

Miscellaneous Record, No. 23, Madison County, Iowa

My Commission Expires July 4, 1942.
 F. P. Hartsook #7354 Filed for record the 29 day of December
 A.D. 1939 at 10:07 o'clock A.M.

To
 Patrick Cline Fee \$.90[✓] Pearl E. Shetterly, Recorder

PARTY WALL AGREEMENT

THIS AGREEMENT, Made and entered into this 27th day of December, A.D. 1939, by and between F. P. Hartsook, Winterset, Iowa, party of the first part, and Patrick Cline, party of the second part,

WITNESSETH:

WHEREAS, the party of the first part is at the present time the owner in fee simple of the following described real estate, to-wit:

The South Half ($\frac{1}{2}$) of Lots Three (3) and Four (4)
 Block Eleven (11) Original Town of Winterset, Madison
 County, Iowa, and

WHEREAS, the party of the second part is at the present time the owner in fee simple of the North Half ($\frac{1}{2}$) of Lots Three (3) and Four (4), Block Eleven (11) Original Town of Winterset, Madison County, Iowa, and

WHEREAS, the center of the North wall of the building, now located on the premises belonging to the first party, rests either on or very close to the line dividing said Lots Three (3) and Four (4) into the North Half ($\frac{1}{2}$) and South Half ($\frac{1}{2}$) thereof, and

WHEREAS, the parties hereto are desirous of reducing to writing the agreement or understanding heretofore existing between the parties as to the use and ownership of said wall in common.

NOW, THEREFORE, it is agreed by and between the parties hereto that the expense of repairs to said wall in common shall be made at the expense of the owner or owners of the South Half ($\frac{1}{2}$) of Lots Three (3) and Four (4) until such time as the owner or owners of the North Half ($\frac{1}{2}$) of said Lots Three (3) and Four (4) build against said wall and cause beams, joists or other supports to be placed therein or attached thereto, after which time the expense of repairing, maintaining

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or rebuilding said wall shall be borne equally between the owner or owners of the South Half ($\frac{1}{2}$) of said Lots and the owner or owners of the North Half ($\frac{1}{2}$) of said Lots, and in proportion to the interest of each therein.

In the event that said wall is destroyed by fire, tornado or by any other cause other than the negligence of the owner or owners of said portions of said lots, neither of the parties hereto shall be under any obligation to rebuild said party wall but in the event that said wall is rebuilt by the owner or owners of either the North Half ($\frac{1}{2}$) of said Lots or the South Half ($\frac{1}{2}$) of said Lots, it shall be built solely at said owner or owners' expense who desires to have the same rebuilt, and in the event that the owner or owners of the other portion of said lots desire to use said wall, then and in that event the owner who desires to use said wall shall pay one-half of the appraised value to the other owner, said appraised value to be determined at the time ^{that} the owner who did not contribute desires to build on to said wall.

Either co-proprietor of said wall in common may increase the height of said wall at his sole expense, and he shall repair and keep in repair that part of the same above the part held in common. If the present wall can not support the wall which is desired to be raised upon it, the one who wishes to have it made higher must rebuild said wall anew and at his own expense and the additional thickness of said wall must be placed entirely on said party's own land.

The owner or owners who did not contribute to the heightening of said wall may cause the raised part to become common by paying one-half of the appraised value of raising it and half of the value of the ground occupied by the additional thickness thereof, if any ground was so occupied.

It is specifically understood and agreed that the party of the second part, his successors or assigns, may build against said wall now held in common and cause beams or joists to be placed therein.

Neither of the parties hereto, his successors or assigns, shall make any openings in said wall or cavities therein, nor fix or attach thereto any work or structure without the consent of the other, or upon his refusal, without having taken all necessary precaution to guard against injury to the rights of the other, to be ascertained by persons skilled in building.

It is specifically understood and agreed by and between the parties hereto that this agreement shall be binding on each of the parties hereto, and upon their grantees, devisees, heirs or assigns and shall be construed as a covenant running with the land.

F. P. Hartsook
First Party
Patrick Cline
Second Party

STATE OF IOWA MADISON COUNTY)SS:

On this 27th day of December, A. D. 1939, before me, a Notary Public in and for the County of Madison, State of Iowa, personally appeared F. P. Hartsook and Patrick Cline, 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 Whereof, I have hereunto signed my name and affixed my Notarial Seal the day and Seal last above written.

Shirley A. Webster
Notary Public in and for Madison County, Iowa

J. H. Kitch