

MISCELLANEOUS RECORD, No. 45

4. PARTY WALL AGREEMENT.)

Dennis Leary)

&)

Edgar L. Means & wf.)

IT IS AGREED between Dennis Leary of Omaha, party of the first part and Edgar L. Means of Orleans, Nebraska, party of the second part as follows:

The party of the first part is the owner of lot four (4) Block Ninety-two (92) of the City of Omaha, Nebraska, and the party of the second part is the owner of lot Five (5) in the same block.

There is a one story brick building standing on lot four (4) adjacent to a portion of the party line between the above lots; said building owned by the party of the first part.

It is the desire of both the parties hereto to define their rights as to any wall to be hereafter erected upon said party line between said lots Four (4) and Five (5).

Said party of the second part, purposing to soon commence and complete the erection upon said lot Five (5) a building six stories in height, may erect upon and over the division line as now established between said lots four and five a party wall of brick, which shall constitute the north wall of any building placed upon said lot Five (5) and the south wall of any building placed upon lot Four (4); one half of which party wall and the foundations thereof shall be upon said lot Four (4) and the other one-half thereof upon said lot Five (5), and the thickness of the wall and footings shall conform to the requirements of the building ordinances of the City of Omaha.

Said party wall shall exist and be maintained for the use of the owners of said lot Four (4) and said lot Five (5), whoever said owners may be at any time; and shall be so constructed as to permit the attaching at any desired height or place of floor beams for any building erected upon said lot Four (4).

The said party wall shall be erected in a good and workmanlike manner and of first-class materials, and at the cost of the party of the second part and without cost to said party of the first part. Whenever said party of the first part erects a building upon said lot Four (4) said party wall shall be used as and be the south wall of such building; and said party of the first part shall at the time of the erection of such building pay to the party of the second part one-half of the value of that part of the wall so used by him; but the value in that case shall be fixed by ascertaining the value of such a party wall as would have been reasonably adapted to the support of such a building as said party of the first part shall at that time construct. If the said parties hereto cannot agree upon the extent of use or the amount of money to be paid, then each now hereby agrees that each will forthwith appoint an appraiser to determine the extent of use and the amount to be paid, and that if such two appraisers cannot agree, the two appraisers will appoint a third appraiser to act with them, and that the determinations of the three appraisers, or any two of them, shall control; and said party of the first part and party of the second part shall be bound by such determinations.

If after its completion said party wall should be extended or strengthened by the owner of either of said lots, the extension and strengthening shall be made at the cost of the owner making the same; and in the event that said extension should be used by the other owner then he shall pay for the use; and the extent of use and amount of the payment shall be determined as hereinabove provided with reference to the use and payment therefor of said party wall.

And all repairs at any time necessary to be made to said party wall may be made by the owner of either of said lots; and the owner making such repairs shall pay for the same; and the other owner shall at once make reimbursement for the cost of the repairs to the owner making the repairs in the proportion that the use by the owner making reimbursement sustains to the use by the owner making the repairs. In the event the owners cannot agree upon such proportion and

MISCELLANEOUS RECORD, No. 45

the amount of reimbursement, then both of the same shall be determined by arbitration in like manner as is hereinabove set forth with reference to the use of said wall and the extension thereof.

If the party of the second part should commence the erection of a building on his premises during the existence of the present one story brick building on lot four (4), he shall at his proper cost perform the following: Support as necessary that portion of roof adjacent to the party line while construction of party wall progresses. Remove such part of the wall adjacent to party line as may be necessary for construction of the party wall. Replace floor and roof and replace those portions disturbed and also the plastering on party wall on north side is to be done and restore interior except papering. In case the above procedure is followed, it is agreed that brick salvage from wrecking such existing adjacent wall shall become the property of the party of the second part, and it is further agreed that the party of the first part will on thirty (30) days' notice cause to be vacated the apartment adjacent to the party line for such period as is actually necessary for construction purposes and the party of the first part shall hold the party of the second part harmless from damage for loss of rent, in consideration of which the party of the second part undertakes to cause the party wall to be constructed with all possible expedition and in the shortest reasonable length of time.

The agreements herein contained shall run with both of said lots, and shall be and operate for the benefit of and be obligatory upon any and all grantees and parties owning or holding through or under either or both of the parties hereto; and each and all of the agreements herein shall continue and be in full force until abrogated by the owners of said lots, or so long as said party wall shall endure and serve the purposes of its erection.

It is well understood and agreed by and between the parties hereto that the said party of the second part is not obligated or compelled hereby to erect the party wall herein contemplated, but that he may erect such party wall in the event he commences such erection within one year from the date hereof, and that upon the commencement of such erection and the completion of said party wall within a reasonable time thereafter, each and all of the agreements herein set forth shall become and continue in full force and effect. If such party wall is not commenced within said one year and completed within a reasonable time thereafter, then this agreement shall be of no effect whatever.

IN WITNESS WHEREOF, we have hereunto set our hands this 14 day of May, 1919.

Witness

R. F. Heyden

Dennis Leary
party of the first part.

Geo. S. Austin as to

(Edgar L. Means
(
(Jessie B. Means
party of the second part.

State of Nebraska)
County of Douglas.) SS.

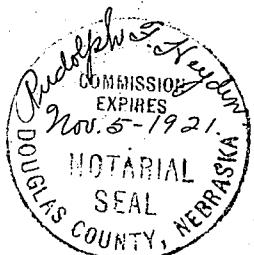
On this 14 day of May, 1919, before me a Notary public duly commissioned and qualified for and residing in said County, personally appeared Dennis Leary, personally known to me to be one of the parties who executed the foregoing party wall agreement and he acknowledged said instrument and the execution thereof to be his voluntary act and deed.

WITNESS my hand and notarial seal the date last above written.

Rudolph F. Heyden,

Notary public

My commission expires 5 day of November, 1921.



MISCELLANEOUS RECORD, No. 45

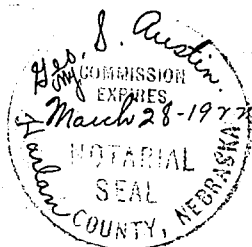
state of Nebraska,)
County of Harlan) SS.

On this 31st day of May, 1919, before me a Notary Public duly commissioned and qualified for and residing in said county, personally appeared Edgar L. Means, & Jessie B. his wife, personally known to me to be one of the parties who executed the foregoing party wall agreement, and he acknowledged said instrument and the execution thereof to be his voluntary act and deed.

WITNESS my hand and notarial seal the date last above written.

Geo. S. Austin

Notary public



My commission expires 28th day of Mar. 1922.

State of Nebraska)
Douglas County,)

Entered on Numerical Index and filed for Record in the Register of Deeds Office of said County, the 11th day of June, A. D. 1919, at 10.10 o'clock A. M.

Harry Pearce,

Register of Deeds.

Compared by, W&A

5. PARTY WALL AGREEMENT.

Edgar L. Means et al.

&

Mame Goodhard et al.

WHEREAS Edgar L. Means of Orleans, Nebraska, is the owner of Lot Six (6) in Block Ninety-two (92) of the original

plat of the City of Omaha, Douglas County, Nebraska,

AND WHEREAS, Mame Goodhard, Kate Gardiner, Ida M. Gardiner, and Jeannette Gardiner are the owners of the East forty-four (44) feet of Lot Three (3) in Block Ninety-two (92) of the original plat of the City of Omaha, Douglas County, Nebraska, and that Kate Gardiner, Ida M. Gardiner and Jeannette Gardiner are the owners of the West twenty-two (22) feet of said Lot Three (3) in Block Ninety-two (92) of the original plat of the City of Omaha, Douglas County, Nebraska, and that the ownership of all of Lot three (3) in Block Ninety-two (92) of said City of Omaha, is subject to the life interest of George Gardiner in said described property.

AND, WHEREAS, Edgar L. Means is now erecting on Lot Six (6) in Block Ninety-two (92) of the City of Omaha above described a building covering all of said Lot six (6), the building to be six stories in height but the outside walls to be so constructed as to be sufficient under the ordinances of the City of Omaha for the construction of a building eight stories in height.

AND, WHEREAS, in consideration of one dollar in hand paid the said Mame Goodhard, Kate Gardiner, Ida M. Gardiner and Jeannette Gardiner and George Gardiner hereby agree that said Edgar L. Means shall rest one-half of the north wall of the building to be erected covering the entire Lot Six (6) in Block Ninety-two (92) above described on said Lot Three, Block Ninety-two (92) above described, and as part of the consideration for resting one-half of said wall on said Lot Three (3), Block Ninety-two (92) it is agreed by the said Edgar L. Means, his heirs and assigns, that said wall shall extend across the entire south end of said Lot Three (3) in Block Ninety-two (92) and shall be built in accordance with the ordinances of the city of Omaha, for a building eight stories in height.