

A RESOLUTION CONCERNING A PUBLIC HEARING ON THE TRANSFER OF CERTAIN REAL PROPERTY OWNED BY THE CITY OF BUFFALO, IOWA

WHEREAS, the City of Buffalo, Iowa, wishes to transfer such legal interest, if any, as it may have in and to a parcel of real property located within the City of Buffalo, Iowa, which is more particularly described on Exhibit "A" attached hereto, and

WHEREAS, the City of Buffalo, Iowa, has determined that a bid submitted by Joseph A. Bernauer and Michele A. Bernauer, husband and wife, in the amount of \$1.00, said parties appearing to have a legal interest in and to the described property, is and should be accepted, and

WHEREAS, the City of Buffalo, Iowa, desires to accept the bid for the transfer of the described real property submitted by Joseph A. Bernauer and Michele A. Bernauer, husband and wife, and

WHEREAS, pursuant to Section 364.7, The Code of Iowa, a public hearing must be held on the proposed transfer of such property by the City of Buffalo, Iowa,

IT IS, THEREFORE, RESOLVED that the City Clerk of the City of Buffalo, Iowa, shall publish notice of this resolution as is provided by the provisions of Section 362.3, The Code of Iowa, and

IT IS FURTHER RESOLVED, pursuant to Section 364.7 of The Code of Iowa, that a public hearing on the proposed transfer shall be held the 03 day of FEBRUARY, 1997 at 7:00 o'clock P. m, at Buffalo City Hall, 409 Third Street, Buffalo, Iowa.

ADOPTED by the City Council of the City of Buffalo, Iowa, this 23 day of January, 1997.

APPROVED AND SIGNED by the Mayor of the City of Buffalo, Iowa, this 23 day of January, 1997.

CITY OF BUFFALO, IOWA

BY: Phil C. Hoover
Phil C. Hoover, Mayor

ATTEST:

Carol Bernauer
Carol Bernauer, City Clerk

LAW OFFICES OF
CONDON, PEAVEY & SCHIRMAN

610 NINTH STREET

P.O. BOX 306

DEWITT, IOWA 52742

(319) 659-3294

FAX (319) 659-9329

DANIEL J. CONDON
JOHN S. PEAVEY
THOMAS R. SCHIRMAN, JR.

ELDRIDGE OFFICE
202 NORTH SECOND STREET
SUITE A

ELDRIDGE, IOWA 52748

(319) 285-9600

FAX (319) 285-8310

NOT A PARTNERSHIP

February 7, 1997

Carol A. Bernauer
City Clerk, City of Buffalo
409 3rd Street
Buffalo, Iowa 52728

Dear Carol:

Enclosed you will find a Quit Claim Deed prepared following our telephone conversation Wednesday, which document needs to be executed by the mayor and by you, both executions to occur in the presence of a notary. Additionally, I would ask that you furnish a groundwater hazard statement (which is included) filling out the appropriate information concerning the City including the City federal identification and additionally, checking the appropriate box items 1-4 below. This document should be signed by a representative of the City and submitted to me along with the executed and notarized Quit Claim Deed (and the documents regarding the original proceedings).

Please contact me with any questions you may have.

Sincerely,


Thomas R. Schirman

TRS:ilm
Enclosures

REAL ESTATE TRANSFER - GROUNDWATER HAZARD STATEMENT

Please read the filing instructions on the reverse side BEFORE completing this form.

PART I - TO BE COMPLETED BY TRANSFEROR

(Please Type or Print Legibly)

TRANSFEROR Name CITY OF BUFFALO, IA. Social Security No. (or Federal I.D. No.) 42-6004303

Address 409-3 ST. P.O. BOX 557 BUFFALO, IA 52728

TRANSFEEE Name MICHELE A. BERNAUER JOSEPH A. BERNAUER Social Security No. (or Federal I.D. No.) 485-96-6602 479-90-1020

Address 819-4 STREET BUFFALO IA 52728

Address of Property Transferred SEE ATTACHED "EXHIBIT A"

Legal Description of Property SEE ATTACHED "EXHIBIT A"

1. Wells (check one)

- There are no known wells situated on this property.
There is a well or wells situated on this property. The type(s), location(s) and legal status are stated below.

2. Solid Waste Disposal (check one)

- There is no known solid waste disposal site on this property.
There is a solid waste disposal site on this property, but no notice has been received from the Department of Natural Resources that the site is deemed to be potentially hazardous.
There is a solid waste disposal site on this property which has been deemed to be potentially hazardous by the Department of Natural Resources. The location(s) of the site(s) is stated below.

3. Hazardous Wastes (check one)

- There is no known hazardous waste on this property.
There is hazardous waste on this property and it is being managed in accordance with Department of Natural Resources rules.

4. Underground Storage Tanks (check one)

- There are no known underground storage tanks on this property. (Note exclusions such as small farm and residential motor fuel tanks, most heating oil tanks, cisterns and septic tanks, in instructions.)
There is an underground storage tank or tanks on this property. The type(s), size(s) and any known substance(s) contained are described below.

Information, if any, required by statements checked above:

Attachment for Additional Information? Y (N) If so, number of pages

I HEREBY DECLARE THAT THE INFORMATION CONTAINED IN PART I OF THIS STATEMENT IS TRUE AND CORRECT.

Signature: Carol A. Bernauer, City Clerk, Buffalo Telephone Number: (319) 381-2226

PART II - TO BE COMPLETED BY RECORDER

Date of Instrument Book/I.D. Page/I.D.

Date of Recording City or Township

Deed

Contract

County

INSTRUCTIONS FOR COMPLETING GROUNDWATER HAZARD STATEMENT

The transferor of real property is required to complete Part I of this form. The purpose of the statement is to satisfy legal requirements for filing instruments of conveyance of real property with the county recorder (Iowa Code Section 558.69). The Department of Natural Resources does not approve or disapprove of property transfers based on these statements. The statement must be signed by one of the persons transferring the property interest or that person's agent. An agent signing this form represents the information from transferor to be correct.

For the most part the information requested is clear (name, address, SSN, etc.). One statement under each of the numbered items (1, 2, 3 and 4) must be checked, and if one or more of the statements checked requires the transferor to provide additional information, that information is to be provided in part I. Relate the additional information to the specific category of facility (well, etc.) by numbering it with the corresponding number (1, 2, 3, 4). If additional space is needed, type or print it legibly on a separate sheet or sheets, complete the statements at the end of Part I and attach the additional information to all copies of the form. When describing the location of a facility on the property, be reasonably precise, such as a specific distance and general direction from a landmark or corner of the property. A professional survey is not necessary. The following definitions are for use in completing the form.

1. Wells - A "well" is any excavation that is drilled, cored, bored, augered, washed, driven, dug, jetted or otherwise constructed for accessing groundwater or for diverting surface water into the ground, including abandoned wells. "Well" does not include an open ditch or drainage tiles which discharge to the surface.

If a well is an "abandoned well" or an "agricultural drainage well," this must be identified and the status of the well with respect to Iowa Code sections 455B.190 and 159.29, respectively, must be stated. An "abandoned well" is a well no longer in use or in such state of disrepair that continued use is unsafe or impracticable. Abandoned wells are to be properly plugged in accordance with chapter 39 of the rules of the Department of Natural Resources. (567 Iowa Administrative Code, Chapter 39)

An "agricultural drainage well" is a well constructed for the purpose of draining, or which drains, water from agricultural land to an aquifer (underground), excluding drainage tile intakes which outlet to the surface. Agricultural drainage wells are required to be registered with the department by September 30, 1988, and the owner of the well and of the land drained by the well are to develop a plan proposing alternatives to the use of the well by July 1, 1994 (See Iowa Code Section 159.29.)

2. Solid Waste - "Solid waste" means garbage, refuse, rubbish and other similar discarded solid or semisolid material. It does not include dirt, stone, brick, or similar inorganic material used for fill, as long as no other solid waste is included. See 567—100.2(455B), Iowa Administrative Code (I.A.C.) for further definitions. A "disposal site" is any area on the property on, in, or under which solid waste has been disposed, whether or not the disposal is or was regulated by the department.

If the transferor or agent has not received notice from the Department of Natural Resources that the disposal site has been deemed to be potentially hazardous, there is no duty to inquire to the department.

***Note** The land application of sludges or soils resulting from the remediation of underground storage tank releases accomplished in compliance with Department of Natural Resources rules without a permit is not required to be reported as the disposal of solid waste or hazardous waste. (See Iowa Code Section 558.69)

3. Hazardous Wastes - "Hazardous waste" is defined in Iowa Code section 455B.411, 567—141.2 (455B), I.A.C., and federal regulations referenced therein. It is generally defined as waste that poses a threat to human health or the environment. It includes wastes which are ignitable, corrosive, toxic, explosive, violently reactive, or specifically listed as hazardous in the Code of Federal Regulations (40 CFR 261). EXCLUDED are household wastes, agricultural wastes returned to the soil as fertilizers or soil conditioners, agricultural chemicals applied or disposed of by a farmer in accordance with the manufacturer's instructions, triple-rinsed agricultural chemical containers disposed of by farmers (where the rinsate is used as makeup water in the tankmix and applied at appropriate rates), and other specific materials. Persons are legally required to be aware of hazardous waste laws.

4. Underground Storage Tanks - "Underground storage tank" means one or a combination of tanks, including underground piping connected to the tanks, used to contain an accumulation of regulated substances, and the volume of which is 10 percent or more beneath the surface of the ground. "Regulated substances" include petroleum products and hazardous or toxic materials identified in 567—135.2(455B), I.A.C. Underground storage tank does not include:

- a. Farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes. (But See 455B.473(4))
- b. Tanks used for storing heating oil for consumptive use on the premises where stored.
- c. Residential septic tanks.
- d. Pipeline facilities regulated by state or federal law.
- e. A surface impoundment, pit pond, or lagoon.
- f. A storm water or wastewater collection system.
- g. A flow-through process tank.
- h. A liquid trap or associated gathering lines directly related to oil or gas production and gathering operations.
- i. A tank in an underground area such as a basement or mine, if the tank is on or above the surface of the floor.
- j. Pipes connected to the above exclusions.

"Tank type" means the material of construction (steel, fiberglass reinforced plastic [FRP], or other {specify}), and any internal or external protection such as a protective coating or wrapping, or cathodic protection.

Identify the capacity in gallons and the substance stored in each tank.

5. Filing - The original of this form must be presented to the county recorder when the document to be recorded is filed. If any of the four questions are answered in the affirmative so that explanations are required, a duplicate copy (or photocopy) of this form must be filed with the recorder. In cases where all four questions are answered in the negative, this form will be forwarded by the recorder to the transferee when the recorded instrument is returned. If any of the questions are answered in the affirmative so as to require an explanation, the recorder shall furnish the original of this form to the transferee and forward the photocopy or other duplicate copy suitable for microfilming to the department. The recorder is not required to keep any copies.

The Recorder shall always forward the original to the transferee when the recorded instrument is returned.



Printed on
Recycled Paper

EXHIBIT "A"

That portion of Maple Street shown on the Auditor's Plat of Oak Grove Fourth Addition, a subdivision of part of the Southeast fractional quarter of Section 21, Township 77 North, Range 2 East of the 5th P.M., Scott County, Iowa (said subdivision being a part of Government Lots 1 and 2 in the above quarter section), all as shown on that Auditor's Plat of Oak Grove Fourth Addition dated July 3, 1952 and filed August 22, 1952 in the office of the Scott County Recorder at 69 Misc., page 474, as follows:

Commencing at the Northeast corner of Lot 33 of Oak Grove Fourth Addition; thence Southerly along the East line of said Lot 33 of Oak Grove Fourth Addition to the Southeast corner thereof, the same being the North side of a public alley, 169 feet, more or less; thence Northeasterly to the Southwest corner of a tract of land conveyed to Raymond H. Kuehl and Betty L. Kuehl by Warranty Deed dated February 26, 1960 and filed in the office of the Scott County Recorder at 247 Deeds, page 404, thence Northwesterly along the Easterly line of the real estate conveyed to the said Raymond H. Kuehl and Betty L. Kuehl by said deed dated February 26, 1960 and filed in the office of the Scott County Recorder at 247 Deeds, page 404 to a point which is due east of the Northeast corner of Lot 33 of Oak Grove Fourth Addition and which is 30 feet from the area designated on the Auditor's Plat of Oak Grove Fourth Addition as Maple Street; thence West to the Northeast corner of Lot 33 of Oak Grove Fourth Addition, the same being the point of beginning of the tract herein described, excepting therefrom any real estate described herein which is not a portion of the street right-of-way of Maple Street as shown on the Auditor's Plat of Oak Grove Fourth Addition, as referenced herein.

SPACE ABOVE THIS LINE FOR RECORDER

QUIT CLAIM DEED

For the consideration of ONE (\$1.00) Dollar(s) and other valuable consideration,

CITY OF BUFFALO, SCOTT COUNTY, IOWA

do hereby Quit Claim to

all our right, title, interest, estate, claim and demand in the following described real estate in SCOTT COUNTY, IOWA:

That portion of Maple Street shown on the Auditor's Plat of Oak Grove Fourth Addition, a subdivision of part of the Southeast fractional quarter of Section 21, Township 77 North, Range 2 East of the 5th P.M., Scott County, Iowa (said subdivision being a part of Government Lots 1 and 2 in the above quarter section), all as shown on that Auditor's Plat of Oak Grove Fourth Addition dated July 3, 1952 and filed August 22, 1952 in the office of the Scott County Recorder at 69 Misc., page 474, as follows:

Commencing at the Northeast corner of Lot 33 of Oak Grove Fourth Addition; thence Southerly along the East line of said Lot 33 of Oak Grove Fourth Addition to the Southeast corner thereof, the same being the North side of a public alley, 169 feet, more or less; thence Northeasterly to the Southwest corner of a tract of land conveyed to Raymond H. Kuehl and Betty L. Kuehl by Warranty Deed dated February 26, 1960 and filed in the office of the Scott County Recorder at 247 Deeds, page 404, thence Northwesterly along the Easterly line of the real estate conveyed to the said Raymond H. Kuehl and Betty L. Kuehl by said deed dated February 26, 1960 and filed in the office of the Scott County Recorder at 247 Deeds, page 404 to a point which is due east of the Northeast corner of Lot 33 of Oak Grove Fourth Addition and which is 30 feet from the area designated on the Auditor's Plat of Oak Grove Fourth Addition as Maple Street; thence West to the Northeast corner of Lot 33 of Oak Grove Fourth Addition, the same being the point of beginning of the tract herein described, excepting therefrom any real estate described herein which is not a portion of the street right-of-way of Maple Street as shown on the Auditor's Plat of Oak Grove Fourth Addition, as referenced herein.

This conveyance is made pursuant to certain proceedings (including a public hearing) held by Grantor herein, pursuant to applicable provisions of Iowa law regarding the transfer of municipal-owned real estate, and is without consideration.

Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share in and to the real estate.

Words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

STATE OF IOWA, SCOTT COUNTY, ss.

On this 12 day of February 1997, before me, the undersigned, a Notary Public in and for said State, personally appeared Phil Hoover and Carol A. Bernauer, to me personally known, who being by me duly sworn did say that they are the Mayor and City Clerk, respectively, of the City of Buffalo, Scott County, Iowa; that the seal affixed to the foregoing instrument is the corporate seal of the municipality; and that the instrument was signed and sealed on behalf of the municipality, by authority of its City Council, as contained in Resolution No. 03-97 passed and adopted by the City Council, on the 03 day of February, 1997, and that Phil Hoover and Carol A. Bernauer acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the municipality, by it voluntarily executed to me known to be the identical person(s) named in and who executed the foregoing instrument and acknowledged that they executed the same as their voluntary act and deed.

Dated: 02-12-, 1997

CITY OF BUFFALO, SCOTT COUNTY, IOWA

BY: [Signature] Phil Hoover, MAYOR (Grantor)

BY: [Signature] Carol A. Bernauer, CITY CLERK (Grantor)

(Grantor)

(Grantor)

(Grantor)

(Grantor)

[Signature] Deborah L. Guenther Notary Public



STATE OF _____, COUNTY, ss:

On this _____ day of _____, 19____, before me, the undersigned, a Notary Public in and for said County and said State, personally appeared _____

to me known to be the identical persons named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

_____, Notary Public in and for said state

STATE OF _____, COUNTY, ss:

On this _____ day of _____, 19____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____ and _____

_____, to me personally known, who, being by me duly sworn, did say that they are the _____ and _____ respectively,

of said corporation; that (no seal has been procured by the said) corporation; that said instrument was signed and sealed (the seal affixed thereto is the seal of said)

on behalf of said corporation by authority of its Board of Directors; and that the said _____ and _____ 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.

_____, Notary Public in and for said state

QUIT CLAIM DEED

TO

Entered upon transfer books and for taxation this _____ day of _____, 19____ Auditor _____ Deputy _____

Filed for record, indexed and delivered to County Auditor this _____ day of _____, 19____ at _____ o'clock _____ M., and recorded in

of _____ County Records. Recorder's fee \$ _____ PAID. Auditor's fee \$ _____ PAID. Recorder _____ Deputy _____

WHEN RECORDED RETURN TO

CERTIFICATION OF PROCEEDINGS

Carol A. Bernauer, as lawfully appointed City Clerk of the City of Buffalo, Scott County, Iowa, hereby certifies that the documents attached hereto in reference to the transfer of the following described real estate to Joseph A. Bernauer and Michele A. Bernauer, husband and wife:

See Exhibit "A" attached hereto

are true and correct copies of the originals thereof, as follows:

1. A Resolution (# 02 - 97) setting a public hearing on the matter of the transfer of said real estate, said public hearing to be held on the 03 day of FEBRUARY, 1997 at 7:00 o'clock P. m, at the Buffalo City Hall, 409 3rd Street, Buffalo, Iowa;
2. An Affidavit of Publication showing publication of a lawful notice of said public hearing by the Quad City Times, a daily newspaper printed and published in the City of Davenport, Scott County, Iowa, providing notice of said hearing to be held on the 03 day of FEBRUARY, 1997 at 7:00 o'clock P. m, at the Buffalo City Hall, 409 3rd Street, Buffalo, Iowa;
3. A Resolution (# 03 - 97), following the above-specified public hearing, and approving the transfer of real estate to Joseph A. Bernauer and Michele A. Bernauer, husband and wife;

The undersigned certifies that the execution of this Certification of Proceedings is by a party having authority to execute the same and that as stated herein, the copies of documents attached hereto are true and correct copies of the originals thereof.

CITY OF BUFFALO, IOWA

Carol A. Bernauer

Carol A. Bernauer, City Clerk for the
City of Buffalo, Iowa

Subscribed and sworn to me by Carol A. Bernauer, before me, this 04 day
of FEBRUARY, 1997.

Deborah L. Guenther

Notary Public in and for the State of Iowa

