said Order as recorded in said Township book.

Bill Rhoads

Township Clerk

Subscribed and sworn to before me by ~~the~~ Bill Rhoads this 4th day of June, 2013.

Joan F Naylor



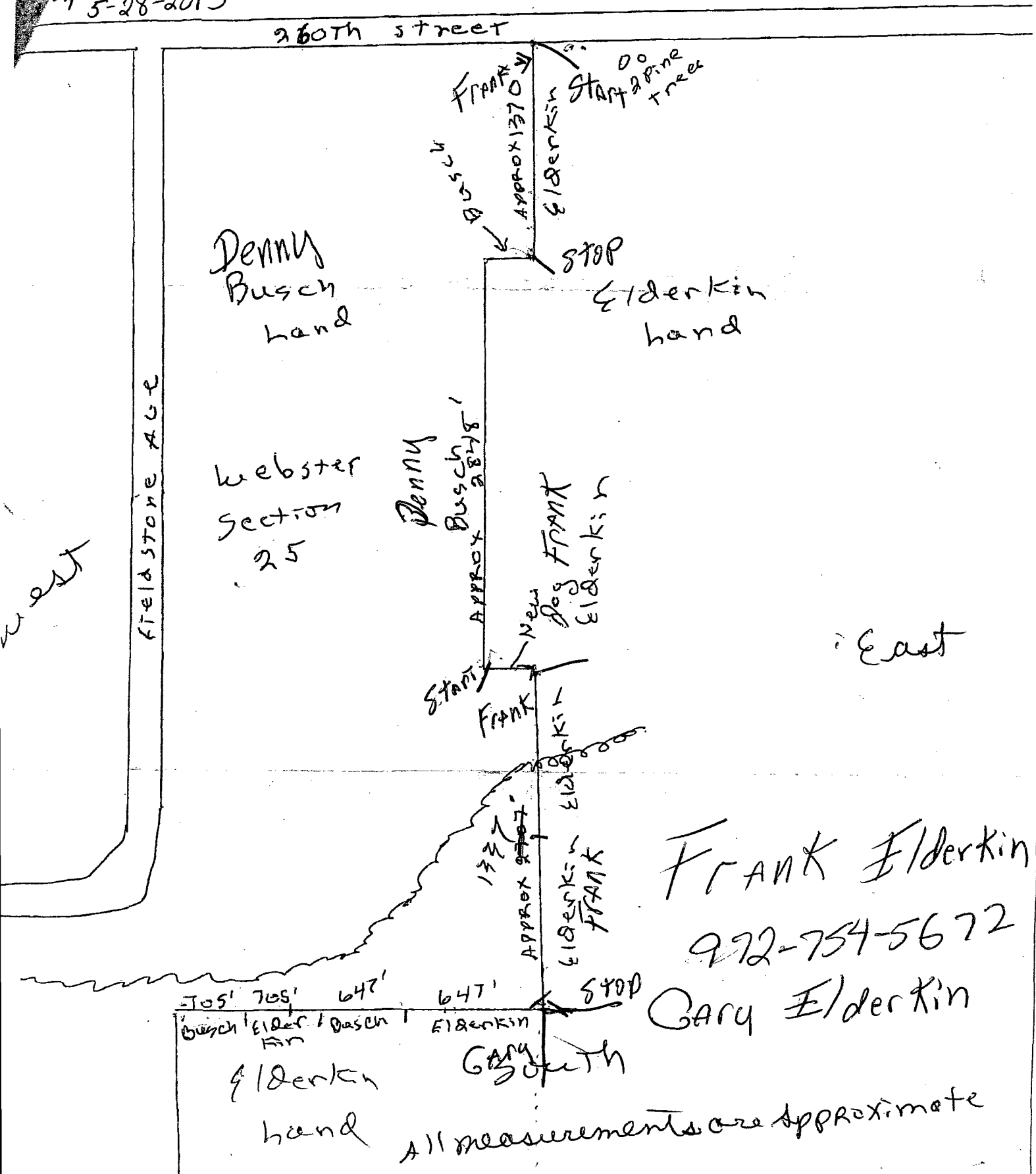
Notary Public in and for the State of Iowa

(File one copy in the Township book and file one copy with the County Recorder. Each party to the Order should also have a copy for his or her records.)

Exhibit A

Map is Not Drawn to Scale
North

2-21-2011
UP Dated
5-28-2013



FRANK Elderkin
972-754-5672
GARY Elderkin

All measurements are approximate

Exhibit B

THE IOWA STATE BAR ASSOCIATION
Official Form No. P-201

LEONARD M. FLANDER ISBA # 000001612

FOR THE LEGAL EFFECT OF THE USE OF
THIS FORM, CONSULT YOUR LAWYER

FILED NO. **006130**

BOOK **143** PAGE **134**

2000 SEP 27 AM 11:06

COMPUTER REC \$ 500
RECORDED AUD \$ 1000
COMPALED _____ R.M.F. \$ 100

MICKI UTSLER
RECORDER
MADISON COUNTY, IOWA

Preparer Information LEONARD M. FLANDER, 223 EAST COURT AVENUE, WINTERSET, (515) 462-4912
Individual's Name Street Address City Phone

Tax statement: Frank C. Elderkin, 6330 Richpond, Bowling Green, KY SPACE ABOVE THIS LINE FOR RECORDER



COURT OFFICER DEED

42104

IN THE MATTER OF THE ESTATE OF _____

SARAH LOUISE ELDERKIN _____

now pending in the Iowa District Court

in and for MADISON County, PROBATE No. ESPR011082

Pursuant to the authority and power vested in the undersigned, and in consideration of NO Dollar(s) and other valuable consideration, the undersigned, in the representative capacity designated below, hereby Convey(s) to FRANK C. ELDERKIN

the following described real estate in MADISON County, Iowa:

WEST HALF (1/2) OF THE WEST HALF (1/2) OF SECTION THIRTY (30) AND WEST HALF (1/2) WEST HALF (1/2) OF SECTION THIRTY-ONE (31), ALL IN TOWNSHIP SEVENTY-FIVE (75) NORTH, RANGE TWENTY-EIGHT (28) WEST OF THE 5TH P. M., MADISON COUNTY, IOWA.

THIS IS A DISTRIBUTION FROM AN ESTATE; NO TRANSFER STAMPS REQUIRED.

*30-75-28
highlighted*

Words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to the context.

Dated: _____ 21 April 2000 _____

By _____ Title GARY W. ELDERKIN, EXECUTOR

By _____ Title *[Signature]*

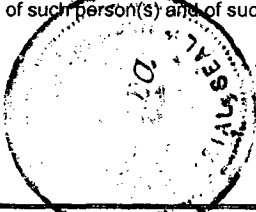
As _____ *in the As EXECUTOR *in the above entitled estate or cause. above entitled estate or cause.

*Executor, Administrator, Guardian, Conservator, Trustee, Referee, Commissioner, or Receiver

STATE OF IOWA, COUNTY OF MADISON, ss:

On this 21st day of April, 2000 before me, the undersigned, a Notary Public in and for said state, personally appeared GARY W. ELDERKIN, EXECUTOR

to me known to be the identical person(s) named in and who executed the foregoing instrument, and acknowledged that such person(s), as such fiduciary(ies), executed the same as the voluntary act and deed of such person(s) and of such fiduciary(ies).



[Signature]

LEONARD M. FLANDER, Notary Public in and for said State

Exhibit C

Addendum 1/2

1. The West Half (W 1/2) of the Southwest Quarter (SW 1/4) of Section Two (2), and the Northwest Quarter (NW 1/4) of the Northwest Quarter (NW 1/4) of Section Eleven (11), all in Township Seventy-six (76) North, Range Twenty-eight (28) West of the 5th P.M., Madison County, Iowa;

AND

The South Fifty-five (55) acres of the West Half (W 1/2) of the Northwest Quarter (NW 1/4) of Section Twenty-one (21), Township Seventy-six (76) North, Range Twenty-eight (28) West of the 5th P.M., Madison County, Iowa;

AND

An undivided one-half (1/2) interest in:

Section 25 of Webster

The North Half (N 1/2) of the Northeast Quarter (NE 1/4); Southeast Quarter (SE 1/4) of the Northeast Quarter (NE 1/4) except the South One Thousand Two Hundred Ninety (1,290) feet of the East Fifteen (15) feet in width thereof; Northeast Quarter (NE 1/4) of the Southeast Quarter (SE 1/4) except the East Fifteen (15) feet in width thereof; and the Southeast Quarter (SE 1/4) of the Southeast Quarter (SE 1/4); all in Section Twenty-five (25) Township Seventy-five (75) North, Range Twenty-nine (29) West of the 5th P.M., Madison County, Iowa;

AND

The Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of Section Twenty-five (25) Township Seventy-five (75) North, Range Twenty-nine (29) West of the 5th P.M., Madison County, Iowa;

AND

The West (W) Thirty (30) feet of the Northwest Quarter (NW 1/4) of the Northwest Fractional Quarter (NW 1/4) and a tract of land 30 feet square in the Northwest corner of the Southwest Quarter (SW 1/4) of the Northwest Fractional Quarter (NW 1/4) of Section Thirty (30), Township Seventy-five (75) North, Range Twenty-eight (28) West of the 5th P.M., Madison County, Iowa;

AND

An undivided one-half (1/2) interest in:

The East Fractional Half (E 1/2) of Section Six (6), Township Seventy-four (74) North, Range Twenty-eight (28) West of the 5th P.M., Madison County, Iowa, except one (1) acre

*Denny
Busch*

*Denny
Busch*

Exhibit D

05/28/13

Subject fence between Denny Busch property and property owned by Frank Elderkin.

Fence is on township line between Lincoln and Webster, making joint trustee fence viewing. Jim Busch from Webster Township, Vin Wildin from Lincoln, and township clerk Bill Rhoads of Lincoln Township. Along with us were Frank Elderkin, Gary Elderkin and his two boys, Denny Busch and his friends, and Drew Vanlaar.

We met 6/10 of a mile east of the 'T' intersection of Fieldstone and 260th Ave where two old pine trees stand on the south side of the road. (See map) The fence in question stands a little to the west of the two pine trees running north and south. The first section of approximately 1370 feet is Frank Elderkin's.

Steel posts have been driven between the old wooden post and a new wire has been added on this section. But new wood posts need to be put in place for the rotted and broken off posts on this section.

Trees need to be cut out of the fence and treated with Tordon and cleared back from fence 50 ft so trees can't fall on the fence. Then all wires need to be tightened. At the south end of this section a barbwire gate connects Frank's fence to Busch's fence. There is no corner post or bracing on the north end of the wire gate. Proper corner post with bracing is required. The barbwire gate needs cattle panels or heavy gates added to keep cattle from crawling through the fence.

Denny Busch has the next 2848 ft of fence which runs north and south; it starts out running west approx 50 ft and turns south. This fence section is all new with one wood post and two steel post five barbs and has good braced corners.

Some trees are too close to the fence and needs removed or pushed back so the trees are not falling on the fence. At the south end of Busch's approx 2848 ft, the fence jogs back east. Since Busch took the jog west, Elderkin will take the jog east. This section needs bracing ^{to} keep cattle from crawling through loose wires, corner posts braced or anchored on east and west posts or add cattle panels.

South of the jog is Fletcher Creek, Mr. Elderkin is responsible to maintain the water gap. A ^{swing} ~~swing~~ water gap is to be built with heavy posts anchored on each bank and a cable running between them with cattle panels and tin on the west side of the panels. This south section of approx 1337 ft has good new fence but trees need to be pushed back so falling trees don't ruin this section of the fence. At south end of this section there is a barbwire gate between Frank Elderkin and the start of Gary Elderkin. The wired gate needs a cattle panel or a heavy pipe gate to stop cattle from crawling through the gate.

Deadline for completion of the fence repair, water gap, and tree removal will be 60 days from June 1, 2013. A 30 day extension may be granted for weather or unforeseen circumstances.