



Document 2013 3779

Book 2013 Page 3779 Type 06 049 Pages 8
Date 12/20/2013 Time 3:50 PM
Rec Amt \$42.00

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LISA SMITH, COUNTY RECORDER
MADISON COUNTY IOWA

SETTLEMENT AGREEMENT

Recorder's Cover Sheet

Preparer Information: (name, address and phone number)

John E. Casper, 223 E. Court Avenue, P.O. Box 67, Winterset, Iowa 50273-0067
(515)-462-4912

Taxpayer Information: (name and complete address)

Kent Kiburz, 2303 West Summit Drive, Winterset, Iowa 50273

Return Document To: (name and complete address)

Jerrold Oliver, Farmers & Merchants State Bank Building, 101 1/2 West Jefferson Street,
P.O. Box 230, Winterset, Iowa 50273
(515)-462-3731

Grantors:

Mary Ann Green
821 - 17th St
WDM IA 50265

Grantees:

Kent Kiburz

Legal Description: See Page 2

Document or instrument number of previously recorded documents: N/A

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SETTLEMENT AGREEMENT

This Settlement Agreement (hereafter the Agreement) is made and entered into on this 2nd day of December, 2013 by and between Mary Ann Green (hereafter Mary Ann), Kent Kiburz (hereafter Kent) and the City of Winterset, Iowa (hereafter the City) as a full and complete settlement of all matters arising out of a lawsuit pending before the Iowa District Court for Madison County, Case number EQCV033770, entitled *Kent Kiburz, Plaintiff v. Mary Ann Green, Defendant, v. the City of Winterset, Iowa, Third-Party Defendant*, (hereafter the "Lawsuit").

Whereas, Mary Ann owns the real estate legally described as:

The Northeast Quarter (1/4) of said Section Thirty-five (35) and the North Half (1/2) of the North Half (1/2) of the Southeast Quarter (1/4) of Section Thirty-five (35), ALL in Township Seventy-six (76) North, Range Twenty-eight (28) West of the 5th P.M., Madison County, Iowa, EXCEPT the land taken in fee simple for U.S. Highway 169 and State Highway 92 right of way condemned by the Iowa State Highway Commission in those condemnation proceedings filed for record in the Office of the Recorder of Madison County, Iowa on October 14, 1974 in Book 111 at Page 89, AND EXCEPT a tract of land located in the North Half (1/2) of the Northeast Quarter (1/4) of said Section Thirty-five (35), containing 3.6298 acres, as shown in Plat of Survey filed in Farm Plat Book 2, Page 27 on March 13, 1986, in the Office of the Recorder of Madison County, Iowa,



which real estate contains two (2) tracts, to wit: the land West of U.S. Highway 169 and Iowa Highway 92 and South of the County Road easement referred to herein as the "West Parcel" and the land East and South of U.S. Highway 169 and Iowa Highway 92 referred to herein as the "East Parcel" and these two Parcels collectively as the "Green Farm";

Whereas, Mary Ann has sold to Kent the Green Farm EXCEPT for a tract consisting of about 24.61 acres which is legally described as:

That part of the East Half of the Northeast Quarter of Section 35, Township 76 North, Range 28 West of the 5th P.M., Winterset, Madison County, Iowa, described as follows:

Commencing at the Northeast corner of said Section 35; thence South 00 degrees 10 minutes 18 seconds East, 135.72 feet along the east line of said East Half of the Northeast Quarter to the south right of way line of US Hwy 169/IA Hwy 92 and to the point of beginning; thence South 00 degrees 10 minutes 18 seconds East, 2183.43 feet along said east line; thence North 89 degrees 31 minutes 54 seconds West, 359.09 feet; thence North 01 degrees 04 minutes 55 seconds West, 73.09 feet; thence South 80 degrees 39 minutes 24 seconds West, 48.39 feet; thence North 14 degrees 09 minutes 32 seconds East, 251.87 feet; thence North 00 degrees 30 minutes 06 seconds East, 112.40 feet; thence South 89 degrees 52 minutes 58 seconds West, 21.00 feet; thence North 02 degrees 53

-minutes 28 seconds West, 90.37 feet; thence North 80 degrees 04 minutes 46 seconds West, 36.71 feet; thence North 00 degrees 33 minutes 54 seconds East, 802.82 feet; thence North 89 degrees 41 minutes 57 seconds West, 254.81 feet; thence North 00 degrees 10 minutes 25 seconds West, 569.99 feet; thence North 25 degrees 22 minutes 17 seconds East, 168.17 feet; thence North 41 degrees 50 minutes 59 seconds East, 216.85 feet; thence North 16 degrees 09 minutes 09 seconds West, 50.54 feet to said south right of way line; thence North 89 degrees 35 minutes 12 seconds East, 242.48 feet along said south right of way line; thence South 69 degrees 38 minutes 50 seconds East, 217.85 feet to the point of beginning, having an area of 24.61 acres including 2.32 acres of Road Easement.

which excepted tract is hereafter referred to as "Parcel B"; and,

Whereas, the Green Farm is within the corporate boundaries of the City:

NOW, THEREFORE, in consideration of the mutual covenants set forth in this Agreement which each party does acknowledge, the parties agree as follows:

1. The above Recitals are part of this Agreement.
2. The City does hereby approve the Plat of Survey describing "Parcel B" completed by Chad A. Daniels, dated November 28, 2012.
3. The parties agree Mary Ann and Kent will not be required to subdivide the "Green Farm" unless and until one (1) or more of the events or acts set forth in paragraphs 5 and 7 below occurs. The City agrees that Mary Ann can sell or convey or assign the entirety of Parcel B without invoking either Chapter 354 or the City Subdivision Code. The City agrees Kent may sell or convey or assign either or both of the entirety of the West Parcel or the entirety of the portion of the East parcel conveyed by Mary Ann to Kent without invoking either Chapter 354 or the City Subdivision Code.
4. Mary Ann and Kent agree the "Green Farm" is subject to the City Comprehensive Land Use Plan, dated October 15, 2012, the City Subdivision Code and Zoning Code known as Chapters Ten and Twelve of the City Code, respectively. Mary Ann and Kent agree they are jointly and severally subject to, and bound by, the Covenant of Warranty under Iowa Code Section 354.3 concerning responsibility for the subdivision of the East Parcel of the Green Farm. Kent agrees that he is subject to, and bound by, the Covenant of Warranty under Iowa Code Section 354.3 concerning responsibility for the subdivision of the West Parcel of the Green Farm.
5. Mary Ann and Kent agree that the next land division of the East Parcel of the "Green Farm" by either Kent or Mary Ann will cause the East Parcel of the "Green farm" to be subdivided pursuant to Iowa Code Chapter 354 and the City Subdivision Code (Chapter 10 of Title IV of the City Code). Kent agrees that the next land division of the West Parcel of the Green

Farm will cause the West Parcel to be subdivided pursuant to Iowa Code Chapter 354 and the City Subdivision Code. The term "division" as used in this Agreement is the definition set forth in Iowa Code Section 354.2(6).

6. Mary Ann and Kent agree that neither Kent or Mary Ann or their successors or assigns will take any action in the future which will be detrimental to the Westward extension of these City streets into the "Green farm":
 - A. Mills Street;
 - B. Benton Street;
 - C. Filmore Street;
 - D. North Street; and,
 - E. Lane Street.

These street right of ways would be sixty-six (66) feet plus the zoning setbacks from the right of way. The setback is usually twenty-five (25) feet, but the setback distance can be greater depending upon the zoning district classification.

7. Under Section 4.1013(D) of the City Code, no more than one (1) Building Permit may be issued for the West Parcel of the "Green farm" for a principal building structure without the West Parcel of the "Green farm" being first subdivided under this Chapter 10 of the Code. Under Section 4.1013(D) of the City Code, no more than one (1) Building Permit may be issued for the East Parcel of the Green Farm for a principal building structure without the East Parcel of the Green Farm first being subdivided under this Chapter 10 of the Code.
8. Mary Ann and Kent will pay the costs of subdividing the "Green farm" under their separate, settlement agreement.
9. This Agreement is a covenant running with the "Green farm" binding upon Kent and Mary Ann and their successors and assigns and will be recorded in the Madison County Recorder's Office.
10. Concurrently with the execution of this Agreement by the parties, Kent and Mary Ann will dismiss with prejudice all claims they have made in the Lawsuit against each other and the City.
11. Each party shall bear their own attorneys' fees and expenses with respect to any claim against the City.
12. Mary Ann, for herself and her successors, assigns, heirs and legal representatives, does hereby release the City from any and all claims, causes of actions, suits, liabilities and demands whatsoever, in law or in equity, known or unknown, that Mary Ann may have concerning any matter involving, or arising out of, this cause of action.

13. Kent, for himself and his successors, assigns, heirs and legal representatives, does hereby release the City from any and all claims, causes of actions, suits, liabilities and demands whatsoever, in law or in equity, known or unknown, that Kent may have concerning any matter involving, or arising out of, this cause of action.
14. This Agreement is executed as a compromise of a disputed claim, liability for which is expressly denied by the parties released, and the agreements made herein, and the performance of the above obligations does not constitute an admission of liability on the part of any person or entity.
15. Each party does represent to each of the other parties as follows:
 - A. That the execution of this Agreement is solely in reliance upon their respective knowledge, belief and judgment and after an opportunity to consult with legal counsel of their own choice and not upon representations made by any party's releases or others on their behalf;
 - B. The approvals, performances and agreements in this Agreement are the solve approvals, performances and agreements to be received for entering into this Agreement, and no promise for any other or further consideration has been made by anyone;
 - C. Each party has fully read this Agreement, understands its terms, and freely and voluntarily sign the same.
16. This Agreement contains all the agreements of the parties regarding the matters described herein and the mutual release of claims, and no prior agreement, arrangement or understanding pertaining to the same shall be effective for any purpose. This Agreement cannot be modified except by a written agreement executed by all parties that are to be bound by such modification. Notwithstanding the foregoing, the provisions of this Agreement regarding the West Parcel of the Green Farm can be amended without the consent of Mary Ann or her successors or assigns.
17. This Agreement shall be binding upon and shall inure to the benefit of the parties, their respective heirs, legal representatives, successors and assigns.
18. This Agreement shall be construed in accordance with and governed by the laws of the State of Iowa. The parties agree that any claims made hereunder or otherwise shall be heard exclusively in Madison County, Iowa and consent to the personal jurisdiction thereof.
19. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Settlement Agreement as of the day and year first written above.

Mary Ann Green
Mary Ann Green

Kent Kiburz
Kent Kiburz

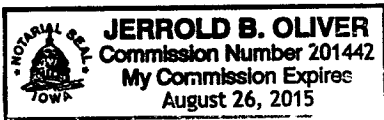
City of Winterset, Iowa

By: James C. Olson
James C. Olson, Mayor

By: Mark Nitchals
Mark Nitchals, City Administrator

STATE OF IOWA)
) ss:
COUNTY OF MADISON)

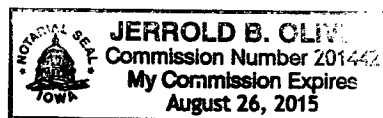
This instrument was acknowledged before me on this 20 day of December, 2013, by Mary Ann Green.



Jerrold B. Oliver
Notary Public in and for the State of Iowa

STATE OF IOWA)
) ss:
COUNTY OF MADISON)

This instrument was acknowledged before me on this 20 day of December, 2013, by Kent Kiburz.



Jerrold B. Oliver
Notary Public in and for the State of Iowa

STATE OF IOWA)
) ss:
COUNTY OF MADISON)

This instrument was acknowledged before me on this 2nd day of December, 2013, by James C. Olson as the Mayor of the City of Winterset, Iowa and Mark Nitchals as the City Administrator for the City of Winterset, Iowa.



Cindy M. Bush
Notary Public in and for the State of Iowa

Kent Kiburz Real Estate:

THE NORTHEAST QUARTER (1/4) OF SAID SECTION THIRTY-FIVE (35) AND THE NORTH HALF (1/2) OF THE NORTH HALF (1/2) OF THE SOUTHEAST QUARTER (1/4) OF SECTION THIRTY-FIVE (35), ALL IN TOWNSHIP SEVENTY-SIX (76) NORTH, RANGE TWENTY-EIGHT (28) WEST OF THE 5TH P.M., MADISON COUNTY, IOWA EXCEPT THE LAND TAKEN IN FEE SIMPLE FOR U.S.HIGHWAY 169 AND STATE HIGHWAY 92 RIGHT OF WAY CONDEMNED BY THE IOWA STATE HIGHWAY COMMISSION IN THOSE CONDEMNATION PROCEEDINGS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF MADISON COUNTY, IOWA ON OCTOBER 14, 1974 IN BOOK 111 AT PAGE 89, AND EXCEPT A TRACT OF LAND LOCATED IN THE NORTH HALF (1/2) OF THE NORTHEAST QUARTER (1/4) OF SAID SECTION THIRTY-FIVE (35), CONTAINING 3.6298 ACRES, AS SHOWN IN PLAT OF SURVEY FILED IN FARM PLAT BOOK 2, PAGE 27 ON MARCH 13, 1986, IN THE OFFICE OF THE RECORDER OF MADISON COUNTY, IOWA AND EXCEPT PARCEL B AS SHOWN IN THE PLAT OF SURVEY IN THE EAST HALF OF THE NORTHEAST QUARTER (E1/2 NE1/4) IN SECTION THIRTY-FIVE (35), TOWNSHIP SEVENTY-SIX (76) NORTH, RANGE TWENTY-EIGHT (28) WEST OF THE 5TH P.M., MADISON COUNTY, IOWA AS RECORDED ON DECEMBER 20, 2013 IN BOOK 2013, PAGE 3777 IN THE OFFICE OF THE RECORDER OF MADISON COUNTY, IOWA

Mary Ann Green Real Estate:

PARCEL B AS SHOWN IN THE PLAT OF SURVEY IN THE EAST HALF OF THE NORTHEAST QUARTER (E1/2 NE1/4) IN SECTION THIRTY-FIVE (35), TOWNSHIP SEVENTY-SIX (76) NORTH, RANGE TWENTY-EIGHT (28) WEST OF THE 5TH P.M., MADISON COUNTY, IOWA AS RECORDED ON DECEMBER 20, 2013 IN BOOK 2013, PAGE 3777 IN THE OFFICE OF THE RECORDER OF MADISON COUNTY, IOWA