

01-634-CD
RODGER P. WELLS et al -vs- TORRELL AND
BERNARDO REMODELING
AND CUSTOM HOMES

01.634.00

WAIVER OF RIGHT TO FILE MECHANICS' LIEN

KNOW ALL MEN BY THESE PRESENTS, that RODGER P. WELLS and DOROTHY J. WELLS, husband and wife, having an address of P.O. Box 66, Penfield, Pennsylvania 15849 ("Owners"), and RONALD C. TORRELL and RICHARD J. BERNARDO, partners, t/a TORRELL AND BERNARDO REMODELING AND CUSTOM HOMES, having an address of 130 McCracken Run Road, DuBois, Pennsylvania 15801 ("Contractor"), have entered into a Construction Agreement dated April 24, 2001, ("Contract") relating to the construction of a building and other improvements upon the following described real estate, as part of the consideration for which agreement this Waiver of Liens is given:

ALL that certain piece of land situated in Sandy Township, Clearfield County, Commonwealth of Pennsylvania, containing 12.20 acres being further bounded and described on Exhibit "A" attached hereto and made a part of this document.

UNDER AND SUBJECT TO the right of Norman H. Yale and Diana Yale; Michael R. Benedek and Dorothy F. Benedek; and Daniel Kalgren, their successors and assigns, to use a private driveway running along the southern most boundary line of the property herein described for the sole purpose of ingress, egress, and regress to and from their individual properties to Township Road 406, with the distinct understanding that the Grantees herein, their heirs, successors, and assigns, as owners of the private drive, shall have no obligation to plow or maintain the private road. This is a covenant that runs with the land.

NOW, THEREFORE, Contractor, intending to be legally bound hereby, in

consideration of the sum of One Dollar (\$1.00) to Contractor in hand paid, the receipt and

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William A. Shaw atty Cherry
Prothonotary pd \$20.00

sufficiency of which are hereby acknowledged, as well as for and in consideration of the entry by Owners into the Contract, does hereby, for Contractor and any and all Subcontractors, materialmen and parties acting for, through or under Contractor, them or any of them, or anyone, covenant and agree with Owners that no mechanics' liens or claims shall be filed or maintained by Contractor, them or any of them, or any one, against the above-described real estate, or the buildings or other improvements erected or to be erected thereon, or any of them, or the estate (including a leasehold estate), interest or title thereto of Owners, for or on account of any work done or materials furnished under the Contract or under any supplemental contract, verbal or written, or contract for extra work relating to the construction and completion of said buildings or other improvements, or any of them, or otherwise; and Contractor, for Contractor and any and all Subcontractors, materialmen and parties acting through or under Contractor, them or any of them, hereby expressly waives and relinquishes the right to have, file or maintain any mechanics' liens or claims against said real estate or buildings or other improvements or any of them.

Contractor hereby covenants, promises and agrees that all Subcontractors, material suppliers, and laborers on the work shall look to and hold Contractor personally liable for all subcontracts, materials furnished and work and labor done, so that there shall not be any legal or lawful claim of any kind whatever against Owners, or any other person with an estate (including a leasehold estate) in the above-described property, for any work done or labor or materials furnished under the Contract or otherwise.

This agreement waiving the right of lien shall be an independent covenant and shall operate and be effective as well with respect to work done and materials furnished under any supplemental contract for extra work in the construction and completion of the said buildings or other improvements as to any work and labor done and materials furnished under the Contract aforesaid.

Contractor hereby represents and warrants that prior to the date hereof no work has been done and no materials have been furnished with regard to the construction which is the subject of the Contract or with regard to any supplemental contract, verbal or written, or contract for extra work in or about the construction and completion of any buildings or other improvements on the above-described property.

• In order to give Owners and any person having an estate in the above-described property (including a leasehold estate), full power and authority to protect itself and themselves, the above-described property, the buildings or other improvements to be constructed thereon, and the curtilages appurtenant thereto, against any and all liens or claims filed by the Contractor or anyone acting under or through it in violation of the foregoing covenant by Contractor, the Contractor hereby irrevocably authorizes and empowers any attorney of any Court of Common Pleas of the Commonwealth of Pennsylvania, to appear as attorney for it, them , or any of them, in any such Court, and in its or their name or names, (a) to the extent permitted by law, to mark satisfied of record at the cost and expense of Contractor or of any Subcontractor, laborer or material supplier, any and all claims or liens filed in

violation of the foregoing waiver and covenant, or (b) to cause to be filed and served in connection with such claims or liens (in the name of Contractor or any Subcontractor, laborer or material supplier, or anyone else acting under or through it) any pleading or instrument, or any amendment to any pleading or instrument previously filed by it or them, to incorporate therein, as part of the record the waiver contained in this instrument, and for such act or acts this instrument shall be good and sufficient warrant and authority, and a reference to the court, term and number in which and where this Waiver of Liens shall have been filed shall be a sufficient exhibit of the authority herein contained to warrant such action, and the Contractor for itself and for them does hereby remise, release and quitclaim all rights and all manner of errors, defects and imperfections, whatsoever in entering such satisfaction or in filing such pleading, instrument or amendment, or in any way concerning them.

This agreement and Waiver of Liens is made and intended to be filed with the Prothonotary of the Court of Common Pleas of the County of Clearfield, Commonwealth of Pennsylvania, or other proper place in which the above-described lands are located, within ten (10) days after the date hereof in accordance with the requirements of law in such case provided.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals

this 2nd day of May, 2001.

WITNESS:

Paula Welch

Rodger P. Wells (SEAL)
Rodger P. Wells

Paula Welch

Dorothy J. Wells (SEAL)
Dorothy J. Wells
("Owners")

WITNESS:

TORRELL AND BERNARDO
REMODELING AND CUSTOM HOMES:

Paula Welch

By Ronald C. Torrell (SEAL)
Ronald C. Torrell

Paula Welch

By Richard J. Bernardo (SEAL)
Richard J. Bernardo
("Contractor")

Exhibit A

Beginning at a point in the center of Township Road 406, T-406 hereafter, said point being the northeastern most corner of the land herein described and said point also being the southeastern most corner of the land now or formerly, n/f hereafter, of Norman H. Yale and Diana Yale and said point being S64°-47'E, 30.6 feet from a 1" iron pipe set by this survey on the southern most line of the aforementioned Yale land and running:

1. Thence, S05°-05'W, 78.4 feet along the centerline of T-406 to a point at the southeastern most corner of the land herein described;
Thence, the following courses and distances along the south side of an existing private drive, said courses and distances also being the southern most boundary of the land herein described and running along the land n/f of Harry and Linda Yale and then the land of Daniel A. and Shiela M. Kalgren;
2. N29°-08'W, 48.8 feet to a point;
3. N44°-43'W, 33.1 feet to a point;
4. N53°-53'W, 74.2 feet to a point;
5. N61°-56'W, 69.9 feet to a point;
6. N67°-27'W, 64.8 feet to a point;
7. N73°-33'W, 270.7 feet to a point;
8. N79°-36'W, 120.1 feet to a point;
9. N84°-43'W, 323.0 feet to a point;
10. N83°-34'W, 225.2 feet to a point;
11. N84°-41'W, 193.5 feet to a point;
12. S88°-08'W, 185.8 feet to a point;
13. S82°-58'W, 69.3 feet to a point at the southwestern most corner of the land herein described;
14. Thence, N05°-09'E, 626.8 feet along the land n/f of Daniel A. and Shiela M. Kalgren to an existing $\frac{1}{2}$ " iron pin found at the northwestern most corner of the land herein described;
15. Thence, S84°-51'E, 184.0 feet along the land n/f of Allen I. Dodd to a point at a northwestern corner of the land herein described;
16. Thence, N05°-09'E, 49.5 feet along the land n/f of Allen I. Dodd to a point at the northern most corner of the land herein described;
17. Thence, S75°-04'E, 567.2 feet along the land n/f of Hiram H. and Mildred Dodd to an existing 1" iron pipe found at a northern corner of the land herein described;
18. Thence, S14°-42'W, 125.9 feet along the land n/f of Gary R. Salada to a 1" iron pipe found at a northern corner of the land herein described;
19. Thence, S08°-33'E, 171.0 feet along the land n/f of Gary R. Salada to a 1" iron pipe found at a north/central corner of the land herein described;
20. Thence, S74°-08'E, 320.1 feet along the land n/f of Gary R. Salada to a 1" iron pipe found at a northeastern corner of the land herein described;
21. Thence, S05°-09'W, 191.2 feet along the land n/f of Michael R. Benedek and Dorothy E. Benedek to a 1" iron pipe found at a northeastern corner of the land herein described;

22. Thence, S79°-36'E, 39.3 feet along the land n/f of Michael R. Benedek and Dorothy E. Benedek to a point at a northeastern corner of the land herein described;
23. Thence, S73°-33'E, 272.4 feet along the land n/f of Michael R. Benedek and Dorothy E. Benedek to a point at a northeastern corner of the land herein described;
24. Thence, S67°-27'E, 22.6 feet along the land n/f of Michael R. Benedek and Dorothy E. Benedek to an existing 1" iron pipe found at a northeastern corner of the land herein described;
25. Thence, S68°-18'E, 42.2 feet along the land n/f of Norman H. Yale and Diana Yale to a point at a northeastern corner of the land herein described;
26. Thence, S64°-47'E, 187.1 feet along the land n/f of Norman H. Yale and Diana Yale to a point in the center of T-406 at the northeastern most corner of the land herein described and the Point Of Beginning.

All bearings are based on the physical alignment of the southern most line of the land n/f of Gary R. Salada as found in the field and the bearing assigned to said line as found on record in Deed Book Volume 1404 page 325.

Overall comparisons of adjoining bearings on record and previous surveys may reveal different bearing assignments for common lines of boundary. Differences are due to different bearing bases utilized.

All bearings are rounded to the nearest minute and all distances are rounded to the nearest tenth of a foot.

This suggested deed description was written from data secured from a survey made on the premises July 11, 1994.