

SHARP, JAHN, FEILMEYER, FEILMEYER & KEENAN, plc

ATTORNEYS AT LAW

DALE E. SHARP
LAWRENCE E. JAHN
FRANKLIN J. FEILMEYER
VICTORIA A. FEILMEYER
CHRISTINE R. KEENAN

CARIN M. FORBES

618 DOUGLAS AVE., P.O. BOX 270, AMES, IOWA 50010-0270
TELEPHONE: 515-239-5000 • FAX: 515-239-5010
INTERNET: [HTTP://AMESIOWALAW.COM/](http://AMESIOWALAW.COM/)

FRANKLIN J. FEILMEYER
DIRECT NUMBER: 515-239-5006
EMAIL: FJF@AMESIOWALAW.COM

June 29, 2005

To: Wells Fargo Bank, N.A.
Attn: Kim Iiams
424 Main St.
Ames, IA 50010

re: Adam Paul Rash/Mindy Sue Ohlendorf, Mortgagors

Title Examination Report

I have examined the abstract of title as last certified by Abstract and Title Services of Story County¹ to April 25, 2005, at 8:00 A.M.,² to the real property described as:

Lot 5, South Fork Subdivision, Second Addition to the City of Ames, Iowa.

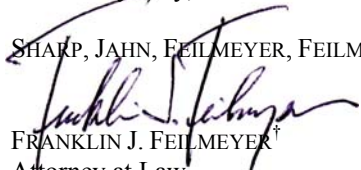
Subject to the Special Exceptions and Standard Exceptions noted on the attached schedules, I find marketable record title at the time of the abstract certification to the real property was vested in:

SOUTHFORK DEVELOPMENT, L.L.C.

Upon satisfaction of the Special Exceptions, as indicated, and subject to the Standard Exceptions, it is my opinion that the filing of a properly executed instrument of conveyance will convey marketable title to the purchasers and that the filing of a mortgage properly executed by the mortgagors will result in a primary lien thereon.

Yours very truly,

SHARP, JAHN, FEILMEYER, FEILMEYER & KEENAN, PLC


FRANKLIN J. FEILMEYER[†]
Attorney at Law

copy to:
Century 21/SRE
Gateway—Russ McCullough

¹ Iowa Finance Authority/Title Guaranty Division Member № 8650.

² This office received the abstract on June 16, 2005.

[†] Iowa Finance Authority/Title Guaranty Division Member № 2836.

Wells Fargo Bank, N.A.
June 29, 2005
Page 2

Special Exceptions

Unless provided for, a purchaser or lender will take title subject to the following, which materially affect title to the real property:

- 1. MORTGAGE.** Entry 38 discloses that the real property was mortgaged by Terra Firma, L.P. to **First American Bank** to secure an original indebtedness of \$2,017,500.00. The mortgage is dated April 26, 2002, and was filed in the office of the Recorder of Story County, Iowa, on May 1, 2002, and recorded as Instrument № 02-06487. **Requirement:** Obtain and file a release of the mortgage lien.
- 2. MORTGAGE.** Entry 40 discloses that the real property was mortgaged by Southfork Development, L.L.C., to **First American Bank** to secure an original indebtedness of \$3,000,000.00. The mortgage is dated December 4, 2003, and was filed in the office of the Recorder of Story County, Iowa, on December 4, 2003, and recorded as Instrument № 03-24413. **Requirement:** Obtain and file a release of the mortgage lien.
- 3. MORTGAGE.** Entry 52 discloses that the real property was mortgaged by Southfork Development, L.L.C., to **First American Bank** to secure an original indebtedness of \$178,000.00. The mortgage is dated April 12, 2005, and was filed in the office of the Recorder of Story County, Iowa, on April 20, 2005, and recorded as Instrument № 05-04083. **Requirement:** Obtain and file a release of the mortgage lien.
- 4. TAXES.** The abstract discloses real property taxes levied on Parcel № 09-08-175-000 (underlying Outlot "Q") due in two installments the amount of \$3,397.00 each for the fiscal year beginning July 1, 2003 as follows: the installment delinquent after September 30, 2004 is paid and not delinquent, and the installment delinquent after March 31, 2005 is paid and not delinquent. There are no unpaid special assessments or personal taxes shown. **Note:** Unpaid taxes levied are a lien upon the real property as of the date of the levy, and delinquent taxes accrue interest and penalties and may result in a foreclosure and a loss of title. One taking an interest in real property is advised that taxes accruing during the fiscal year beginning July 1, 2004 are not shown by the abstract and should be provided for. **Requirement:** Pay or provide for the described taxes levied.
- 5. EASEMENT.** Entry 43 discloses that a perpetual easement has been granted to the City of Ames, Iowa, for utility purposes over the west 5 feet and the east 10 feet of the real property. The easement is dated February 11, 2004, and was filed in the office of the Recorder of Story County, Iowa, on February 26, 2004, and recorded as Instrument № 04-02197. **Note:** You should carefully examine this document and the easement area and satisfy yourself that the intended use and occupancy of the real property do not conflict with or violate any easement agreement.
- 6. DEVELOPMENT AGREEMENT.** Entry 26 discloses a "Memorandum of Agreement" relating to public improvements made between Terra Firma, L.P., as owner, and the City of Ames. The agreement is a restrictive covenant requiring the owners (or successors) to construct public improvements in accordance with plans approved by the City. The agreement is dated August 14, 2001, filed on August 17, 2001, and recorded as Instrument No. 01-11309. The covenant is deemed removed on officially platted lot for which a building permit has issued. **Note:** A purchaser or lender will take an interest in the property subject to this covenant and must fulfill it as a condition to using and occupying the real property. **Requirement:** Obtain or provide for a building permit or a release of the agreement.
- 7. SIDEWALK/STREET TREE AGREEMENT.** Entry 42 discloses an agreement for sidewalks and street trees between Southfork Development, L.L.C., as owner, and the City of Ames. The agreement is

Wells Fargo Bank, N.A.
June 29, 2005
Page 3

a restrictive covenant requiring the owners (or successors) to construct sidewalks in accordance with plans approved by the City. The City may withhold an “occupancy permit” or revoke building and zoning permits if sidewalks are not constructed and trees are not planted. **Note:** A purchaser or lender will take an interest in the property subject to this covenant and must fulfill it as a condition to using and occupying the real property. **Requirement:** Obtain or provide for an occupancy permit or a release of the agreement.

Wells Fargo Bank, N.A.
June 29, 2005
Page 4

Standard Exceptions

CAUTION: Certain matters affecting title to real property are not disclosed in public records or by an abstract of title. Anyone taking an interest in real property must be familiar with the grantor thereof and diligently inquire into the matters described herein. Unless shown in the abstract and specifically addressed, this Title Examination Report is subject to the following limitations:

- 1. LOCATION.** We express no opinion, regarding boundary lines, encroachments, availability of access to public right of way, or matters discoverable by survey or visual inspection. One taking an interest in real property should have registered land surveyor mark boundaries as necessary. A survey drawing appearing at entry 41 (which is illegible) provides a graphical representation of the boundaries and location of the real property.
- 2. ABSTRACT LIMITATIONS.** The limitations of the abstractor's certificates are incorporated herein as if set out fully. We express no opinion on matters not discoverable by reading the abstract, *e.g.*, the rights or claims of parties in actual possession not shown by public records (squatter, tenant, adverse possessor, easements by prescription); the rights of undisclosed spouses; unreported bankruptcy proceedings; competency of persons executing instruments; authority of persons executing instruments in a representative capacity; and authenticity of instruments and signatures.
- 3. LIEN SEARCHES.** The last abstractor's certificate discloses that no buyer lien search was performed. A lender must comply with Iowa Code section 654.12B to ensure priority of a purchase money mortgage over other liens under state law. Certain liens created under the laws of the United States may take priority over mortgage liens. We express no opinion as to whether a mortgage complies with Iowa Code section 654.12B, and in the absence of a buyer lien search, whether a mortgage will take priority over all liens. If Iowa Title Guaranty is required, a buyer search must be obtained, and one should resolve any doubt in favor of a buyer lien search.
- 4. CERTAIN LIENS.** We express no opinion regarding any lien, or right to a lien, imposed by law, for services, labor, or material heretofore or hereafter furnished and not shown by the public records (*e.g.*, the mechanic's lien law or uniform commercial code), taxes, or assessments not yet certified to the county treasurer for collection, including special assessments for public improvements, unpaid utility services, and unpaid homeowners' association assessments that may become a lien.
- 5. ZONING & REGULATORY LAWS.** We express no opinion regarding the presence on the property of wells, wastewater systems, hazardous or solid waste materials, private burial sites, or underground storage tanks that may be affected by federal, state, or local applicable laws and subject the property to liens and the owner thereof to personal liability for the cost of remedying such violations. We express no opinion regarding regulatory laws (*e.g.*, building code, disclosure, discrimination, disability, health, rental housing, soil conservation, subdivision, and zoning statutes) affecting use or occupancy; character, dimensions, or location of improvements; rebuilding nonconforming structures; transfer of nonconforming uses; separation in ownership; reduction in the dimensions or area; or use of private water supply and wastewater disposal systems. Entry 53 discloses that the real property is subject to the zoning ordinance of Ames, Iowa. You are advised to satisfy yourself that the intended use and occupancy of the real property do not conflict with or violate any such laws.

Copyright 2005, all rights reserved. This *Title Examination Report* is issued only for the benefit of the addressees named, and no one else may rely upon it. This *Title Examination Report* may not be reproduced or reused in any form without the written consent of the author.
