

#273

## AFFIDAVIT AND EASEMENT AGREEMENT

CONCERNING LOTS 28 and 29, LAKE WACONDA, CASS COUNTY NEBRASKA

STATE OF NEBRASKA )  
                               ) ss.  
 COUNTY OF DOUGLAS )

GEORGE D. DEVEREUX, being first duly sworn upon oath, deposes and states as follows:

1. Affiant and his wife, Phyllis G. Devereux, were the assignees of Wyland W. Williams of an original Lease dated October 20, 1964 with respect to Lot 28, Lake WaConDa (Original Lease), which Lease affiant and his wife have assigned to Steven O. Christiansen and Georgia B. Christiansen as joint tenants with rights of survivorship under date of the 12th day of August, 1987.

2. That affiant and his wife occupied and possessed Lot 28, Lake WaConDa from August 1, 1966 until after August 1, 1987.

3. That this Affidavit is made with respect to the common lot line between Lot 28 and Lot 29, Lake WaConDa.

4. That during 1976 or 1977, affiant met with Marvin Brown who was then the lessee of Lot 29, Lake WaConDa, and jointly ascertained the lot line between Lot 28 and Lot 29, Lake WaConDa, by personally locating what they believed to be the surveyor's pins designating said Lots. Based upon their determination of the lot line, affiant's neighbor, Marvin Brown, constructed a garage on Lot 29 approximately two feet from the jointly determined lot line which garage stands in exactly the same place today.

5. During July of 1978, affiant built a garage on Lot 28, Lake WaConDa, not less than two feet from the lot line as

Filed for Record 7-17-90 At 2:35 P.M.  
 in Book 38 of Misc. Page 670  
 Register of Deeds, Cass Co., NE *Patricia Mesinger*  
 Doc #273 #26<sup>00</sup>

COMPARED

determined jointly by affiant and his neighbor, Marvin Brown, approximately two years before. Said garage sits on Lot 28 in exactly the same position as it was built.

6. Some time during 1986, Charles P. Jordan, a Nebraska registered land surveyor, prepared and filed with the Cass County surveyor's office a Land Surveyor's Certificate, a copy of which is attached hereto and marked Exhibit "A".

7. Said Land Surveyor's Certificate indicates that the garage which affiant built on Lot 28 during 1978 is encroaching upon Lot 29.

8. Affiant and his assignees have, for more than 10 years, openly, notoriously and continuously used the garage which affiant built on Lot 28 without ever receiving any demand for removal.

9. When affiant and his wife assigned their Lease to Steven O. Christiansen and Georgia B. Christiansen, husband and wife, during August of 1987, Kenneth E. Wurtele, one of the owners of Lake WaConDa, refused to consent to the assignment because of the apparent encroachment of affiant's garage on Lot 29.

10. Affiant believes that his garage does sit exclusively on Lot 28 and further believes that if it does not so sit, he has acquired by adverse possession the rights to allow the garage to partially sit on Lot 29 for the duration of the Original Lease.

11. Affiant plans to obtain an easement as provided hereinbelow from David Lund and Vicky Lund, current lessees of Lot 29, not because affiant believes the same is required, but just as an economic way of obtaining the consent of one of the owners of

Lake WaConDa to the assignment of affiant's Lease to Steven O. Christiansen and Georgia B. Christiansen.

FURTHER YOUR AFFIANT SAYETH NOT.

DATED this 2<sup>nd</sup> day of July, 1990.

George D. Devereux  
GEORGE D. DEVEREUX

SUBSCRIBED AND SWORN TO before me this 2<sup>nd</sup> day of July, 1990.

**NOTARY PUBLIC**  
**DANIEL J. GUFFY**  
**My Comm. Exp. Dec. 31, 1992**

Daniel J. Guffy  
Notary Public

**EASEMENT**

FOR THE VALUABLE CONSIDERATION of One Thousand Dollars (\$1,000.00), receipt of which is hereby acknowledged, DAVID LUND and VICKIE LUND, Grantors, the current lessees of Lot 29, Lake WaConDa, Section 9, Township 10 North, Range 14 East of the 6th P.M., Cass County, Nebraska, hereby grant to Steven O. Christiansen and Georgia B. Christiansen, current lessees of Lot 28, Lake WaConDa, Section 9, Township 10 North, Range 14 East of the 6th P.M., Cass County, Nebraska, a permanent easement for the garage currently existing and constructed primarily on Lot 28 to encroach to the extent that it currently does and no more on Lot 29.


It is agreed by Grantors that this permanent Easement shall run with the leasehold interest of Lot 28, Lake WaConDa, and shall

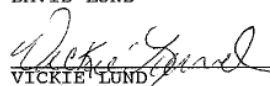
automatically be assigned with any assignment of said leasehold interest.

Grantors further agree to sign whatever other documents may be reasonably required to effect the transaction contemplated herein.

It is further acknowledged that the granting of this Easement shall not in any way reduce or modify the rental amounts due from the current lessee of either Lot 28 or Lot 29 to the owner of the fee interest.

IN WITNESS WHEREOF, the undersigned have hereunto executed this Easement.

  
\_\_\_\_\_  
DAVID LUND

  
\_\_\_\_\_  
VICKIE LUND

The above Easement was acknowledged before me this 17<sup>th</sup> day of July, 1990.



  
\_\_\_\_\_  
Joan M. Steinmann  
Notary Public

PROJ. NO. 081586**FILED**

SEP 2 1986

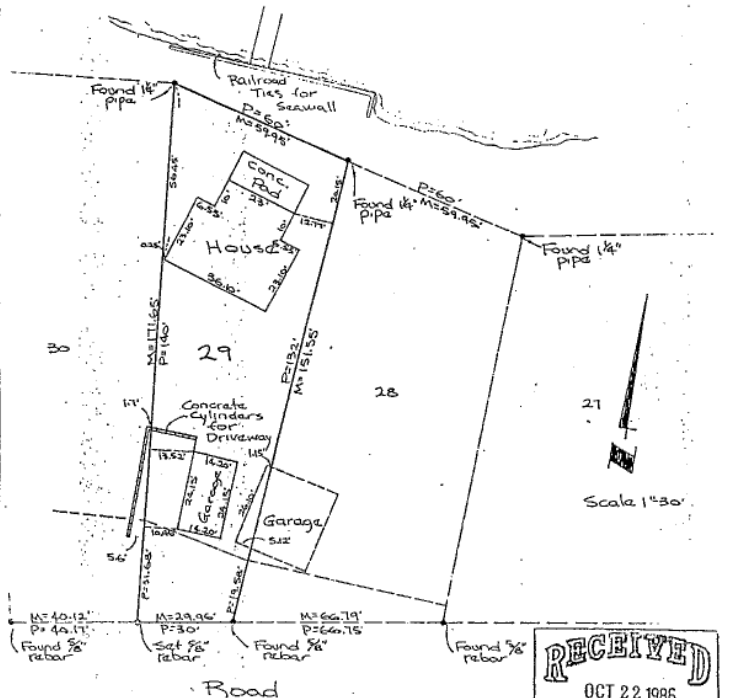
CASS COUNTY  
SURVEYOR'S OFFICE

#273

LOCATION Lake WaConDaSEC. 9 T. 10 N. R. 14E  
OF THE 6TH P.M., Cass County, Nebr.

## LAND SURVEYOR'S CERTIFICATE

I hereby certify that this plat, map, survey or report was made by me or under my direct personal supervision and that I am a duly Registered Land Surveyor under the laws of the State of Nebraska.

Legal Description: Lot 29, Lake WaConDa, (with improvements as shown)**RECEIVED**

OCT 22 1986

SURVEY RECORD REPOSITORY

\$2.50

CASS County

106-798

Signed this 2nd day of September, 1986Charles P. JordanCHARLES P. JORDAN  
Surveyor's License No. L.S. 420  
ROTTER, JORDAN & ASSOC.  
PLATTSMOUTH, NEBR.

EXHIBIT "A"