

ROBERTA DASHNER *Roberta Dashner*

REG. CLK., IA 51566

FEE, \$ 80.00 pd or DEPUTY  
RMFS 7.00 pd

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BK 230-348

*East Ridge Estates  
Cob A all 176B*

September 18, 1997

\* Not a complete  
Copy

Cheryl Ross  
Mills County Auditor  
Mills County Courthouse  
Glenwood, IA 51534

Dear Ms. Ross:

I have examined an Abstract of Title in one part, certified by the Mills County Abstract Company from the date of government entry May 27, 1854, down to the 8th day of May, 1997, at 8:00 a.m. This abstract contains 40 entries and deals with the title to the following described real estate:

A parcel of land located in part of Lots Seven (7) and Eight (8) of an Auditor's Subdivision of the Northeast Quarter of the Southeast Quarter (NE 1/4 SE 1/4) of Section Twenty-nine (29), Township Seventy-two (72) North, Range Forty-one (41) West of the Fifth Principal Meridian, in the Town of Malvern, Mills County, Iowa, said parcel being more fully described as follows: Commencing at the Northeast corner of said Lot 8 and the point of beginning; thence S00°15'28"W along the East line of said Lot 8 a distance of 165.33 feet to the Northeast corner of Lot 7 of Grand View Addition to the Town of Malvern, Mills County, Iowa; thence S89°10'20"W along the North line of said Grand View Addition a distance of 635.00 feet; thence N00°04'50"W a distance of 118.18 feet; thence S89°35'05"W a distance of 134.14 feet; thence N00°11'52"W a distance of 395.03 feet to the Southeast corner of Lot 1 of Auditor's Subdivision of the Northeast Quarter Southeast Quarter of said Section 29; thence N00°04'50"W along the East line of said Lot 1 a distance of 149.00 feet to the Northeast corner of said Lot 1 and the Southerly right-of-way line of the Burlington Northern Railroad Company; thence S70°50'24"E along said right-of-way line a distance of 817.83 feet to the East line of said Lot 7; thence S00°15'28"W along said East line a distance of 218.31 feet to the point of beginning.

Note: The East line of Lot 8 of said Section 29 is assumed to bear S00°15'28"W for this description.

Based upon my examination of the abstract, I am of the opinion that title to said property is in MALVERN DEVELOPMENT CORPORATION, an Iowa corporation, subject to all of the following:

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*Copies to  
Auditor, Assessor,  
Abstract, Archives*

### SPECIAL EXCEPTIONS

N/A

### GENERAL EXCEPTIONS

1. At entry 12 of the abstract a subdivision ordinance enacted by the Mills County, Iowa, Board of Supervisors, providing rules and regulations for the subdivision of land in Mills County, Iowa, prescribed minimum standards for the design and development of that land, and procedures for approval of preliminary and final plats appears. For details, see Book 102, Page 84-101, Miscellaneous Records in the office of the Mills County Recorder.
2. At entry 17 of the abstract an Intergovernmental Agreement creating the Mills County Landfill Association appears. For further particulars, see Book 117, Page 371-385, Miscellaneous Records, Mills County Recorder.
3. Entry 19 indicates that potential personal liability exists for persons who remove, alter, or modify a soil conservation practice which involved cost-sharing funds under Section 467A.7(16), Iowa Code. Please see the local office of the Soil Conservation Service or Book 133, Page 77, Miscellaneous Records, Mills County Recorder.
4. At entry 21 of the abstract the Flood Plain Management Ordinance passed by the Mills County Board of Supervisors appears. This ordinance adopts standards for unincorporated areas of Mills County, Iowa, and provides for permits for building in the controlled areas and penalties for violation of the provisions of said Ordinance. See Book 164, Pages 614-628, Miscellaneous Records, Mills County Recorder, for details.
5. Entry 34 of the abstract shows that notice of a soil and water resource conservation plan for this farmland, approved by the State Soil Conservation Committee and signed by the Director of the Division of Soil Conservation on June 25, 1991, was acknowledged by the Chairman of the Mills County Soil and Water Conservation District on July 20, 1992, and filed July 24, 1992, at Book 190, Page 36, Miscellaneous Records. The notice was given pursuant to the terms of Chapter 467A of the 1991 Code of Iowa, which provides regulations of soil erosion.
6. Entry 39 indicates that this real estate may be subject to the rules and regulations of the Mills County Entrance and Driveway Ordinance, No. 96-1, dated August 8, 1996, and filed August 14, 1996, at Book 219, Pages 697-707, Miscellaneous Records. The Auditor should be advised that these premises are now annexed into the City of Malvern, as shown at Entry 38 of the abstract.

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7. CAVEAT.

- a) The abstract does not disclose the existence of hazardous substances, pollutants, contaminants, hazardous wastes, underground storage tanks, drainage wells, active or abandoned water wells, and other environmentally regulated activities. Be advised that federal, state and local legislation may, in the event environmental or public health violations occur, permit injunctive relief and require removal and remedial actions or other clean-up. The cost of such remedies may become a lien against the real estate and you may have personal liability even though you have not disposed of any hazardous substances, pollutants, contaminants, or hazardous wastes on the real estate or used any underground storage tanks or wells. If you are uncertain about which materials may be hazardous, contact the U.S. Environmental Protection Agency or the Iowa Department of Natural Resources for assistance.
- b) Only an accurate survey and inspection of the property will disclose the exact boundary lines, as well as overlaps and encroachments.
- c) Unrecorded easements for items such as overhead wires, driveways, tile lines, roadways, utility lines, or other encroachments, especially by adjoining owners, are not revealed in the abstract.
- d) Persons in possession of the property, such as tenants, may have certain rights or claims to the property which are not filed of record or shown in the abstract. You should ask any persons in possession about such claims.
- e) You should determine that no improvements, in the form of labor or materials, which have been placed on the premises within the last ninety (90) days, still remain unpaid, since those would constitute liens without being shown of record.
- f) Rights of access to and from the property are not normally revealed in the abstract.
- g) If the subject property is residential real estate, the purchaser is entitled to have received from the seller a Residential Property Seller Disclosure Statement. Information required in such Statements would not normally appear in the abstract. You should familiarize yourself with the Statement, since this title opinion contains no representations as to the characteristics of the home, structural integrity, and the like.
- h) You are further notified that under the provisions of Section 384.84(1), 1995 Code of Iowa, as amended, a municipality may certify unpaid rates or charges for the services of sewer systems, sewage treatment, solid waste collection, or solid waste disposal, to the County Auditor and that the same will constitute a lien upon the premises served by any such services, and shall be collected in the same manner as taxes. Therefore, you should require written certification from any

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municipality which may be involved that there are no unpaid rates or charges due and owing as of the date of transfer of title and possession.

i) This title opinion is based upon the Abstract of Title and the Certificate of the Abstracter that the abstract contains everything in the public records of the county where the property is located. This title opinion does not certify as to any proceedings of record in any other county, including the Bankruptcy Court in Des Moines, Iowa.

Subject to all of the foregoing, I find the title to be marketable.

Yours truly,



Josiah C. Wearin

JCW/sky

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**AFFIDAVIT EXPLAINING TITLE**

STATE OF IOWA                    )  
  ) ss.  
COUNTY OF MONTGOMERY)

I, Josiah C. Wearin, a practicing attorney of Red Oak, Montgomery County, Iowa, do hereby state and swear as follows:

I have examined the plat of survey which was prepared by Jerry F. Shellberg dated May 14, 1976, which appears at Book 2 of Survey Records, Page 140. However, I find, in one respect, that a portion of the legal description in that plat should be clarified.

The legal description in the plat states: "Beginning at the Southeast corner of said Auditors Lot 8." This refers to the one and only Auditor's Lot 8 in Section 25, Township 72 North, Range 41 West of the Fifth Principal Meridian, Mills County, Iowa. The actual Southeast corner of said Auditor's Lot 8 is considerably south of the beginning point used. Proper reference to the point of beginning would have been to the "Northeast corner of Lot 1, Block 7, Grandview Addition". This had been noted as the equivalent point in Mr. Shellberg's earlier survey, dated April 13, 1976, found at Book 2 of Survey Records, Page 139.

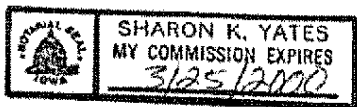
Thus, references to the "Southeast corner of Auditors Lot 8" which appear in the warranty deed from the Bayes to the Hansens, filed May 26, 1976, at Book 112, Page 281, Miscellaneous Records, and in the warranty deed from the Hansens to the Malvern Development Corporation, filed November 7, 1996, at Book 221, Pages 834-835, Miscellaneous Records, are actually references to the "Northeast corner of Lot 1, Block 7, Grandview Addition".

Nothing further can be added at this time.

Josiah C. Wearin  
JOSIAH C. WEARIN

Subscribed and sworn to before me, a Notary Public in and for said State, by the said Josiah C. Wearin on this 29 day of September, 1997.

Sharon K. Yates  
NOTARY PUBLIC



STATEMENT FROM MILLS COUNTY TREASURER

STATE OF IOWA )  
                  ) ss.  
COUNTY OF MILLS)

RE: A parcel of land located in part of Lots Seven (7) and Eight (8) of an Auditor's Subdivision of the Northeast Quarter of the Southeast Quarter (NE 1/4 SE 1/4) of Section Twenty-nine (29), Township Seventy-two (72), North, Range Forty-one (41) West of the Fifth Principal Meridian, in the Town of Malvern, Mills County, Iowa, said parcel being more fully described as follows: Commencing at the Northeast corner of said Lot 8 and the point of beginning; thence S00°15'28"W along the East line of said Lot 8 a distance of 165.33 feet to the Northeast corner of Lot 7 of Grand View Addition to the Town of Malvern, Mills County, Iowa; thence S89°10'20"W along the North line of said Grand View Addition a distance of 635.00 feet; thence N00°04'50"W a distance of 118.18 feet; thence S89°35'05"W a distance of 134.14 feet; thence N00°11'52"W a distance of 395.03 feet to the Southeast corner of Lot 1 of Auditor's Subdivision of the Northeast Quarter Southeast Quarter of said Section 29; thence N00°04'50"W along the East line of said Lot 1 a distance of 149.00 feet to the Northeast corner of said Lot 1 and the Southerly right-of-way line of the Burlington Northern Railroad Company; thence S70°50'24"E along said right-of-way line a distance of 817.83 feet to the East line of said Lot 7; thence S00°15'28"W along said East line a distance of 218.31 feet to the point of beginning.

Note: The East line of Lot 8 of said Section 29 is assumed to bear S00°15'28"W for this description.

I, Lesta Kahl, now come forth and state while under oath that I am the duly elected and qualified Treasurer for Mills County, Iowa, and I have examined the records in respect to the above-described real esetate which is in Mills County and find the above-described property free from taxes.

Dated this 8<sup>th</sup> day of October, 1997.

Lesta Kahl  
LESTA KAHL  
Mills County Treasurer

Subscribed and sworn to before me by Lesta Kahl on this 8<sup>th</sup> day of October, 1997.

Nancy M. Clayton  
NOTARY PUBLIC



# PROOF OF PUBLICATION

I, Mark Siekman, do hereby certify that I am the Publisher of the Malvern Leader, published in Mills County, Iowa and the attached Notice was published in said paper.

Mark C Siekman

1 week(s), the last publication being Sept. 25 1997

Subscribed and sworn to me the 30<sup>th</sup> Day of September, 1997  
My Commission expires on 11<sup>th</sup>, Day of July, 2000

Margaret Waugh

Publisher Fees \$ 121.07



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STATEMENT BY PROPRIETORS  
IN COMPLIANCE WITH SECTION 354.11(1) CODE OF IOWA

The Malvern Development Corporation, being sole owner of the land described in the surveyor's certificate and embraced within the attached final plat of East Ridge Estates Subdivision, have caused said real estate to be subdivided into lots numbered 1 through 26. This subdivision is to be hereafter known as East Ridge Estates and is legally described as follows:

A parcel of land located in part of Lots Seven (7) and Eight (8) of an Auditor's Subdivision of the Northeast Quarter of the Southeast Quarter (NE 1/4 SE 1/4) of Section Twenty-nine (29), Township Seventy-two (72), North, Range Forty-one (41) West of the Fifth Principal Meridian, in the Town of Malvern, Mills County, Iowa, said parcel being more fully described as follows: Commencing at the Northeast corner of said Lot 8 and the point of beginning; thence S00°15'28"W along the East line of said Lot 8 a distance of 165.33 feet to the Northeast corner of Lot 7 of Grand View Addition to the Town of Malvern, Mills County, Iowa; thence S89°10'20"W along the North line of said Grand View Addition a distance of 635.00 feet; thence N00°04'50"W a distance of 118.18 feet; thence S89°35'05"W a distance of 134.14 feet; thence N00°11'52"W a distance of 395.03 feet to the Southeast corner of Lot 1 of Auditor's Subdivision of the Northeast Quarter Southeast Quarter of said Section 29; thence N00°04'50"W along the East line of said Lot 1 a distance of 149.00 feet to the Northeast corner of said Lot 1 and the Southerly right-of-way line of the Burlington Northern Railroad Company; thence S70°50'24"E along said right-of-way line a distance of 817.83 feet to the East line of said Lot 7; thence S00°15'28"W along said East line a distance of 218.31 feet to the point of beginning.

Note: The East line of Lot 8 of said Section 29 is assumed to bear S00°15'28"W for this description.

We hereby state and affirm that this plat has been prepared with our free consent and in accordance with our desires.

Dated the 6<sup>th</sup> day of October, 1997.

MALVERN DEVELOPMENT CORPORATION

By *John Banks* President

By *Nancy A. M. Hubbard* Secretary

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KNOW ALL MEN BY THESE PRESENTS: That the MALVERN DEVELOPMENT CORPORATION, being sole owner and proprietor of the land described in the Surveyor's Certificate and embraced within this plat, has caused the same to be subdivided into lots and public streets, the addition to be hereinafter known as "EAST RIDGE ESTATES" subdivision. That said "East Ridge Estates" subdivision is legally described as follows:

A parcel of land located in part of Lots Seven (7) and Eight (8) of an Auditor's Subdivision of the Northeast Quarter of the Southeast Quarter (NE 1/4 SE 1/4) of Section Twenty-nine (29), Township Seventy-two (72), North, Range Forty-one (41) West of the Fifth Principal Meridian, in the Town of Malvern, Mills County, Iowa, said parcel being more fully described as follows: Commencing at the Northeast corner of said Lot 8 and the point of beginning; thence S00°15'28"W along the East line of said Lot 8 a distance of 165.33 feet to the Northeast corner of Lot 7 of Grand View Addition to the Town of Malvern, Mills County, Iowa; thence S89°10'20"W along the North line of said Grand View Addition a distance of 635.00 feet; thence N00°04'50"W a distance of 118.18 feet; thence S89°35'05"W a distance of 134.14 feet; thence N00°11'52"W a distance of 395.03 feet to the Southeast corner of Lot 1 of Auditor's Subdivision of the Northeast Quarter Southeast Quarter of said Section 29; thence N00°04'50"W along the East line of said Lot 1 a distance of 149.00 feet to the Northeast corner of said Lot 1 and the Southerly right-of-way line of the Burlington Northern Railroad Company; thence S70°50'24"E along said right-of-way line a distance of 817.83 feet to the East line of said Lot 7; thence S00°15'28"W along said East line a distance of 218.31 feet to the point of beginning.

Note: The East line of Lot 8 of said Section 29 is assumed to bear S00°15'28"W for this description.

The lots are numbered as shown, and Malvern Development Corporation hereby dedicates to the public for public use the streets shown as East Ninth Street and East Ridge Drive on the accompanying plat. The Malvern Development Corporation also dedicates to the public Lot 12 in its entirety, subject to utility easements, all as shown on the accompanying plat.

In witness whereof we do hereunto set our hands this 12<sup>th</sup> day of October 1997.

MALVERN DEVELOPMENT CORPORATION

By [Signature]  
President

By [Signature]  
Secretary

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STATE OF IOWA, COUNTY OF Mills, ss:

On this 6<sup>th</sup> day of Oct, 1997, before me, the undersigned, a Notary Public in and for said state, personally appeared Jay Burdick and Nancy Mulholland, to me personally known, who, being by me duly sworn, did say that they are the President and Secretary, respectively, of said corporation; that (no seal has been procured by the said) (~~the seal affixed thereto is the seal of said~~) corporation; that said instrument was signed (~~and sealed~~) on behalf of said corporation by authority of its Board of Directors; and that said Jay Burdick and Nancy Mulholland as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

Bonnie J. Hatfield  
NOTARY PUBLIC

