

IN THE DISTRICT COURT OF SARPY COUNTY, NEBRASKA

EVELYN R. FRANS, Trustee )  
of the Evelyn R. Frans Family Trust, )  
 )  
Plaintiff, )

DOC. **C102** NO. **523**

HANSON'S LAKE ASSOCIATION NO. 2, )  
HANSON'S LAKES, INCORPORATED, A )  
Nebraska corporation, HANSON'S LAKES, LTD., )  
a Partnership, EDGAR - DELL AND CO., INC., )  
A Nebraska corporation and all persons having or )  
claiming any interest in that part of Outlot 2 of )  
Hanson's Lakes, a subdivision in Sarpy County, )  
Nebraska as surveyed, platted and recorded in the )  
office of the Sarpy County, Nebraska Register of )  
Deeds, being more particularly described as fol- )  
lows:Beginning at the Northwest corner of Lot 213, )  
thence South 13 degrees 53 minutes 50 seconds )  
West along the Westerly line of Lot 213 a distance )  
of 50.49 feet to the Southwest corner of Lot 213; )  
thence North and West along a 414.35 foot radius )  
curve to the right an arc distance of 11.92 feet to a )  
point on the West boundary of Hanson's Lakes; )  
thence North 24 degrees 57 minutes 26 seconds )  
West along said boundary line of Hanson's Lakes )  
a distance of 51.64 feet, to a point on the Northerly )  
line of Lot 213 extended West a distance of 44.66 )  
feet to the point of beginning. )

PETITION

*Shirley M. Muehler*  
CLERK DISTRICT COURT  
2002 APR 18 PM 12:50  
FILED  
SARPY COUNTY  
DISTRICT COURT

Comes now the plaintiff and for cause of action against the defendants alleges:

1. The plaintiff is a resident of Sarpy County, Nebraska and is the owner in fee of the following described real estate:

Part of Outlot 2 of Hanson's Lakes, a subdivision of Sarpy County, Nebraska as surveyed, platted and recorded in the office of the Sarpy County, Nebraska Register of Deeds, being more particularly described as follows: Beginning at the Northwest corner of Lot 213; thence

South 13 degrees 53 minutes 50 seconds West along the Westerly line of Lot 213 a distance of 50.49 feet to the Southwestt corner of Lot 213; thence North and West along a 414.35 foot radius curve to the right an arc distance of 11.92 feet to a point on the West boundary of Hanson's Lakes; thence North 24 degrees 57 minutes 26 seconds West along said boundary line of Hanson's Lakes a distance of 51.64 feet, to a point on the Northerly line of Lot 213 extended West a distance of 44.66 feet to the point of beginning.

2. Plaintiff and plaintiff's predecessors in title have been in open, notorious, exclusive, continuous, adverse possession of said real estate under claim of title for more than ten years last past.

3. That prior to August 14, 1979 title holder of the subject real estate appeared on the records of the Sarpy County, Nebraska Register of Deeds to be the herein named defendants Hanson's Lakes, Incorporated, a Nebraska corpotaion; Hanson's Lakes, Ltd, a Partnership; Edgar - Dell and Co. Inc., a Nebraska corporation.

4. That by instrument captioned "Warranty Deed" the names of parties identified in paragraph "3" above were set forth and identified therein as "grantor" and the grantee was identified as Hanson's Lake Association No. 2 which is named as a defendant herein.


5. Plaintiff has searched the records of the County Clerk of Sarpy County, Nebraska and the records of the corporate division office of the Secretary of State for the State of Nebraska. There are no records in office of the County Clerk of Sarpy County, Nebraska nor in the office of the Secretary of the State of Nebraska that show any registration of Hansons Lake Association No. 2 or Hanson's Lakes, Ltd., a Partnership. There are no records in the office of the County Clerk of Sarpy County, Nebraska that show any registration of Hanson's Lakes, Incorporated. Articles of incorporation of Hanson's Lakes, Incorporated were on file with the Secretary of State for the State of Nebraska; however the records show that the corporation was dissolved September 14, 1967 and

has never been reactivated. According to the records with the Secretary of Stte of Nebraska Edgar - Dell and Co., Inc. is in good standing having as resident agent Judy M. Domina Schwede 920 S. 14<sup>th</sup> St. Norfolk, NE 68701.

6. The claims of any of the named defendants or any person or entity claiming under or through any named defendants and any other person or entity claiming any ownership of, interest in, right or title to, or lien upon the within described real estate constitutes a cloud upon the title of plaintiff but that whatever ownership of, interest in, right or title to, or lien upon the within described real estate the defendants or any of them or any other person or entity claiming by through or under any of the defendants or any interest which any of them claim to have or appear to have has long since been barred and outlawed by lapse of time and operation of law and plaintiff is entitled to have plaintiff's title quieted as against any and all such purported claims of the defendants. Plaintiff has no adequate remedy at law.

WHEREFORE plaintiff prays judgment quieting and establishing plaintiff's title to said real estate as against all of the defendants and enjoining them and each of them forever from setting up or asserting any interest in, right or title to, or lien upon said premises or any portion thereof and for such other and further relief as may be just and equitqable.

EVELYN R. FRANS, Trustee of the Evelyn R. Frans Family Trust, Plaintiff

By   
E. Dean Hascall #11736 Her Attorney  
101 West Mission Ave. Belleveu, Ne  
68005  
Tele. No. 420 291-8900

IN THE DISTRICT COURT OF SARPY COUNTY, NEBRASKA

EVELYN R. FRANS, Trustee of  
the Evelyn R. Frans Family Trust,

Plaintiff,

v.

HANSON'S LAKE ASSOCIATION NO. 2;  
HANSON'S LAKES, INCORPORATED,  
a Nebraska Corporation; HANSON'S LAKES  
LTD., A Partnership; EDGAR-DELL AND  
CO., INC., A Nebraska Corporation, et al,

Defendants,

Case No. CI 02-523

**ANSWER OF EDGAR - DELL  
AND CO, INC.,**

FILED  
SARPY COUNTY  
DISTRICT COURT  
2002 MAY 16 AM 10:19  
*Sharon Marchand*  
CLERK DISTRICT COURT

Comes now the Defendant Edgar - Dell and Co., Inc., A Nebraska Corporation, and for its Answer to the Petition of the Plaintiff, alleges:

1. That said Defendant denies the allegations contained in paragraphs 1 and 2 of said Petition;
2. That said Defendant admits the facts and matters alleged in paragraphs 3 and 4 of said Petition;
3. That said Defendant admits that the Defendant is a corporation in good standing with the Office of the Secretary of State of the State of Nebraska, but said Defendant denies the remaining allegations contained in paragraph 5 of said Petition;
4. That said Defendant denies the allegations contained in paragraph 6 of said Petition;
5. That said Defendant specifically denies that the Plaintiff is the owner of the subject lot described in said Petition, and alleges that the owner of said lot is Hanson's Lake Association No. 2, an unincorporated association consisting of the owners and lessees of lots located on Hanson's Lake;
6. That said Defendant denies each and every allegation contained in said Petition, save and except those facts and matters specifically admitted by this Defendant

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hereinbefore, or hereinafter, and those facts and matters which constitute admissions against the Plaintiff's interest;

7. For further and affirmative defense, this Defendant alleges that this Defendant and Hanson's Lakes Incorporated, A Nebraska Corporation; Hanson's Lakes, Ltd, A Partnership, conveyed the subject parcel of land by Warranty Deed to Hanson's Lake Association No. 2, an unincorporated association consisting of the all the owners and lessees of lots located on Hanson's Lake, for the purpose of providing a public area for residents (owners and lessees) of Hanson's Lake and their invitees.

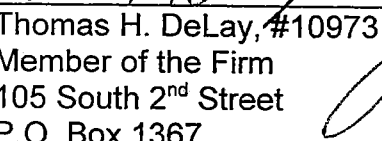
8. That any use of the subject lot by the Plaintiff was a permissive use of said lot by Plaintiff, a member of the public, and that as such, any use of such lot by the Plaintiff was other than adverse, open, notorious, or exclusive as alleged by Plaintiff.

WHEREFORE, this Defendant prays that the Petition of the Plaintiff be denied and dismissed and for recovery of this Defendant's costs herein.

EDGAR - DELL AND CO., INC., A  
Nebraska Corporation, Defendant,

BY JEWELL, COLLINS, DELAY  
& GRAY,  
Its Attorneys

BY

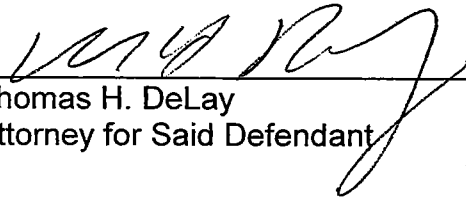
  
Thomas H. DeLay, #10973  
Member of the Firm  
105 South 2<sup>nd</sup> Street  
P.O. Box 1367  
Norfolk, NE 68702-1367  
Tele: 402-371-4844  
Fax: 402-371-5673

### CERTIFICATE OF SERVICE

I, Thomas H. DeLay, #10973, one of the attorneys for Defendant Edgar - Dell and Co., Inc., hereby certify and affirm that on the 15<sup>th</sup> day of May, 2002, I served a copy of the foregoing Answer on the Plaintiff, by mailing copies of the same U.S. First Class mail, postage prepaid, to the below named parties or their attorneys of record, to wit:

E. Dean Hascall

101 West Mission Ave  
P.O. Box 400  
Bellevue, NE 68005-0400  
Attorney for Plaintiff



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Thomas H. DeLay  
Attorney for Said Defendant

IN THE DISTRICT COURT OF SARPY COUNTY, NEBRASKA

EVELYN R. FRANS, Trustee of the Evelyn R. Frans Family Trust, )

Plaintiff, )

DOC. NO.

HANSON'S LAKE ASSOCIATION NO. 2, )  
 HANSON'S LAKES, INCORPORATED, A )  
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 line of Lot 213 extended West a distance of 44.66 )  
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AFFIDAVIT FOR SERVICE  
 BY PUBLICATION

*Sharon Marchand*  
 CLERK DISTRICT COURT

2002 APR 18 PM 12:51

FILED  
 SARPY COUNTY  
 DISTRICT COURT

STATE OF NEBRASKA )  
 )ss  
 COUNTY OF SARPY )

E. Dean Hascall being first duly sworn deposes and says that he is the attorney for the plaintiff in the above entitled cause and on behalf of the plaintiff filed the within petition in the District Court of Sappy County, Nebraska, against the above named defendants, the object and prayer of which is to quiet and confirm plaintiff's title to the following described real estate:

Part of Outlot 2 of Hanson's Lakes, a subdivision in Sarpy County, Nebraska as surveyed, platted and recorded in the office of the Sarpy County, Nebraska Register of Deeds, being more particularly described as follows: Beginning at the Northwest corner of Lot 213, thence South 13 degrees 53 minutes 50 seconds West along the West-erly line of Lot 213 a distance of 50.49 feet to the Southwest corner of Lot 213; thence North and West along a 414.35 foot radius curve to the right an arc distance of 11.92 feet to a point on the West boundary of Hanson's Lakes; thence North 24 degrees 57 minutes 26 seconds West along said boundary line of Hanson's Lakes a distance of 51.64 feet, to a point on the Northerly line of Lot 213 extended West a distance of 44.66 feet to the point of beginning.

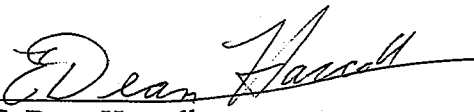
Affiant further deposes and states that neither he nor the plaintiff, after diligent investigation and inquiry, are unable to ascertain and do not know the residence, place of abode or whereabouts, if in this state or the names of any of the defendants designated as all persons having or claiming any interest in the above described real estate except the defendant Edgar-Dell and Co., Inc., a Nebraska corporation and a praecipe has been delivered to the Clerk of the District Court requesting summons be issued for personal service upon that defendant. Affiant has been advised by the Secretary of State, corporate division, that there has never been any filing of articles of association for an entity known as Hanson's Lake Association No. 2 although that name appears in the record of the Office of the Sarpy County Register of Deeds has a named grantee in a deed of conveyance dated April 15, 1979. Affiant has been advised by the Secretary of State, corporate division, that articles of incorporation for Hanson's Lakes, incorporated were filed with the Secretary of State, corporate division, and that the corporation was dissolved September 14, 1967. The name of that entity appears as one of the grantors on the deed of conveyance above referred to. Affiant further states he can find no evidence of Hanson's Lakes, Ltd., a Partnership ever having existed.

Affiant further deposes and states that by reason of the foregoing facts service of summons

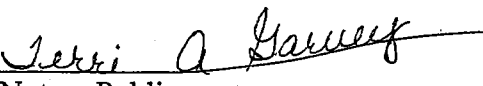


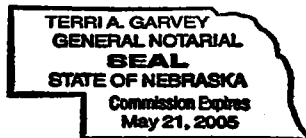
cannot be had upon any of the said defendants in the State of Nebraska except as recited above

Further affiant sayeth not.

  
E. Dean Hascall

SUBSCRIBED and sworn to before me this 17 day of April, 2002

  
Notary Public



IN THE DISTRICT COURT OF SARPY COUNTY, NEBRASKA

EVELYN R. FRANS, Trustee of the Evelyn R. Frans Family Trust, )

Plaintiff, )

DOC. NO.

HANSON'S LAKE ASSOCIATION NO. 2, HANSON'S LAKES, INCORPORATED, A Nebraska corporation, HANSON'S LAKES, LTD., a Partnership, EDGAR - DELL AND CO., INC., A Nebraska corporation and all persons having or claiming any interest in that part of Outlot 2 of Hanson's Lakes, a subdivision in Sarpy County, Nebraska as surveyed, platted and recorded in the office of the Sarpy County, Nebraska Register of Deeds, being more particularly described as follows: Beginning at the Northwest corner of Lot 213, thence South 13 degrees 53 minutes 50 seconds West along the Westerly line of Lot 213 a distance of 50.49 feet to the South-west corner of Lot 213; thence North and West along a 414.35 foot radius curve to the right an arc distance of 11.92 feet to a point on the West boundary of Hanson's Lakes; thence North 24 degrees 57 minutes 26 seconds West along said boundary line of Hanson's Lakes a distance of 51.64 feet, to a point on the Northerly line of Lot 213 extended West a distance of 44.66 feet to the point of beginning. )

MOTION FOR ORDER TO SERVE BY PUBLICATION

FILED  
SARPY COUNTY  
DISTRICT COURT  
2002 APR 18 PM 12:51  
Shirley Marchand  
CLERK DISTRICT COURT

Comes now the defendant by and through her attorney and moves the court for an order that all the defendants herein except Edgar - Dell and Co., Inc. be served by publication as provided for by Nebraska Revised Statutes Sections 25-517.02 through 25-520.03 (Reissue 1995). Affidavit in support hereof is attached hereto, marked Exhibit A. and incorporated herein by reference.

Respectfully Submitted

EVELYN R. FRANS, Trustee of the Evelyn R. Frans Family Trust, Plaintiff,

By E. Dean Hascall  
E. Dean Hascall #11736 Her attorney.

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IN THE DISTRICT COURT OF SARPY COUNTY, NEBRASKA

EVELYN R. FRANS, Trustee of the Evelyn R. Frans Family Trust, )  
 )  
 ) Plaintiff, )  
 ) vs. )  
 ) HANSON'S LAKE ASSOCIATION NO. 2, et )  
 ) al. )  
 ) Defendants )

Case No. CI 02 NO 23

DECREE

*Carol Hansen*  
CLERK DISTRICT COURT

2003 AUG 11 PM 12:08

FILED  
SARPY COUNTY  
DISTRICT COURT

THIS MATTER HAVING COME BEFORE THE COURT ON this 11<sup>th</sup> day of August, 2003 and the court being fully advised in the premises finds:

1. The plaintiff's petition filed herein prays that title to the hereinafter described real estate be quieted in the plaintiff.
2. The real estate which is the subject matter of this action is:

Outlot 2 of Hanson's Lakes, a subdivision in Sarpy County, Nebraska as surveyed, platted and recorded in the office of the Sarpy County, Nebraska Register of Deeds, being more particularly described as follows: Beginning at the Northwest corner of Lot 213, thence South 13 degrees 53 minutes 50 seconds West along the Westerly line of Lot 213 a distance of 50.49 feet to the South-west corner of Lot 213; thence North and West along a 414.35 foot radius curve to the right an arc distance of 11.92 feet to a point on the West boundary of Hanson's Lakes; thence North 24 degrees 57 minutes 26 seconds West along said boundary line of Hanson's Lakes a distance of 51.64 feet, to a point on the Northerly line of Lot 213 extended West a distance of 44.66 feet to the point of beginning.

3. Upon plaintiff's motion by her attorney with accompanying affidavit the court did on April 18, 2002 order service on all defendants to be made by publication each week for four successive weeks in a newspaper printed in Sarpy County, Nebraska.

X 8-11-03 no copies

4. The affidavit of Shon Barenklau, publisher of the *Papillion Times* or Ann Oatman, business manager of the *Papillion Times*, recites the *Papillion Times* is a legal newspaper of general circulation in Sarpy County, Nebraska, is published therein, having a paid subscription list of more than three hundred (300) and that attached to the affidavit is a copy of the legal notice which was published in the *Papillion Times* on April 25, 2002, and thereafter on May 2, 2002, May 9, 2002 and May 16, 2002.

Further, that the attached copy of the legal notice recites it is: "TO ALL PERSONS having or claiming any interest in the following describe real estate..." The legal description set forth in the attached copy of the legal notice is the same legal description set forth in plaintiff's petition and set forth in these findings at paragraph #2 above.

5. There was personal service on named defendant Edgar – Dell and Co., Inc. which defendant filed an Answer in which it affirmatively alleged that it along with Hanson's Lakes Incorporated, A Nebraska Corporation and Hanson's Lakes, Ltd, A partnership had conveyed the subject real estate by warranty deed to Hanson's Lake Association No. 2.

6. A Certificate of Service of Interrogatories was filed by the plaintiff certifying that Interrogatories on Edgar – Dell and Co., Inc. were mailed by certified mail addressed to the attorney of record for the said Edgar – Dell and Co., Inc. by which inquiry was made as to (1) the date of such warranty deed, (2) the name and the office held by the person executing such deed on behalf of Hanson's Lakes, Incorporated (3) whether Hanson's Lakes, Incorporated was a viable corporation on April 15, 1979, (4) what interest each of the grantors had in the subject real estate at the time of the conveyance

alleged in the Edgar – Dell and Co. Answer. There were no responses to the Interrogatories nor any objection made to any inquiry nor any request for enlargement of time to respond..

7. The court further finds that Hanson's Lakes, Incorporated filed articles of dissolution with the office of the Secretary of State for the State of Nebraska on September 24, 1967 and that the document purporting to be a deed of conveyance of real estate from Hanson's Lakes, Incorporated to Hanson's Lakes, Limited, which included the subject real estate, was dated June, 1975 and recorded on June 9, 1975 in the Sarpy County Register of Deeds Office in Book 150 of Deeds at Page 1020, nearly eight years after the corporate dissolution. A subsequent deed of conveyance of Outlot No. 2 to Hanson's Lake Association No.2 bearing date of April 25, 1979 and recorded in Book 154 of Deeds at Page 2439 bears no signature for Hanson's Lakes, Incorporated, a then defunct corporation, by named as on of the grantors identified in the Answer made by Defendant Edgar – Dell and Co.

8. The plaintiff alleged in her petition that a search of the state and county records revealed no entities identified as Hanson's Lakes, Ltd., a Partnership or Hanson's Lake Association No. 2 and that she and/or her predecessors in title have been in open, notorious, exclusive, continuous, adverse possession of said real estate under claim of title for more than ten years last past.

9. Edgar – Dell and Co., the only defendant filing an Answer herein, makes no claim of any interest in the subject real estate and no other person, organization, association, corporation or any other entity has filed any responsive pleading asserting any interest in the subject property nor have there been any appearances by any person

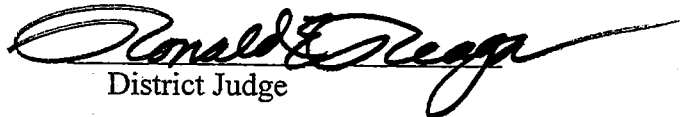
claiming any interest in the subject real estate or offering any evidence refuting the plaintiff's allegation of being in open, notorious, exclusive, continuous, adverse possession of said real estate under claim of title for more than ten years last past.

WHEREFORE, having made the findings set forth above the court decrees fee simple title of the plaintiff in and to the subject real estate described as follows:

Outlot 2 of Hanson's Lakes, a subdivision in Sarpy County, Nebraska as surveyed, platted and recorded in the office of the Sarpy County, Nebraska Register of Deeds, being more particularly described as follows: Beginning at the Northwest corner of Lot 213, thence South 13 degrees 53 minutes 50 seconds West along the Westerly line of Lot 213 a distance of 50.49 feet to the South-west corner of Lot 213; thence North and West along a 414.35 foot radius curve to the right an arc distance of 11.92 feet to a point on the West boundary of Hanson's Lakes; thence North 24 degrees 57 minutes 26 seconds West along said boundary line of Hanson's Lakes a distance of 51.64 feet, to a point on the Northerly line of Lot 213 extended West a distance of 44.66 feet to the point of beginning

the same being free and clear of any interest or claim by any of the defendants or any person claiming by, through ~~or~~ under any one of them.

Dated this 11 day of August, 2003.

  
District Judge