

ST-910-CD
J.W. RICE CONSTRUCTION, INC. -vs- ROBIN A. DAVIS

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

J.W. RICE CONSTRUCTION, INC., :
Plaintiff :

vs. :

ROBIN A. DAVIS, :
Defendant :

CIVIL ACTION - AT LAW

No. 01-970-00

Type of pleading:

COMPLAINT

Filed on behalf of:

PLAINTIFF

Counsel of record for this
party:

Matthew B. Taladay, Esq.
Supreme Court No. 49663
Hanak, Guido and Taladay
498 Jeffers Street
P. O. Box 487
DuBois, PA 15801

814-371-7768

FILED

JUN 20 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - AT LAW

J.W. RICE CONSTRUCTION, INC.,	:	
Plaintiff	:	
	:	
vs.	:	No.
	:	
ROBIN A. DAVIS,	:	
Defendant	:	

NOTICE

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defense or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator's Office
Clearfield County Courthouse
One North Second Street
Clearfield, PA 16830

(814) 765-2641 Ext. 1303

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - AT LAW

J.W. RICE CONSTRUCTION, INC.,	:	
Plaintiff	:	
	:	
vs.	:	No.
	:	
ROBIN A. DAVIS,	:	
Defendant	:	

COMPLAINT

AND NOW, comes the Plaintiff, J.W. Rice Construction, Inc., by its attorneys, Hanak, Guido and Taladay, and hereby files the within Complaint averring as follows:

1. Plaintiff is J.W. Rice Construction, Inc., a Pennsylvania business corporation having its office and principal place of business at 90 Beaver Drive, DuBois, Pennsylvania 15801.
2. Defendant is Robin A. Davis, an adult individual whose last known address is 743 Moravia Road, New Galilee, Pennsylvania 16141.
3. On or about March 16, 1999, Plaintiff and Defendant entered into an Agreement whereby Plaintiff would sell and Defendant would purchase certain parcels of improved real estate consisting of a stable property located at Treasure Lake, Sandy Township, Clearfield County, Pennsylvania. A copy of the Agreement is attached hereto as Exhibit "A".
4. The property subject to the Agreement of Sale was obtained by Plaintiff by deed of Recreation Land Corporation dated May

22, 1995 and recorded in Clearfield County Document Book 1695 at Page 473. A copy of this deed is attached hereto as Exhibit "B".

5. The property in question is under and subject to a restriction set forth in the deed which reads as follows:

4. The property must be used for a horse riding stables with an auxiliary pasture and for related activities to usage, but additional uses of the property are permitted as long as they do not diminish the use of the premises as a riding stable and are approved by the Treasure Lake Property Owners Association, Inc..

6. Prior to entry into the written Agreement of Sale, J.W. Rice, President of the seller, verbally advised buyer of the restriction and buyer acknowledged that she was aware of this restriction.

7. Seller at all times stood ready to perform under the Agreement and to tender the property for sale.

8. In addition, seller offered to finance the property to Buyer under terms as favorable or more favorable than rates available from a commercial lending institution.

9. Buyer has at all times failed and refused to perform her obligation to follow through with the purchase of the property as set forth in the contract.

10. As a result of buyer's breach of the contract, the Plaintiff, in an attempt to mitigate his damages, put the property back on the market. The property was subsequently sold on October 18, 1999 at a sale price of \$180,000.00. A copy of the deed from J.W. Rice Construction, Inc. to Triple S Stables, LLC dated October 18, 1999 is attached hereto as Exhibit "B".

11. Pursuant to the terms of the Agreement between Plaintiff and Triple S Stables, LLC, Plaintiff was required to perform excavation and repair the roof of the property. A copy of the Sales Agreement between Plaintiff and Triple S Stables, LLC is attached hereto as Exhibit "C".

12. In order to make the property saleable, Plaintiff had to expend additional sums as follows:

(a)	Roof repair	\$ 3,500.00
(b)	Excavation	13,800.00
(c)	Survey	<u>2,704.00</u>
		\$20,004.00

13. In addition, because of Defendant's breach of the sales contract, Plaintiff incurred additional interests, assessment and taxes in the amount of \$3,500.00.

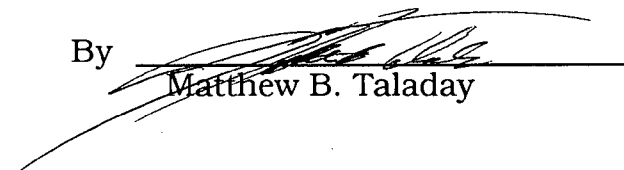
14. Plaintiff seeks damages from Defendant in the amount of \$35,000.00 representing the difference between the contract sale price between the Plaintiff and the Defendant and the price at which Plaintiff was subsequently able to sell the property, plus the additional sum of \$23,504.00 representing Plaintiff's additional expenses on the property, representing total damages of \$58,504.00.

WHEREFORE, Plaintiff demands judgment in the amount in excess of \$25,000.00.

JURY TRIAL DEMANDED.

HANAK, GUIDO AND TALADAY

By


Matthew B. Taladay

AGENT FOR SELLER
COLDWELL BANKER DEVELOPAC
992 BEAVER DRIVE
DU BOIS, PA 15801
PA. LICENSED BROKER

SUBAGENT FOR SELLER
PA. LICENSED BROKER

THIS AGREEMENT, this 16th day of March, A.D. 1999

1. PRINCIPALS: Between J.W. RICE CONSTRUCTION, INC.

with mailing address of 90 BEAVER DRIVE
DU BOIS, PA Zip Code 15801 Phone # (814) 375-0500 hereinafter called Seller,
and ROBIN A. DAVIS

with mailing address of 743 MORAVIDA ROAD
NEW CASTLE, PA Zip Code 16141 Phone # (724) 336-6780 hereinafter called Buyer.

2. PROPERTY: Seller hereby agrees to sell and convey to Buyer, who hereby agrees to purchase:
ALL THAT CERTAIN lot or piece of ground with buildings and improvements thereon erected, if any, known as:
TREASURE LAKE STABLES 3 BUILDINGS & 14.87 ACRES AND VACANT LOT SECTION

in the TOWNSHIP of SANDY County of CLEARFIELD
State of PA Zip Code 15801

Zoning Classification: COMMERCIAL

Failure of this agreement to contain the zoning classification (except in cases where the property (and each parcel thereof, if subdividable) is zoned solely or primarily to permit single-family dwellings) shall render this agreement voidable at the option of the Buyer, and, if voided, any deposits tendered by the Buyer shall be returned to the Buyer without any requirement for court action.

Tax Parcel No. 122-63-714-0003A Deed Book 1695/1742 Page No. 473/9874

3. TERMS: 122-63-16-514-21

(A) Purchase Price TWO HUNDRED FIFTY THOUSAND AND NO/100 U.S. Dollars

to be paid to the Seller by the Buyer as follows:

(1) Cash or check at signing this agreement: UPON ACCEPTANCE \$ 3,000.00

(2) Cash or check to be paid on or before: 19 \$

(3) \$

(4) \$

(5) Cash or certified check at time of settlement: \$ 212,000.00

TOTAL PRICE \$ 215,000.00

(B) Written approval of Seller to be on or before: MARCH 25, 1999

(C) Settlement to be made on or before: MAY 3, 1999

(D) Conveyance from Seller will be by fee simple deed of special warranty.

(E) Transfer taxes will be paid by 1X BUYER & 1X SELLER

(F) The following shall be apportioned pro-rata as of and at time of settlement: taxes as levied and assessed, rents, interest on mortgage assumptions, water and sewer rents, lienable municipal services, and condominium fees, if any

4. STATUS OF WATER AND SEWER: Seller warrants that this property is served by:

☒ public water ☐ well water ☒ public sewer ☐ septic system ☐

Seller further warrants that these systems are fully paid for as of the date of this Agreement.

5. POSSESSION AND TENDER:

(A) Possession is to be delivered by deed, keys and physical possession to a vacant building (if any) free of debris at day and time of settlement, or by deed and assignment of existing lease(s) at time of settlement. If premises are tenant occupied, unless otherwise specified herein: TENANT TO BE VACANT FROM PROPERTY AT TIME OF CLOSING

If tenant occupied, Buyer will acknowledge the existing lease(s) by initialing it (them) at the time of signing this Agreement of Sale and by attaching it (them) hereto.

(D) Seller will not modify or extend any existing leases or enter into any new or additional leases for the premises without the express written consent of the Buyer.

(C) Formal transfer of an executed deed and purchase money is hereby waived.

(D) Buyer reserves the right to make a pre-settlement inspection of the subject property.

6. ITEMS OF PERSONALITY: The following items are included in this sale and purchase price: OFFICE DESKS &

FURNITURE AND ANY REMAINING FEED, HAY AND SHAVINGS. ALL BARN EQUIPMENT SUCH AS BUCKETS,

TACK, JUMPS, SADDLES, WHEELBARROWS, BAKES, HOSES. NO UNIDENTIFIED EQUIPMENT.

Seller hereby warrants that he/she will deliver good title to all of the articles described in this paragraph and any other fixtures or items of personality specifically scheduled and to be included in this sale.

7. SPECIAL CLAUSES:

E. CONTINGENT UPON BUYER OBTAINING MORTGAGE FINANCING. BUYER IS PRE-APPROVED

F. BUYER AGREES TO LET SELLER HAVE PETTING ZOO ANIMALS ON PREMISES AS LONG AS SELLER PAYS FOR FEED AND MAINTENANCE OF SAID ZOO ANIMALS.

G. SPLIT RAIL FENCE BUNDLES TO STAY WITH PROPERTY.

H. CONTINGENT UPON SELLER SATISFYING THE EXISTING LEASE ON NEW STABLE. BUYER DOES NOT WANT TO ASSUME OR TRANSFER LEASE.

County Parcel No. _____



This Deed,

MADE the 18th day of October
in the year nineteen hundred and ninety-nine (1999).

BETWEEN

J. W. RICE CONSTRUCTION, INC., a Pennsylvania Business Corporation, of 90 Beaver Drive, DuBois, Clearfield County, Pennsylvania, 15801, party of the first part, hereinafter referred to as,

GRANTOR

A

N

D

TRIPLE S STABLES, LLC, a Limited Liability Company, of 1423 Treasure Lake, DuBois, Clearfield County, Pennsylvania, party of the second part, hereinafter referred to as,

GRANTEE

WITNESSETH, That in consideration of One Hundred Eighty Thousand Dollars-----

(\$180,000.00)----- Dollars,

in hand paid, the receipt whereof is hereby acknowledged, the said grantor does hereby grant and convey to the said grantee ,

ALL that certain piece, parcel, or tract of land lying and being situate in Sandy Township, Clearfield County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at a iron pipe or iron pin, said pipe or pin being along the eastern right-of-way for Anguilla Road (50-foot r/w) and also being the southwest corner of Lot Number 514 in Section Number 16-Part 6 (Aruba) of the Treasure Lake Plan and the southeast corner of the herein described parcel, further being shown as Corner Number 1 on the hereto attached plat; thence, N 64 Degrees 28 Minutes 30 Seconds W along the eastern right-of-way for Anguilla Road a distance of 280.51 feet to a iron pipe or pin, said pipe or pin being the PC of a curve to the right, further being shown as Corner Number 2 on the hereto attached plat; thence along the eastern right-of-way for Anguilla Road by a curve to the right, said curve having a radius of 425.00 feet and an arc length of 546.87 feet, said arc having a chord bearing of N 27 Degrees 36 Minutes 46 Seconds W and a chord distance of 509.92 feet, to a iron pipe or iron pin, further being shown as Corner Number 3 on the hereto attached plat; thence N 09 Degrees 15 Minutes 00 Seconds E along the eastern right-of-way for Anguilla Road a distance of 48.04 feet to a iron pipe or iron pin, said pipe or pin being the southwest corner of Lot Number 215 in Section Number 16-Part 5 of the Treasure Lake Plan, further being shown as Corner Number 4 on the hereto attached plat; thence S 80 Degrees 45 Minutes 00 Seconds E along Lot Number 215 in Section Number 16-Part 5 of the Treasure Lake Plan a distance of 200.00 feet to a iron pipe or iron pin, said pipe or pin being the southeast corner of said Lot Number 215, further being shown as Corner Number 5 on the hereto attached plat; thence N 09 Degrees 14 Minutes 59 Seconds E along Lots Number 215 through 204, respectively, in Section Number 16-Part 5 of the

EXHIBIT "B"

Treasure Lake Plan a distance of 872.89 feet to a iron pipe or iron pin, said pipe or pin being the northwest corner of the herein described parcel, further being shown as Corner Number 6 on the hereto attached plat; thence S 72 Degrees 50 Minutes 00 Seconds E through the lands of Recreation Land Corporation, of which this is a part, a distance of 395.25 feet to a iron pipe or iron pin, said pipe or pin being along a cul-de-sac for Pelican Lane, further being shown as Corner Number 7 on the hereto attached plat; thence, along a cul-de-sac for Pelican Lane by a curve to the left, said curve having a radius of 50.00 feet and an arc length of 120.59 feet, said arc having a chord bearing of S 51 Degrees 55 Minutes 44 Seconds E and a chord distance of 93.42 feet, to a iron pipe or iron pin, said pipe or pin being the PC of a curve to the right, further being shown as Corner Number 8 on the hereto attached plat; thence along the southern right-of-way for Pelican Lane (50-foot r/w) by a curve to the right, said curve having a radius of 25.00 feet and an arc length of 21.03 feet, said arc having a chord bearing of N 83 Degrees 04 Minutes 16 Seconds E and a chord distance of 20.41 feet, to a iron pipe or iron pin, said pipe or pin being the PT of said curve, further being shown as Corner Number 9 on the hereto attached plat; thence S 72 Degrees 49 Minutes 40 Seconds E along the southern right-of-way for Pelican Lane a distance of 3.65 feet to a iron pipe or iron pin, said pipe or pin being the northwest corner of Lot Number 529 in Section Number 16-Part 6 of the Treasure Lake Plan, further being shown as Corner Number 10 on the hereto attached plat; thence S 13 Degrees 00 Minutes 00 Seconds W along Lots Number 529 through 519, respectively, in Section Number 16-Part 6 of the Treasure Lake Plan a distance of 813.97 feet to a iron pipe or iron pin, further being shown as Corner Number 11 on the hereto attached plat; thence S 25 Degrees 31 Minutes 30 Seconds W along Lots Number 519 through 515 in Section Number 16-Part 6 of the Treasure Lake Plan a distance of 300.02 feet to a iron pipe or iron pin, said pipe or pin being the southwest corner of said Lot Number 515, further being shown as Corner Number 12 on the hereto attached plat; thence S 64 Degrees 28 Minutes 30 Seconds E along Lot Number 515 in Section Number 16-Part 6 of the Treasure Lake Plan a distance of 75.00 feet to a iron pipe or iron pin, said pipe or pin being the northwest corner of Lot Number 514 in said Plan, further being shown as Corner Number 13 on the hereto attached plat; thence

NOTICE

In accordance with the provisions of "The Bituminous Mine Subsidence and Land Conservation Act of 1966", I/we, the undersigned grantee/grantees, hereby certify that I/we know and understand that I/we may not be obtaining the right of protection against subsidence resulting from coal mining operations and that the purchased property may be protected from damage due to mine subsidence by a private contract with the owners of the economic interest in the coal. I/we further certify that this certification is in a color contrasting with that in the deed proper and is printed in twelve point type preceded by the word "notice" printed in twenty-four point type.

Witness:

This day of

THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. (This Notice is set forth pursuant to Act No. 255, approved September 10, 1965, as amended.)

S 25 Degrees 31 Minutes 30 Seconds W along Lot Number 514 in Section Number 16-Part 6 of the Treasure Lake Plan a distance of 199.00 feet to a iron pipe or iron pin, the point of beginning. CONTAINING 647,852 square feet or 14.87 acres.

BEING subject to any utility easements which may be of record.

EXCEPTING AND RESERVING therefrom and subject to:

1. All easements, rights of way, reservations, restrictions and limitations shown or contained in prior instruments of record and in the aforesaid recorded plan.

2. The Declaration of Restrictions, Treasure Lake, Inc., recorded in Misc. Book Vol. 146, Page 476, to the extent that the provisions of the Declaration of Restrictions may grant certain privileges to the owners of lots in the Treasure Lake Subdivision to use the property as part of the recreational facilities of the Development.

3. All minerals and mining rights of every kind and nature.

4. The property must be used for a horse riding stables with an auxiliary pasture and for related activities to usage, but additional uses of the property are permitted as long as they do not diminish the use of the premises as a riding stable and are approved by the Treasure Lake Property Owners Association, Inc.

5. All rights and privileges given to the owners of interest in the Cayman Addition Campground, owners of interest in the Silverwoods and Wolf Run Timeshare Developments and NACO Resort Club Members, to use the premises as part of the recreational facilities of the Treasure Lake Development.

6. Existing timber agreements with Buehler Lumber Company and its associated companies.

BEING the same premises which became vested in J. W. Rice Construction, Inc., by deed of Recreation Land Corporation dated May 22, 1995, and recorded on August 10, 1999, in Clearfield County Deed and Records Book 1695, page 473.

SECOND THEREOF:

ALL that certain tract of land designated as Lot No. 514, Section 16, in the Treasure Lake Subdivision in Sandy Township, Clearfield County, Pennsylvania, recorded in the Recorder of Deeds Office in Misc. Docket Map File No. 25, Excepting and reserving therefrom and subject to:

1. All easements, rights of way, reservations, restrictions and limitations shown or contained in prior instruments of record and in the aforesaid recorded plan.

2. The Declaration of Restrictions, Treasure Lake, Inc., recorded in Misc. Book Vol. 146, page 476; all of said restrictions being covenants which run with the land.

3. All minerals and mining rights of every kind and nature.

4. A lien for all unpaid charges or assessments as may be made by Developer or Treasure Lake Property Owners Association, Inc.; which lien shall

run with the land and be an encumbrance against it.

BEING the same premises which became vested in J. W. Rice Construction, Inc., by deed of Ben Lowman dated January 30, 1996, and recorded in Clearfield County Deed Book 1742, page 74.

SEP-16-99 13:54 FROM:CB DEVELOPAC REALTY

ID:814 375 8842

PAGE

AGREEMENT FOR THE SALE OF COMMERCIAL REAL ESTATE

This form recommended and approved for, but not restricted to, use by the members of the Pennsylvania Association of REALTORS.

AGENT FOR SELLER

GOLDWELL BANKER Developac Realty
998 Beaver Drive, DuBois, PA

PA. LICENSED BROKER

SUBAGENT FOR SELLER

PA. LICENSED BROKER

THIS AGREEMENT, this 1ST day of SEPTEMBER, A.D. 1999

1. **PRINCIPALS:** Between JW RICE CONSTRUCTION, INC. hereinafter called B
with mailing address of JEFFREY W. RICE, PRESIDENT
90 BEAVER DRIVE, DU BOIS, PA Zip Code 15801 Phone # 814-375-0300
and DELORES SMITH, MARY JO SHAFFER, AND LORI L. SROCK hereinafter called S
d/b/a TRIPLE S STABLES L.L.C.
with mailing address of TREASURE LAKE, DU BOIS, PA Zip Code 15801 Phone # _____

2. **PROPERTY:** Seller hereby agrees to sell and convey to Buyer, who hereby agrees to purchase:
ALL THAT CERTAIN lot or piece of ground with buildings and improvements thereon erected, if any, known as
TREASURE LAKE STABLES, NEW STABLE AND APPROX. 13.50 ACRES

in the TOWNSHIP of SANDY County of CLEARFIELD
State of PA Zip Code 15801
Zoning Classification: COMMERCIAL/IN A PLANNED RESIDENTIAL DEVELOPMENT

Failure of this agreement to contain the zoning classification (except in cases where the property and each parcel thereof, if subdivisible) is zoned solely or primarily to permit single-family dwellings shall render this agreement voidable at the option of the Buyer and, if voided, any deposits tendered by the Buyer shall be returned to the Buyer without any requirement for court action.

Tax Parcel No. 128-C3-714-00030 Deed Book 1695 Page No. 473

3. **TERMS:** (A) Purchase Price ONE HUNDRED FIFTY-THOUSAND AND 00/100 U.S. Dollars
to be paid to the Seller by the Buyer as follows:

(1) Cash or check at signing this agreement.	\$ _____
(2) Cash or check to be paid on or before: <u>19</u>	\$ _____
(3) <u>CASH OR CHECK TO BE PAID ON ACCEPTANCE OF THIS AGREEMENT</u>	\$ <u>3,000.00</u>
(4) _____	\$ _____
(5) Cash or certified check at time of settlement:	\$ <u>147,000.00</u>
TOTAL PRICE	\$ <u>150,000.00</u>

(B) Written approval of Seller to be on or before: SEPTEMBER 3, 1999
(C) Settlement to be made on or before: OCTOBER 15, 1999
(D) Conveyance from Seller will be by fee simple deed of special warranty.
(E) Transfer taxes will be paid by 1% BUYER/1% SELLER

(F) The following shall be apportioned pro-rata as of and at time of settlement: taxes as levied and assessed, rents, interest on mortgage assumptions, water and sewer rents, licensable municipal services, and condominium fees, if any.

4. **STATUS OF WATER AND SEWER:** Seller warrants that this property is served by:
☐ public water ☒ well water ☒ public sewer ☐ septic system
Seller further warrants that these systems are fully paid for as of the date of this Agreement.

5. **POSSESSION AND TENDER:** (A) Possession is to be delivered by deed, keys and physical possession to a vacant holding (if any) free of debts at day and time of settlement, or by deed and assignment of existing lease(s) at time of settlement if premises are tenant occupied, unless otherwise specified herein. TENANT TO BE VACANT AT TIME OF CLOSING. ALL EXCAVATION AS DISCUSSED WITH SELLER TO BE COMPLETED AND SATISFACTORY TO BUYERS. ROOF LEAKS TO BE REPAIRED BY
If tenant occupied, Buyer will acknowledge the existing lease(s) by initialing it (them) at the time of signing this Agreement of Sale and by attaching it (them) hereto.

(B) Seller will not modify or extend any existing leases or enter into any new or additional leases for the premises without the express written consent of the Buyer.

(C) Formal tender of an executed deed and purchase money is hereby waived.

(D) Buyer reserves the right to make a pre-settlement inspection of the subject property.

6. **ITEMS OF PERSONALTY:** The following items are included in this sale and purchase price:
ANY REMAINING FEED, HAY, SAWDUST. ALL BARN EQUIPMENT SUCH AS BUCKETS, JUMPS, SHOVELS, HOSES, WHEELBARROWS AND SPLIT RAIL FENCE BUNDLES.

Seller hereby warrants that he/she will deliver good title to all of the articles described in this paragraph and any other fixtures or items of personalty specifically scheduled and to be included in this sale.

7. **SPECIAL CLAUSES:**

SEP-18-99 13:56 FROM:CB DEVELOPAC REALTY

ID:814 375 8842

PAGE

ADDENDUM/ENDORSEMENT TO AGREEMENT OF SALE

Form 102-6

RE: PROPERTY TREASURE LAKE STABLES, TREASURE LAKE, DU BOIS, PA 15801SELLERS IN RICE CONSTRUCTION, INC.BUYERS DELORES SMITH, MARY JO SHAFER, AND LORI L. SROCKDATE OF AGREEMENT SEPT. 1, 1999, SETTLEMENT DATE OCT. 15, 1999, SALE PRICE \$ 150,000.

8. BUYERS ACKNOWLEDGE RECEIPT OF LEGAL DESCRIPTION.
9. SELLER TO PAY FOR SUBDIVISION OF OLD BUILDING AND APPROX. 1.5 ACRES. SELLER TO HAVE SEPARATE ELECTRIC METERS FOR RIDING STABLES, PRIOR TO CLOSING. SELLER TO MAINTAIN THE OLD BUILDING TO THE SAME STANDARDS AS BUYER'S STABLE. EXTERIOR COLOR, LANDSCAPING AND OVERALL APPEARANCE SHOULD COMPLEMENT BUYERS STABLE. SELLER SHOULD ACCOMPLISH THESE TASKS WITHIN 60 DAYS AFTER BUYER CLOSES.
10. WELL WATER, SEWAGE, AND PARKING LOT TO BE SHARED BY BUYER AND SELLER. AND ALL EXPENSES INCURRED WITH SUCH MAINTENANCE SHALL BE SPLIT BETWEEN BUYER AND SELLER.
11. BUYER TO HAVE WELL TESTED AT BUYER'S EXPENSE. WELL INSPECTION MUST BE SATISFACTORY OR CONTRACT WILL BE RENEGOTIATED.
12. BUYER WILL HAVE THE OPTION TO LEASE SELLER'S LAND FOR \$1.00 FOR PASTURE LAND FOR THE LIFETIME OF THEIR SAID OWNERSHIP IN STABLE.
13. SELLER WILL GIVE SAID BUYERS OF STABLE FIRST RIGHT OF REFUSAL ON HIS BUILDING SHOULD HE SELL HIS BUILDING.
14. BUYER & SELLER WILL EACH HAVE TWO (2) TLPO ASSESSMENTS EACH.
15. BUYER & SELLER WILL SPLIT THE TLPOA TRANSFER FEE OF \$365.00.

ADDENDUM/ENDORSEMENT TO AGREEMENT OF SALE

Form 102-4

RE: PROPERTY TREASURE LAKE STABLES
 SELLERS: J.W. RICE CONSTRUCTION, INC., JEFFREY W. RICE, PRESIDENT
 BUYERS: DELORIS SMITH, MARY JO SHAFFER, AND LORI L. SROCK
 DATE OF AGREEMENT SEPTEMBER 1, 1999

IN THE EVENT SUBDIVISION APPROVAL IS NOT GRANTED BY THE T.L.P.O.A. AND SANDY TWT,
 SELLER AGREES TO CONVEY THE ENTIRE PARCEL AND IMPROVEMENTS FOR THE ADDITIONAL
 SUM OF \$25,000.00

CLOSING WILL BE ON OCTOBER 1, 1999

All other terms and conditions of the said agreement shall remain unchanged and in full force and effect.

WITNESS	<u>Jan L. Brock</u>	BUYER	<u>Mary Jo Shaffer</u>	DATE	<u>9-10-99</u>
WITNESS		BUYER	<u>Jan L. Brock</u>	DATE	
WITNESS		BUYER		DATE	
WITNESS	<u>Jan L. Brock</u>	SELLER	<u>[Signature]</u>	DATE	
WITNESS		SELLER		DATE	<u>9-10-99</u>
WITNESS		SELLER		DATE	

COPIES: WHITE: SELLER, YELLOW: AGENT, PINK: BUYER, BLUE: MORTGAGEE, GOLD: _____, GREEN: BUYER'S AT TIME OF SIGNING

PENNSYLVANIA ASSOCIATION OF REALTORS® SEPT 1999

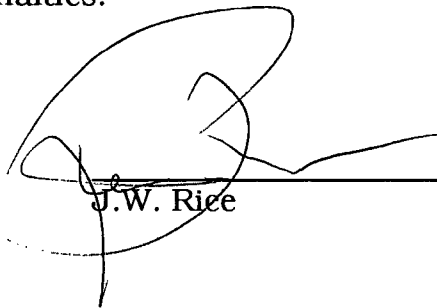
VERIFICATION

I, **J.W. Rice**, as President of J.W. Rice Construction, Inc., do hereby verify that I have read the foregoing Complaint. The statements therein are correct to the best of my personal knowledge or information and belief.

This statement and verification are made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn fabrication to authorities, which provides that if I make knowingly false averments I may be subject to criminal penalties.

Date:

6/17/2001



J.W. Rice

HANAK, GUIDO and TALADAY
LAW OFFICES

498 Jeffers Street, P.O. Box 487
DuBois, Pennsylvania 15801

FILED 1cc shen-f
JUN 11 11:03 AM '01
JUN 20 2001
80.00

William A. Shaw
Prothonotary

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 11134

J.W. RICE CONSTRUCTION, INC.

01-970-CD

VS.

DAVIS, ROBIN A.

COMPLAINT

SHERIFF RETURNS

NOW JUNE 22, 2001, FELIZ DELUCA, JR., SHERIFF OF BEAVER COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN COMPLAINT ON ROBIN A. DAVIS, DEFENDANT.

NOW JULY 9, 2001 ATTEMPTED TO SERVE THE WITHIN COMPLAINT ON ROBIN A. DAVIS, DEFENDANT BY DEPUTIZING THE SHERIFF OF BEAVER COUNTY. THE RETURN OF SHERIFF DELUCA IS HERETO ATTACHED AND MADE A PART OF THIS RETURN MARKED "NOT FOUND". NO SUCH RD IN BEAVER CO.--LOCATED IN LAWRENCE CO.

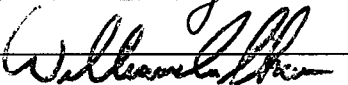
Return Costs

Cost	Description
23.89	SHFF. HAWKINS PAID BY: ATTY.
50.00	SHFF. DELUCA PAID BY: ATTY.
10.00	SUCHARGE PAID BY: ATTY.

FILED NO
013:53-61 CC
JUL 13 2001
William A. Shaw
Prothonotary


Sworn to Before Me This

13th Day Of July 2001



WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2002
Clearfield Co. Clearfield, PA.

So Answers,


Chester A. Hawkins
Sheriff

SHERIFF'S RETURN - NOT FOUND

CASE NO: 2001-00970 T
COMMONWEALTH OF PENNSYLVANIA
COUNTY OF BEAVER

J W RICE CONSTRUCTION INC

VS

ROBIN A DAVIS

RANDY J TALLON, Deputy Sheriff, who being duly sworn according to law, says, that he made a diligent search and inquiry for the within named DEFENDANT, to wit: _____
DAVIS ROBIN A but was unable to locate Him in his bailiwick. He therefore returns the COMPLAINT

_____, NOT FOUND, as to the within named DEFENDANT, DAVIS ROBIN A

743 MORAVIA RD NEW GALILEE PA-NO SUCH
RD IN BEAVER CO-LOCATED IN LAWRENCE CO

Sheriff's Costs:

Docketing	.00
Service	50.00
Affidavit	.00
Surcharge	.00
	.00
	50.00

So answers:

Felix A DeLuca Jr, Sheriff

ATTY
06/27/2001
By:

Sworn and subscribed to before me

this 9th day of July

2001 A.D.

Notary

Randy J. Tallon
Deputy Sheriff

NOTARIAL SEAL
THERESA A. MATTEO, Notary Public
Beaver, Beaver County
My Commission Expires May 24, 2004

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

J.W. RICE CONSTRUCTION, INC., :
Plaintiff :

vs. :

ROBIN A. DAVIS, :
Defendant :

CIVIL ACTION - AT LAW

No. 01-970-00

Type of pleading:

COMPLAINT

Filed on behalf of:

PLAINTIFF

Counsel of record for this
party:

Matthew B. Taladay, Esq.
Supreme Court No. 49663
Hanak, Guido and Taladay
498 Jeffers Street
P. O. Box 487
DuBois, PA 15801

814-371-7768

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

JUN 20 2001

Attest:

William L. Khan
Prothonotary

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - AT LAW

J.W. RICE CONSTRUCTION, INC.,	:	
Plaintiff	:	
	:	
vs.	:	No.
	:	
ROBIN A. DAVIS,	:	
Defendant	:	

NOTICE

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defense or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator's Office
Clearfield County Courthouse
One North Second Street
Clearfield, PA 16830

(814) 765-2641 Ext. 1303

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - AT LAW

J.W. RICE CONSTRUCTION, INC.,	:	
Plaintiff	:	
	:	
vs.	:	No.
	:	
ROBIN A. DAVIS,	:	
Defendant	:	

COMPLAINT

AND NOW, comes the Plaintiff, J.W. Rice Construction, Inc., by its attorneys, Hanak, Guido and Taladay, and hereby files the within Complaint averring as follows:

1. Plaintiff is J.W. Rice Construction, Inc., a Pennsylvania business corporation having its office and principal place of business at 90 Beaver Drive, DuBois, Pennsylvania 15801.

2. Defendant is Robin A. Davis, an adult individual whose last known address is 743 Moravia Road, New Galilee, Pennsylvania 16141.

3. On or about March 16, 1999, Plaintiff and Defendant entered into an Agreement whereby Plaintiff would sell and Defendant would purchase certain parcels of improved real estate consisting of a stable property located at Treasure Lake, Sandy Township, Clearfield County, Pennsylvania. A copy of the Agreement is attached hereto as Exhibit "A".

4. The property subject to the Agreement of Sale was obtained by Plaintiff by deed of Recreation Land Corporation dated May

22, 1995 and recorded in Clearfield County Document Book 1695 at Page 473. A copy of this deed is attached hereto as Exhibit "B".

5. The property in question is under and subject to a restriction set forth in the deed which reads as follows:

4. The property must be used for a horse riding stables with an auxiliary pasture and for related activities to usage, but additional uses of the property are permitted as long as they do not diminish the use of the premises as a riding stable and are approved by the Treasure Lake Property Owners Association, Inc..

6. Prior to entry into the written Agreement of Sale, J.W. Rice, President of the seller, verbally advised buyer of the restriction and buyer acknowledged that she was aware of this restriction.

7. Seller at all times stood ready to perform under the Agreement and to tender the property for sale.

8. In addition, seller offered to finance the property to Buyer under terms as favorable or more favorable than rates available from a commercial lending institution.

9. Buyer has at all times failed and refused to perform her obligation to follow through with the purchase of the property as set forth in the contract.

10. As a result of buyer's breach of the contract, the Plaintiff, in an attempt to mitigate his damages, put the property back on the market. The property was subsequently sold on October 18, 1999 at a sale price of \$180,000.00. A copy of the deed from J.W. Rice Construction, Inc. to Triple S Stables, LLC dated October 18, 1999 is attached hereto as Exhibit "B".

11. Pursuant to the terms of the Agreement between Plaintiff and Triple S Stables, LLC, Plaintiff was required to perform excavation and repair the roof of the property. A copy of the Sales Agreement between Plaintiff and Triple S Stables, LLC is attached hereto as Exhibit "C".

12. In order to make the property saleable, Plaintiff had to expend additional sums as follows:

(a)	Roof repair	\$ 3,500.00
(b)	Excavation	13,800.00
(c)	Survey	<u>2,704.00</u>
		\$20,004.00

13. In addition, because of Defendant's breach of the sales contract, Plaintiff incurred additional interests, assessment and taxes in the amount of \$3,500.00.

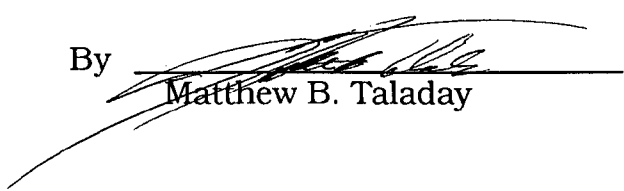
14. Plaintiff seeks damages from Defendant in the amount of \$35,000.00 representing the difference between the contract sale price between the Plaintiff and the Defendant and the price at which Plaintiff was subsequently able to sell the property, plus the additional sum of \$23,504.00 representing Plaintiff's additional expenses on the property, representing total damages of \$58,504.00.

WHEREFORE, Plaintiff demands judgment in the amount in excess of \$25,000.00.

JURY TRIAL DEMANDED.

HANAK, GUIDO AND TALADAY

By


Matthew B. Taladay

AGENT FOR SELLER
COLDWELL BANKER DEVELOPAC
992 BEAVER DRIVE
DU BOIS, PA 15801
PA. LICENSED BROKER

SUBAGENT FOR SELLER

PA. LICENSED BROKER

THIS AGREEMENT, this 16th day of March A.D. 1999
1. PRINCIPALS: Between J.W. RICE CONSTRUCTION, INC.

with mailing address of 99 BEAVER DRIVE
DU BOIS, PA Zip Code 15801 Phone # (814) 375-0509 hereinafter called Seller,
and ROBIN A. DAVIS

with mailing address of 743 MORAVIA ROAD
NEW CASTLE, PA Zip Code 16141 Phone # (724) 336-6789 hereinafter called Buyer.

2. PROPERTY: Seller hereby agrees to sell and convey to Buyer, who hereby agrees to purchase:
ALL THAT CERTAIN lot or piece of ground with buildings and improvements thereon erected, if any, known as:
TREASURE LAKE STABLES 3 BUILDINGS & 14.87 ACRES AND VACANT LOT SECTION

in the TOWNSHIP of SANDY County of CLEARFIELD
State of PA Zip Code 15801
Zoning Classification COMMERCIAL

Failure of this agreement to contain the zoning classification (except in cases where the property (and each parcel thereof, if subdivid-
able) is zoned solely or primarily to permit single-family dwellings) shall render this agreement voidable at the option of the Buyer,
and, if voided, any deposits tendered by the Buyer shall be returned to the Buyer without any requirement for court action.
Tax Parcel No. 128-43-714-00030 Deed Book 1693/2742 Page No. 473/9074

3. TERMS: 128-43-714-00030
(A) Purchase Price TWO HUNDRED FIFTY FIVE THOUSAND AND NO/100 U.S. Dollars

to be paid to the Seller by the Buyer as follows:
(1) Cash or check at signing this agreement: UPON ACCEPTANCE \$ 3,000.00
(2) Cash or check to be paid on or before: 19 \$
(3) \$
(4) \$
(5) Cash or certified check at time of settlement: \$ 212,000.00
TOTAL PRICE \$ 215,000.00

(B) Written approval of Seller to be on or before: MARCH 25, 1999
(C) Settlement to be made on or before: MAY 3, 1999

(D) Conveyance from Seller will be by fee simple deed of special warranty.
(E) Transfer taxes will be paid by: 1/2 BUYER & 1/2 SELLER

(F) The following shall be apportioned pro-rata as of and at time of settlement: taxes as levied and assessed, rents, interest on mort-
gage assumptions, water and sewer rents, lienable municipal services, and condominium fees, if any

4. STATUS OF WATER AND SEWER: Seller warrants that this property is served by:
☒ public water ☐ well water ☒ public sewer ☐ septic system ☐
Seller further warrants that these systems are fully paid for as of the date of this Agreement.

5. POSSESSION AND TENDER:
(A) Possession is to be delivered by deed, keys and physical possession to a vacant building (if any) free of debris at day and time of
settlement, or by deed and assignment of existing lease(s) at time of settlement if premises are tenant occupied, unless otherwise
specified herein. TENANT TO BE VACANT FROM PROPERTY AT TIME OF CLOSING

If tenant occupied, Buyer will acknowledge the existing lease(s) by initialing it (them) at the time of signing this Agreement of Sale
and by attaching it (them) hereto.

(D) Seller will not modify or extend any existing leases or enter into any new or additional leases for the premises without the express
written consent of the Buyer.

(C) Formal tender of an executed deed and purchase money is hereby waived.
(D) Buyer reserves the right to make a pre-settlement inspection of the subject property.

6. ITEMS OF PERSONALTY: The following items are included in this sale and purchase price: OFFICE DESKS & CHAIRS,
FURNITURE AND ANY REMAINING FEED, HAY AND SHAVINGS, ALL LARN EQUIPMENT, SUCH AS TICKETS,
TACK, JUMPS, SHOVELS, WHEELBARROWS, RAKES, BUSHES, NO MOWERIZED EQUIPMENT

Seller hereby warrants that he/she will deliver good title to all of the articles described in this paragraph and any other fixtures or items
of personalty specifically scheduled and to be included in this sale.

7. SPECIAL CLAUSES:

E. CONTINGENT UPON BUYER OBTAINING MORTGAGE FINANCING. BUYER IS PRE-APPROVED

F. BUYER AGREES TO LET SELLER HAVE PETTING ZOO ANIMALS ON PREMISES AS LONG AS SELLER
PAYS FOR FEED AND MAINTENANCE OF SAID ZOO ANIMALS.

G. SPLIT RAIL FENCE BUNDLES TO STAY WITH PROPERTY.

H. CONTINGENT UPON SELLER SATISFYING THE EXISTING LEASE ON NEW STABLE. BUYER DOES NOT
WANT TO ASSUME OR TRANSFER LEASE.

County Parcel No. _____



This Deed,

MADE the 18th day of October
in the year nineteen hundred and ninety-nine (1999).

BETWEEN

J. W. RICE CONSTRUCTION, INC., a Pennsylvania Business Corporation, of 90 Beaver Drive, DuBois, Clearfield County, Pennsylvania, 15801, party of the first part, hereinafter referred to as,

GRANTOR

A

N

D

TRIPLE S STABLES, LLC, a Limited Liability Company, of 1423 Treasure Lake, DuBois, Clearfield County, Pennsylvania, party of the second part, hereinafter referred to as,

GRANTEE

WITNESSETH, That in consideration of One Hundred Eighty Thousand Dollars-----

(\$180,000.00)----- Dollars,

in hand paid, the receipt whereof is hereby acknowledged, the said grantor does hereby grant and convey to the said grantee ,

ALL that certain piece, parcel, or tract of land lying and being situate in Sandy Township, Clearfield County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at a iron pipe or iron pin, said pipe or pin being along the eastern right-of-way for Anguilla Road (50-foot r/w) and also being the southwest corner of Lot Number 514 in Section Number 16-Part 6 (Aruba) of the Treasure Lake Plan and the southeast corner of the herein described parcel, further being shown as Corner Number 1 on the hereto attached plat; thence, N 64 Degrees 28 Minutes 30 Seconds W along the eastern right-of-way for Anguilla Road a distance of 280.51 feet to a iron pipe or pin, said pipe or pin being the PC of a curve to the right, further being shown as Corner Number 2 on the hereto attached plat; thence along the eastern right-of-way for Anguilla Road by a curve to the right, said curve having a radius of 425.00 feet and an arc length of 546.87 feet, said arc having a chord bearing of N 27 Degrees 36 Minutes 46 Seconds W and a chord distance of 509.92 feet, to a iron pipe or iron pin, further being shown as Corner Number 3 on the hereto attached plat; thence N 09 Degrees 15 Minutes 00 Seconds E along the eastern right-of-way for Anguilla Road a distance of 48.04 feet to a iron pipe or iron pin, said pipe or pin being the southwest corner of Lot Number 215 in Section Number 16-Part 5 of the Treasure Lake Plan, further being shown as Corner Number 4 on the hereto attached plat; thence S 80 Degrees 45 Minutes 00 Seconds E along Lot Number 215 in Section Number 16-Part 5 of the Treasure Lake Plan a distance of 200.00 feet to a iron pipe or iron pin, said pipe or pin being the southeast corner of said Lot Number 215, further being shown as Corner Number 5 on the hereto attached plat; thence N 09 Degrees 14 Minutes 59 Seconds E along Lots Number 215 through 204, respectively, in Section Number 16-Part 5 of the

Treasure Lake Plan a distance of 872.89 feet to a iron pipe or iron pin, said pipe or pin being the northwest corner of the herein described parcel, further being shown as Corner Number 6 on the hereto attached plat; thence S 72 Degrees 50 Minutes 00 Seconds E through the lands of Recreation Land Corporation, of which this is a part, a distance of 395.25 feet to a iron pipe or iron pin, said pipe or pin being along a cul-de-sac for Pelican Lane, further being shown as Corner Number 7 on the hereto attached plat; thence, along a cul-de-sac for Pelican Lane by a curve to the left, said curve having a radius of 50.00 feet and an arc length of 120.59 feet, said arc having a chord bearing of S 51 Degrees 55 Minutes 44 Seconds E and a chord distance of 93.42 feet, to a iron pipe or iron pin, said pipe or pin being the PC of a curve to the right, further being shown as Corner Number 8 on the hereto attached plat; thence along the southern right-of-way for Pelican Lane (50-foot r/w) by a curve to the right, said curve having a radius of 25.00 feet and an arc length of 21.03 feet, said arc having a chord bearing of N 83 Degrees 04 Minutes 16 Seconds E and a chord distance of 20.41 feet, to a iron pipe or iron pin, said pipe or pin being the PT of said curve, further being shown as Corner Number 9 on the hereto attached plat; thence S 72 Degrees 49 Minutes 40 Seconds E along the southern right-of-way for Pelican Lane a distance of 3.65 feet to a iron pipe or iron pin, said pipe or pin being the northwest corner of Lot Number 529 in Section Number 16-Part 6 of the Treasure Lake Plan, further being shown as Corner Number 10 on the hereto attached plat; thence S 13 Degrees 00 Minutes 00 Seconds W along Lots Number 529 through 519, respectively, in Section Number 16-Part 6 of the Treasure Lake Plan a distance of 813.97 feet to a iron pipe or iron pin, further being shown as Corner Number 11 on the hereto attached plat; thence S 25 Degrees 31 Minutes 30 Seconds W along Lots Number 519 through 515 in Section Number 16-Part 6 of the Treasure Lake Plan a distance of 300.02 feet to a iron pipe or iron pin, said pipe or pin being the southwest corner of said Lot Number 515, further being shown as Corner Number 12 on the hereto attached plat; thence S 64 Degrees 28 Minutes 30 Seconds E along Lot Number 515 in Section Number 16-Part 6 of the Treasure Lake Plan a distance of 75.00 feet to a iron pipe or iron pin, said pipe or pin being the northwest corner of Lot Number 514 in said Plan, further being shown as Corner Number 13 on the hereto attached plat; thence

NOTICE

In accordance with the provisions of "The Bituminous Mine Subsidence and Land Conservation Act of 1966", I/we, the undersigned grantee/grantees, hereby certify that I/we know and understand that I/we may not be obtaining the right of protection against subsidence resulting from coal mining operations and that the purchased property may be protected from damage due to mine subsidence by a private contract with the owners of the economic interest in the coal. I/we further certify that this certification is in a color contrasting with that in the deed proper and is printed in twelve point type preceded by the word "notice" printed in twenty-four point type.

Witness:

.....
.....
This day of

THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. (This Notice is set forth pursuant to Act No. 255, approved September 10, 1965, as amended.)

S 25 Degrees 31 Minutes 30 Seconds W along Lot Number 514 in Section Number 16- Part 6 of the Treasure Lake Plan a distance of 199.00 feet to a iron pipe or iron pin, the point of beginning. CONTAINING 647,852 square feet or 14.87 acres.

BEING subject to any utility easements which may be of record.

EXCEPTING AND RESERVING therefrom and subject to:

1. All easements, rights of way, reservations, restrictions and limitations shown or contained in prior instruments of record and in the aforesaid recorded plan.

2. The Declaration of Restrictions, Treasure Lake, Inc., recorded in Misc. Book Vol. 146, Page 476, to the extent that the provisions of the Declaration of Restrictions may grant certain privileges to the owners of lots in the Treasure Lake Subdivision to use the property as part of the recreational facilities of the Development.

3. All minerals and mining rights of every kind and nature.

4. The property must be used for a horse riding stables with an auxiliary pasture and for related activities to usage, but additional uses of the property are permitted as long as they do not diminish the use of the premises as a riding stable and are approved by the Treasure Lake Property Owners Association, Inc.

5. All rights and privileges given to the owners of interest in the Cayman Addition Campground, owners of interest in the Silverwoods and Wolf Run Timeshare Developments and NACO Resort Club Members, to use the premises as part of the recreational facilities of the Treasure Lake Development.

6. Existing timber agreements with Buehler Lumber Company and its associated companies.

BEING the same premises which became vested in J. W. Rice Construction, Inc., by deed of Recreation Land Corporation dated May 22, 1995, and recorded on August 10, 1999, in Clearfield County Deed and Records Book 1695, page 473.

SECOND THEREOF:

ALL that certain tract of land designated as Lot No. 514, Section 16, in the Treasure Lake Subdivision in Sandy Township, Clearfield County, Pennsylvania, recorded in the Recorder of Deeds Office in Misc. Docket Map File No. 25, Excepting and reserving therefrom and subject to:

1. All easements, rights of way, reservations, restrictions and limitations shown or contained in prior instruments of record and in the aforesaid recorded plan.

2. The Declaration of Restrictions, Treasure Lake, Inc., recorded in Misc. Book Vol. 146, page 476; all of said restrictions being covenants which run with the land.

3. All minerals and mining rights of every kind and nature.

4. A lien for all unpaid charges or assessments as may be made by Developer or Treasure Lake Property Owners Association, Inc.; which lien shall

run with the land and be an encumbrance against it.

BEING the same premises which became vested in J. W. Rice Construction, Inc.,
by deed of Ben Lowman dated January 30, 1996, and recorded in Clearfield
County Deed Book 1742, page 74.

SEP-16-89, 13.64 FROM CB DEVELOPAC REALTY

ID: 814 375 8842

PAGE

AGREEMENT FOR THE SALE OF COMMERCIAL REAL ESTATE

This form recommended and approved for, but not restricted to, use by the members of the Pennsylvania Association of REALTORS.

Comm
S & C

AGENT FOR SELLER

0-13-011 Banker Developac Realty
998 Beaver Drive, DuBois, PA

PA. LICENSED BROKER

SUBAGENT FOR SELLER

PA. LICENSED BROKER

THIS AGREEMENT, this

1. PRINCIPALS: Between 1ST JW RICE CONSTRUCTION, INC. day of SEPTEMBER A.D. 1999
with mailing address of JEFFREY W. RICE, PRESIDENT
90 BEAVER DRIVE, DU BOIS, PA
and DELORES SMITH, MARY JO SHAFFER, AND LORI L. SROCK hereinafter called S
d/b/a TRIPLE S STABLES
with mailing address of TREASURE LAKE, DU BOIS, PA
Zip Code 15801 Phone # 814-375-0500

2. PROPERTY: Seller hereby agrees to sell and convey to Buyer, who hereby agrees to purchase:
ALL THAT CERTAIN lot or piece of ground with buildings and improvements thereon erected, if any, known as
TREASURE LAKE STABLES, NEW STABLE AND APPROX. 13.50 ACRES

in the TOWNSHIP of SANDY County of CLEARFIELD
State of PA Zip Code 15801
Zoning Classification: COMMERCIAL/IN A PLANNED RESIDENTIAL DEVELOPMENT

Failure of this agreement to contain the zoning classification (except in cases where the property and each parcel thereof, if subdivided, is zoned solely or primarily to permit single-family dwellings) shall render this agreement voidable at the option of the Buyer and, if voided, any deposits tendered by the Buyer shall be returned to the Buyer without any requirement for court action.

3. TERMS: 128-C3-16-514-21 Deed Book 1695 Page No. 473

(A) Purchase Price ONE HUNDRED FIFTY-THOUSAND AND 00/100 U.S. Dollars
to be paid to the Seller by the Buyer as follows:

- (1) Cash or check at signing this agreement \$
(2) Cash or check to be paid on or before: 19 \$
(3) CASH OR CHECK TO BE PAID ON ACCEPTANCE OF THIS AGREEMENT \$ 3,000.00
(4) \$
(5) Cash or certified check at time of settlement: \$ 147,000.00

TOTAL PRICE \$ 150,000.00

- (B) Written approval of Seller to be on or before: SEPTEMBER 3,
(C) Settlement to be made on or before: OCTOBER 15, 1999
(D) Conveyance from Seller will be by fee simple deed of special warranty.
(E) Transfer taxes will be paid by 1/2 BUYER/1/2 SELLER 1999
(F) The following shall be apportioned pro-rata as of and at time of settlement: taxes as levied and assessed, rents, interest on mortgage assumptions, water and sewer rents, lienable municipal services, and condominium fees, if any.

4. STATUS OF WATER AND SEWER: Seller warrants that this property is served by:
☐ public water ☒ well water ☒ public sewer ☐ septic system
Seller further warrants that those systems are fully paid for as of the date of this Agreement.

5. POSSESSION AND TENDER:
(A) Possession is to be delivered by deed, keys and physical possession to a vacant building (if any) free of debris at day and time of settlement, or by deed and assignment of existing lease(s) at time of settlement if premises are tenant occupied unless otherwise specified herein. TENANT TO BE VACANT AT TIME OF CLOSING. ALL EXCAVATION AS DISCUSSED WITH SELLER TO BE COMPLETED AND SATISFACTORY TO BUYERS. ROOF LEAKS TO BE REPAIRED BY
If tenant occupied, Buyer will acknowledge the existing lease(s) by initialing it (them) at the time of signing this Agreement of Sale and by attaching it (them) hereto.

(B) Seller will not modify or extend any existing leases or enter into any new or additional leases for the premises without the express written consent of the Buyer.
(C) Formal tender of an executed deed and purchase money is hereby waived.

(D) Buyer reserves the right to make a pre-settlement inspection of the subject property.
6. ITEMS OF PERSONALITY: The following items are included in this sale and purchase price:
ANY REMAINING FEED, HAY, SAWDUST. ALL BARN EQUIPMENT SUCH AS BUCKETS, JUMPS, SHOVELS, HOSES, WHEELBARROWS AND SPLIT RAIL FENCE BUNDLES.

Seller hereby warrants that he/she will deliver good title to all of the articles described in this paragraph and any other fixtures or items of personality specifically scheduled and to be included in this sale.

7. SPECIAL CLAUSES:

SEP-18-99 13:55 FROM:CB DEVELOPAC REALTY

ID:814 375 8842

PAGE

ADDENDUM/ENDORSEMENT TO AGREEMENT OF SALE

Form 102-6

RE: PROPERTY TREASURE LAKE STABLES, TREASURE LAKE, DU BOIS, PA 15801SELLERS IN RICE CONSTRUCTION, INC.BUYERS DELORES SMITH, MARY JO SHAFER, AND LORI L. SROCKDATE OF AGREEMENT SEPT. 1, 19 99, SETTLEMENT DATE OCT. 15, 19 99, SALE PRICE \$ 150,000.

8. BUYERS ACKNOWLEDGE RECEIPT OF LEGAL DESCRIPTION.
9. SELLER TO PAY FOR SUBDIVISION OF OLD BUILDING AND APPROX. 1.5 ACRES. SELLER TO HAVE SEPARATE ELECTRIC METERS FOR RIDING STABLES, PRIOR TO CLOSING. SELLER TO MAINTAIN THE OLD BUILDING TO THE SAME STANDARDS AS BUYER'S STABLE. EXTERIOR COLOR, LANDSCAPING, AND OVERALL APPEARANCE SHOULD COMPLIMENT BUYERS STABLE. SELLER SHOULD ACCOMPLISH THESE TASKS WITHIN 60 DAYS AFTER BUYER CLOSES.
10. WELL WATER, SEWAGE, AND PARKING LOT TO BE SHARED BY BUYER AND SELLER. AND ALL EXPENSES INCURRED WITH SUCH MAINTENANCE SHALL BE SPLIT BETWEEN BUYER AND SELLER.
11. BUYER TO HAVE WELL TESTED AT BUYER'S EXPENSE. WELL INSPECTION MUST BE SATISFACTORY OR CONTRACT WILL BE RENEGOTIATED.
12. BUYER WILL HAVE THE OPTION TO LEASE SELLER'S LAND FOR \$1.00 FOR PASTURE LAND FOR THE LIFETIME OF THEIR SAID OWNERSHIP IN STABLE.
13. SELLER WILL GIVE SAID BUYERS OF STABLE FIRST RIGHT OF REFUSAL ON HIS BUILDING SHOULD HE SELL HIS BUILDING.
14. BUYER & SELLER WILL EACH HAVE TWO (2) TLPO ASSESSMENTS EACH.
15. BUYER & SELLER WILL SPLIT THE TLPOA TRANSFER FEE OF \$365.00.

ADDENDUM/ENDORSEMENT TO AGREEMENT OF SALE

Form 102-4

RE: PROPERTY TREASURE LAKE STABLESSELLERS: J.W. RICE CONSTRUCTION, INC., JEFFREY W. RICE, PRESIDENTBUYERS: DELORIS SMITH, MARY JO SHAFFER, AND LORI L. SROCKDATE OF AGREEMENT SEPTEMBER 1, 1999

IN THE EVENT SUBDIVISION APPROVAL IS NOT GRANTED BY THE T.L.P.O.A. AND SANDY TWT,
 SELLER AGREES TO CONVEY THE ENTIRE PARCEL AND IMPROVEMENTS FOR THE ADDITIONAL
 SUM OF \$25,000.00

CLOSING WILL BE ON OCTOBER 1, 1999

All other terms and conditions of the said agreement shall remain unchanged and in full force and effect.

WITNESS	<u>Lori L. Srock</u>	BUYER	<u>Mary Jo Shaffer</u>	DATE	<u>9-10-99</u>
WITNESS		BUYER	<u>Lori L. Srock</u>	DATE	
WITNESS		BUYER		DATE	
WITNESS	<u>Lori L. Srock</u>	SELLER	<u>Jeffrey W. Rice</u>	DATE	<u>9-10-99</u>
WITNESS		SELLER		DATE	

COPIES: WHITE: SELLER, YELLOW: AGENT, PINK: BUYER, BLUE: MORTGAGEE, GOLD: _____, GREEN: BUYER'S AT TIME OF SIGNING

PENNSYLVANIA ASSOCIATION OF REALTORS®

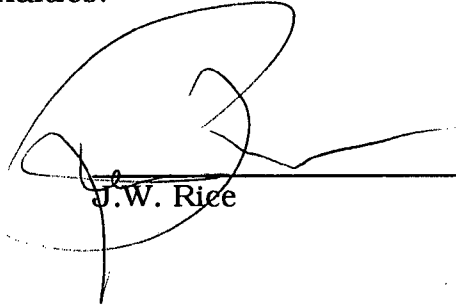
VERIFICATION

I, **J.W. Rice**, as President of J.W. Rice Construction, Inc., do hereby verify that I have read the foregoing Complaint. The statements therein are correct to the best of my personal knowledge or information and belief.

This statement and verification are made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn fabrication to authorities, which provides that if I make knowingly false averments I may be subject to criminal penalties.

Date:

6/17/2001



J.W. Rice



Sheriff's Office Clearfield County

OFFICE (814) 765-2641
AFTER 4:00 P.M. (814) 765-1533
CLEARFIELD COUNTY FAX
(814) 765-5915

CHESTER A. HAWKINS
SHERIFF

COURTHOUSE
1 NORTH SECOND STREET, SUITE 116
CLEARFIELD, PENNSYLVANIA 16830

DARLENE SHULTZ
CHIEF DEPUTY

MARGARET PUTT
OFFICE MANAGER

MARILYN HAMM
DEPT. CLERK

PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

J.W. RICE CONSTRUCTION INC.

VS:

ROBIN A. DAVIS

SERVE BY: 7/20/01

or

HEARING DATE:

TERM & NO.: 01-970-CDD

DOCUMENT TO BE SERVED:

COMPLAINT

SERVE: ROBIN A. DAVIS

ADDRESS: 743 Moravia Road, New Galilee, Pa. 16141

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF of CLEARFIELD COUNTY, State of Pennsylvania, do hereby deputize the SHERIFF of BEAVER County Pennsylvania to execute this writ.

This Deputation being made at the request and risk of the Plaintiff this 22nd day of JUNE 2001.

MAKE REFUND PAYABLE TO: HANAK, GUIDO & TALADAY, Attorneys

Respectfully,


CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY

10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26

Receipt Date 06/27/2001
Receipt Time 14:23:53
Receipt No. 18463

Case Number 2001-00970 T
Service Info
Remarks TM

Check No. 11173

50.00

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

J.W. RICE CONSTRUCTION, INC.,
Plaintiff

vs.

ROBIN A. DAVIS,
Defendant

CIVIL ACTION - AT LAW

No. 01-970-CD

Type of pleading:

AMENDED COMPLAINT

Filed on behalf of:

PLAINTIFF

Counsel of record for this
party:

Matthew B. Taladay, Esq.
Supreme Court No. 49663
Hanak, Guido and Taladay
498 Jeffers Street
P. O. Box 487
DuBois, PA 15801

814-371-7768

FILED

SEP 04 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - AT LAW

J.W. RICE CONSTRUCTION, INC.,	:	
Plaintiff	:	
	:	
vs.	:	No. 01-970-CD
	:	
ROBIN A. DAVIS,	:	
Defendant	:	

NOTICE

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defense or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator's Office
Clearfield County Courthouse
One North Second Street
Clearfield, PA 16830

(814) 765-2641 Ext. 1303

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - AT LAW

J.W. RICE CONSTRUCTION, INC.,	:	
Plaintiff	:	
	:	
vs.	:	No. 01-970-CD
	:	
ROBIN A. DAVIS,	:	
Defendant	:	

AMENDED COMPLAINT

AND NOW, comes the Plaintiff, J.W. Rice Construction, Inc., by its attorneys, Hanak, Guido and Taladay, and hereby files the within Complaint averring as follows:

1. Plaintiff is J.W. Rice Construction, Inc., a Pennsylvania business corporation having its office and principal place of business at 90 Beaver Drive, DuBois, Pennsylvania 15801.

2. Defendant is Robin A. Davis, an adult individual whose last known address is 737 N. St. Marys Road, St. Marys, Pennsylvania 15857.

3. On or about March 16, 1999, Plaintiff and Defendant entered into an Agreement whereby Plaintiff would sell and Defendant would purchase certain parcels of improved real estate consisting of a stable property located at Treasure Lake, Sandy Township, Clearfield County, Pennsylvania. A copy of the Agreement is attached hereto as Exhibit "A".

4. The property subject to the Agreement of Sale was obtained by Plaintiff by deed of Recreation Land Corporation dated May

22, 1995 and recorded in Clearfield County Document Book 1695 at Page 473. A copy of this deed is attached hereto as Exhibit "B".

5. The property in question is under and subject to a restriction set forth in the deed which reads as follows:

4. The property must be used for a horse riding stables with an auxiliary pasture and for related activities to usage, but additional uses of the property are permitted as long as they do not diminish the use of the premises as a riding stable and are approved by the Treasure Lake Property Owners Association, Inc..

6. Prior to entry into the written Agreement of Sale, J.W. Rice, President of the seller, verbally advised buyer of the restriction and buyer acknowledged that she was aware of this restriction.

7. Seller at all times stood ready to perform under the Agreement and to tender the property for sale.

8. In addition, seller offered to finance the property to Buyer under terms as favorable or more favorable than rates available from a commercial lending institution.

9. Buyer has at all times failed and refused to perform her obligation to follow through with the purchase of the property as set forth in the contract.

10. As a result of buyer's breach of the contract, the Plaintiff, in an attempt to mitigate his damages, put the property back on the market. The property was subsequently sold on October 18, 1999 at a sale price of \$180,000.00. A copy of the deed from J.W. Rice Construction, Inc. to Triple S Stables, LLC dated October 18, 1999 is attached hereto as Exhibit "B".

11. Pursuant to the terms of the Agreement between Plaintiff and Triple S Stables, LLC, Plaintiff was required to perform excavation and repair the roof of the property. A copy of the Sales Agreement between Plaintiff and Triple S Stables, LLC is attached hereto as Exhibit "C".

12. In order to make the property saleable, Plaintiff had to expend additional sums as follows:

(a)	Roof repair	\$ 3,500.00
(b)	Excavation	13,800.00
(c)	Survey	<u>2,704.00</u>
		\$20,004.00

13. In addition, because of Defendant's breach of the sales contract, Plaintiff incurred additional interests, assessment and taxes in the amount of \$3,500.00.

14. Plaintiff seeks damages from Defendant in the amount of \$35,000.00 representing the difference between the contract sale price between the Plaintiff and the Defendant and the price at which Plaintiff was subsequently able to sell the property, plus the additional sum of \$23,504.00 representing Plaintiff's additional expenses on the property, representing total damages of \$58,504.00.

WHEREFORE, Plaintiff demands judgment in the amount in excess of \$25,000.00.

JURY TRIAL DEMANDED.

HANAK, GUIDO AND TALADAY

By Matthew B. Taladay
Matthew B. Taladay

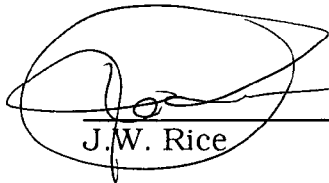
VERIFICATION

I, **J.W. Rice**, as President of J.W. Rice Construction, Inc., do hereby verify that I have read the foregoing Amended Complaint. The statements therein are correct to the best of my personal knowledge or information and belief.

This statement and verification are made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn fabrication to authorities, which provides that if I make knowingly false averments I may be subject to criminal penalties.

Date: _____

8/27/01


J.W. Rice

AGENT FOR SELLER
COLDWELL BANKER DEVELOPAC
992 BEAVER DRIVE
DU BOIS, PA 15801
PA LICENSED BROKER

SUBAGENT FOR SELLER
PA LICENSED BROKER

THIS AGREEMENT, this 16th day of March, A.D. 1999
1. PRINCIPALS: Between J.W. RICE CONSTRUCTION, INC.

with mailing address of 90 BEAVER DRIVE
DU BOIS, PA Zip Code 15801 Phone # (814) 375-0509, hereinafter called Seller,
and ROBIN A. DAVIS

with mailing address of 743 HEDRAVIA ROAD
NEW CASTLE, PA Zip Code 16141 Phone # (724) 335-6783, hereinafter called Buyer.

2. PROPERTY: Seller hereby agrees to sell and convey to Buyer, who hereby agrees to purchase, all that certain lot or piece of ground with buildings and improvements thereon located, if any, known as:
TREASURE LAKE STABLES 3 BUILDINGS & 14.87 ACRES AND VACANT LOT SECTION

in the TOWNSHIP of SANDY County of CLEVERFIELD
State of PA Zip Code 15801
Zoning Classification: COMMERCIAL

Failure of this agreement to contain the zoning classification (except in cases where the property (and each parcel thereof, if subdividable) is zoned solely or primarily to permit single-family dwellings) shall render this agreement voidable at the option of the Buyer, and, if voided, any deposits tendered by the Buyer shall be returned to the Buyer without any requirement for court action.
Tax Parcel No. 128-63-714-0003A Deed Book 1695/1742 Page No. 473/8074

3. TERMS: 128-63-16-514-21

(A) Purchase Price TWO HUNDRED FIFTEEN THOUSAND AND NO/100 U.S. Dollars

to be paid to the Seller by the Buyer as follows:

(1) Cash or check at signing this agreement: UPON ACCEPTANCE \$ 3,000.00
(2) Cash or check to be paid on or before: 19 \$
(3) \$
(4) \$
(5) Cash or certified check at time of settlement: \$ 212,000.00

TOTAL PRICE: \$ 215,000.00

(B) Written approval of Seller to be on or before: MARCH 25, 1999

(C) Settlement to be made on or before: MAY 3, 1999

(D) Conveyance from Seller will be by fee simple deed of special warranty.

(E) Transfer taxes will be paid by: 12 BUYER & 11 SELLER

(F) The following shall be apportioned pro-rata as of and at time of settlement: taxes as levied and assessed; rents; interest on mortgage assumptions; water and sewer rents; lienable municipal services; and condominium fees, if any

4. STATUS OF WATER AND SEWER: Seller warrants that this property is served by:

☒ public water ☐ well water ☒ public sewer ☐ septic system ☐

Seller further warrants that these systems are fully paid for as of the date of this Agreement.

5. POSSESSION AND TENDER:

(A) Possession is to be delivered by deed, keys and physical possession to a vacant building (if any) free of debris at day and time of settlement, or by deed and assignment of existing lease(s) at time of settlement if premises are tenant occupied, unless otherwise specified herein. TENANT TO BE VACANT FROM PROPERTY AT TIME OF CLOSING

If tenant occupied, Buyer will acknowledge the existing lease(s) by initialing it (them) at the time of signing this Agreement of Sale and by attaching it (them) hereto.

(B) Seller will not modify or extend any existing leases or enter into any new or additional leases for the premises without the express written consent of the Buyer.

(C) Final tender of an executed deed and purchase money is hereby waived.

(D) Buyer reserves the right to make a pre-settlement inspection of the subject property.

6. ITEMS OF PERSONALTY: The following items are included in this sale and purchase price: OFFICE DESKS & FURNITURE AND ANY REMAINING FEED, HAY AND SHAVINGS, ALL BARN EQUIPMENT SUCH AS BUCKETS, TACK, JUMPS, SHOVELS, WHEELBARROWS, RAKES, ROSES, NO IMPORTED EQUIPMENT

Seller hereby warrants that he/she will deliver good title to all of the articles described in this paragraph and any other fixtures or items of personalty specifically scheduled and to be included in this sale.

7. SPECIAL CLAUSES:

E. CONTINGENT UPON BUYER OBTAINING MORTGAGE FINANCING. BUYER IS PRE-APPROVED

F. BUYER AGREES TO LET SELLER HAVE FEEDING 200 ANIMALS ON PREMISES AS LONG AS SELLER PAYS FOR FEED AND MAINTENANCE OF SAID 200 ANIMALS.

G. SPLIT RAIL FENCE BUNDLES TO STAY WITH PROPERTY.

H. CONTINGENT UPON SELLER SATISFYING THE EXISTING LEASE ON NEW STABLE. BUYER DOES NOT WANT TO ASSUME OR TRANSFER LEASE.

County Parcel No. _____

①

This Deed,

MADE the 18th day of October
in the year nineteen hundred and ninety-nine (1999).

BETWEEN

J. W. RICE CONSTRUCTION, INC., a Pennsylvania Business Corporation, of 90 Beaver Drive, DuBois, Clearfield County, Pennsylvania, 15801, party of the first part, hereinafter referred to as,

GRANTOR

A

N

D

TRIPLE S STABLES, LLC, a Limited Liability Company, of 1423 Treasure Lake, DuBois, Clearfield County, Pennsylvania, party of the second part, hereinafter referred to as,

GRANTEE

WITNESSETH, That in consideration of One Hundred Eighty Thousand Dollars-----

(\$180,000.00)----- Dollars,

in hand paid, the receipt whereof is hereby acknowledged, the said grantor does hereby grant and convey to the said grantee ,

ALL that certain piece, parcel, or tract of land lying and being situate in Sandy Township, Clearfield County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at a iron pipe or iron pin, said pipe or pin being along the eastern right-of-way for Anguilla Road (50-foot r/w) and also being the southwest corner of Lot Number 514 in Section Number 16-Part 6 (Aruba) of the Treasure Lake Plan and the southeast corner of the herein described parcel, further being shown as Corner Number 1 on the hereto attached plat; thence, N 64 Degrees 28 Minutes 30 Seconds W along the eastern right-of-way for Anguilla Road a distance of 280.51 feet to a iron pipe or pin, said pipe or pin being the PC of a curve to the right, further being shown as Corner Number 2 on the hereto attached plat; thence along the eastern right-of-way for Anguilla Road by a curve to the right, said curve having a radius of 425.00 feet and an arc length of 546.87 feet, said arc having a chord bearing of N 27 Degrees 36 Minutes 46 Seconds W and a chord distance of 509.92 feet, to a iron pipe or iron pin, further being shown as Corner Number 3 on the hereto attached plat; thence N 09 Degrees 15 Minutes 00 Seconds E along the eastern right-of-way for Anguilla Road a distance of 48.04 feet to a iron pipe or iron pin, said pipe or pin being the southwest corner of Lot Number 215 in Section Number 16-Part 5 of the Treasure Lake Plan, further being shown as Corner Number 4 on the hereto attached plat; thence S 80 Degrees 45 Minutes 00 Seconds E along Lot Number 215 in Section Number 16-Part 5 of the Treasure Lake Plan a distance of 200.00 feet to a iron pipe or iron pin, said pipe or pin being the southeast corner of said Lot Number 215, further being shown as Corner Number 5 on the hereto attached plat; thence N 09 Degrees 14 Minutes 59 Seconds E along Lots Number 215 through 204, respectively, in Section Number 16-Part 5 of the

EXHIBIT "B"

Treasure Lake Plan a distance of 872.89 feet to a iron pipe or iron pin, said pipe or pin being the northwest corner of the herein described parcel, further being shown as Corner Number 6 on the hereto attached plat; thence S 72 Degrees 50 Minutes 00 Seconds E through the lands of Recreation Land Corporation, of which this is a part, a distance of 395.25 feet to a iron pipe or iron pin, said pipe or pin being along a cul-de-sac for Pelican Lane, further being shown as Corner Number 7 on the hereto attached plat; thence, along a cul-de-sac for Pelican Lane by a curve to the left, said curve having a radius of 50.00 feet and an arc length of 120.59 feet, said arc having a chord bearing of S 51 Degrees 55 Minutes 44 Seconds E and a chord distance of 93.42 feet, to a iron pipe or iron pin, said pipe or pin being the PC of a curve to the right, further being shown as Corner Number 8 on the hereto attached plat; thence along the southern right-of-way for Pelican Lane (50-foot r/w) by a curve to the right, said curve having a radius of 25.00 feet and an arc length of 21.03 feet, said arc having a chord bearing of N 83 Degrees 04 Minutes 16 Seconds E and a chord distance of 20.41 feet, to a iron pipe or iron pin, said pipe or pin being the PT of said curve, further being shown as Corner Number 9 on the hereto attached plat; thence S 72 Degrees 49 Minutes 40 Seconds E along the southern right-of-way for Pelican Lane a distance of 3.65 feet to a iron pipe or iron pin, said pipe or pin being the northwest corner of Lot Number 529 in Section Number 16-Part 6 of the Treasure Lake Plan, further being shown as Corner Number 10 on the hereto attached plat; thence S 13 Degrees 00 Minutes 00 Seconds W along Lots Number 529 through 519, respectively, in Section Number 16-Part 6 of the Treasure Lake Plan a distance of 813.97 feet to a iron pipe or iron pin, further being shown as Corner Number 11 on the hereto attached plat; thence S 25 Degrees 31 Minutes 30 Seconds W along Lots Number 519 through 515 in Section Number 16-Part 6 of the Treasure Lake Plan a distance of 300.02 feet to a iron pipe or iron pin, said pipe or pin being the southwest corner of said Lot Number 515, further being shown as Corner Number 12 on the hereto attached plat; thence S 64 Degrees 28 Minutes 30 Seconds E along Lot Number 515 in Section Number 16-Part 6 of the Treasure Lake Plan a distance of 75.00 feet to a iron pipe or iron pin, said pipe or pin being the northwest corner of Lot Number 514 in said Plan, further being shown as Corner Number 13 on the hereto attached plat; thence

NOTICE

In accordance with the provisions of "The Bituminous Mine Subsidence and Land Conservation Act of 1966", I/we, the undersigned grantee/grantees, hereby certify that I/we know and understand that I/we may not be obtaining the right of protection against subsidence resulting from coal mining operations and that the purchased property may be protected from damage due to mine subsidence by a private contract with the owners of the economic interest in the coal. I/we further certify that this certification is in a color contrasting with that in the deed proper and is printed in twelve point type preceded by the word "notice" printed in twenty-four point type.

Witness:

This day of

THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. (This Notice is set forth pursuant to Act No. 255, approved September 10, 1965, as amended.)

S 25 Degrees 31 Minutes 30 Seconds W along Lot Number 514 in Section Number 16- Part 6 of the Treasure Lake Plan a distance of 199.00 feet to a iron pipe or iron pin, the point of beginning. CONTAINING 647,852 square feet or 14.87 acres.

BEING subject to any utility easements which may be of record.

EXCEPTING AND RESERVING therefrom and subject to:

1. All easements, rights of way, reservations, restrictions and limitations shown or contained in prior instruments of record and in the aforesaid recorded plan.

2. The Declaration of Restrictions, Treasure Lake, Inc., recorded in Misc. Book Vol. 146, Page 476, to the extent that the provisions of the Declaration of Restrictions may grant certain privileges to the owners of lots in the Treasure Lake Subdivision to use the property as part of the recreational facilities of the Development.

3. All minerals and mining rights of every kind and nature.

4. The property must be used for a horse riding stables with an auxiliary pasture and for related activities to usage, but additional uses of the property are permitted as long as they do not diminish the use of the premises as a riding stable and are approved by the Treasure Lake Property Owners Association, Inc.

5. All rights and privileges given to the owners of interest in the Cayman Addition Campground, owners of interest in the Silverwoods and Wolf Run Timeshare Developments and NACO Resort Club Members, to use the premises as part of the recreational facilities of the Treasure Lake Development.

6. Existing timber agreements with Buehler Lumber Company and its associated companies.

BEING the same premises which became vested in J. W. Rice Construction, Inc., by deed of Recreation Land Corporation dated May 22, 1995, and recorded on August 10, 1999, in Clearfield County Deed and Records Book 1695, page 473.

SECOND THEREOF:

ALL that certain tract of land designated as Lot No. 514, Section 16, in the Treasure Lake Subdivision in Sandy Township, Clearfield County, Pennsylvania, recorded in the Recorder of Deeds Office in Misc. Docket Map File No. 25, Excepting and reserving therefrom and subject to:

1. All easements, rights of way, reservations, restrictions and limitations shown or contained in prior instruments of record and in the aforesaid recorded plan.

2. The Declaration of Restrictions, Treasure Lake, Inc., recorded in Misc. Book Vol. 146, page 476; all of said restrictions being covenants which run with the land.

3. All minerals and mining rights of every kind and nature.

4. A lien for all unpaid charges or assessments as may be made by Developer or Treasure Lake Property Owners Association, Inc.; which lien shall

run with the land and be an encumbrance against it.

BEING the same premises which became vested in J. W. Rice Construction, Inc., by deed of Ben Lowman dated January 30, 1996, and recorded in Clearfield County Deed Book 1742, page 74.

SEP-16-99 13:54 FROM:CB DEVELOPAC REALTY

ID:814 375 8842

PAGE

AGREEMENT FOR THE SALE OF COMMERCIAL REAL ESTATE

This form recommended and approved for, but not restricted to, use by the members of the Pennsylvania Association of REALTORS.

Count
S & C

AGENT FOR SELLER

Goldwell Banker Developac Realty
998 Beaver Drive, DuBois, PA

PA. LICENSED BROKER

AGENT FOR SELLER

PA. LICENSED BROKER

THIS AGREEMENT, this

1ST

day of

SEPTEMBER

A.D. 1999

1. PRINCIPALS: Between JW RICE CONSTRUCTION, INC.
with mailing address of JEFFREY W. RICE, PRESIDENT
90 BEAVER DRIVE, DU BOIS, PA
and DELORES SMITH, MARY JO SHAFFER, AND LORI L. SROCK
d/b/a TRIPLE S STABLES
with mailing address of TREASURE LAKE, DU BOIS, PA

Zip Code 15801

Phone # 814-375-0500

hereinafter called S

Zip Code 15801

Phone #

hereinafter called B

2. PROPERTY: Seller hereby agrees to sell and convey to Buyer, who hereby agrees to purchase:
ALL THAT CERTAIN lot or piece of ground with buildings and improvements thereon erected, if any, known as:
TREASURE LAKE STABLES, NEW STABLE AND APPROX. 13.50 ACRES

in the TOWNSHIP

of SANDY

County of CLEARFIELD

State of PA

Zoning Classification:

COMMERCIAL/IN A PLANNED RESIDENTIAL DEVELOPMENT

Zip Code 15801

Failure of this agreement to contain the zoning classification (except in cases where the property [and each parcel thereof, if subdivided] is zoned solely or primarily to permit single-family dwellings) shall render this agreement voidable at the option of the Buyer and, if voided, any deposits tendered by the Buyer shall be returned to the Buyer without any requirement for court action.

Tax Parcel No. 128-C3-714-00030

Deed Book 1695

Page No. 473

3. TERMS:

(A) Purchase Price ONE HUNDRED FIFTY-THOUSAND AND 00/100

to be paid to the Seller by the Buyer as follows:

(1) Cash or check at signing this agreement.

(2) Cash or check to be paid on or before:

19

(3) CASH OR CHECK TO BE PAID ON ACCEPTANCE OF THIS AGREEMENT

(4)

(5) Cash or certified check at time of settlement:

TOTAL PRICE \$ 150,000.00

U.S. Dollars

(B) Written approval of Seller to be on or before:

SEPTEMBER 3,

(C) Settlement to be made on or before:

OCTOBER 15,

(D) Conveyance from Seller will be by fee simple deed of special warranty.

(E) Transfer taxes will be paid by 1% BUYER/1% SELLER

(F) The following shall be apportioned pro-rata as of and at time of settlement: taxes as levied and assessed, rents, interest on mortgage assumptions, water and sewer rents, lienable municipal services, and condominium fees, if any.

4. STATUS OF WATER AND SEWER: Seller warrants that this property is served by:

☐ public water

☒ well water

☒ public sewer

☐ septic system

Seller further warrants that those systems are fully paid for as of the date of this Agreement.

5. POSSESSION AND TENDER:

(A) Possession is to be delivered by deed, keys and physical possession to a vacant building (if any) free of debts at day and time of settlement, or by deed and assignment of existing lease(s) at time of settlement if premises are tenant occupied, unless otherwise specified herein.

TENANT TO BE VACANT AT TIME OF CLOSING. ALL EXCAVATION AS DISCUSSED WITH SELLER TO BE COMPLETED AND SATISFACTORY TO BUYERS. ROOF LEAKS TO BE REPAIRED BY

If tenant occupied, Buyer will acknowledge the existing lease(s) by initialing it (them) at the time of signing this Agreement of Sale and by attaching it (them) hereto.

(B) Seller will not modify or extend any existing leases or enter into any new or additional leases for the premises without the express written consent of the Buyer.

(C) Formal tender of an executed deed and purchase money is hereby waived.

(D) Buyer reserves the right to make a pre-settlement inspection of the subject property.

6. ITEMS OF PERSONALITY: The following items are included in this sale and purchase price:
ANY REMAINING FEED, HAY, SAND/ST. ALL BARN EQUIPMENT SUCH AS BUCKETS, JUMPS, SHOVELS, HOSES, WHEELBARROWS AND SPLIT RAIL FENCE BUNDLES.

Seller hereby warrants that he/she will deliver good title to all of the articles described in this paragraph and any other fixtures or items of personality specifically scheduled and to be included in this sale.

7. SPECIAL CLAUSES:

EXHIBIT "C"

SEP-18-99 13:55 FROM:CB DEVELOPAC REALTY

ID:814 375 8842

PAGE

ADDENDUM/ENDORSEMENT TO AGREEMENT OF SALE

Form 102-6

RE: PROPERTY TREASURE LAKE STABLES, TREASURE LAKE, DU BOIS, PA 15801SELLERS IN RICE CONSTRUCTION, INC.BUYERS DELORES SMITH, MARY JO SHAFER, AND LORI L. SROCKDATE OF AGREEMENT SEPT. 1, 1999, SETTLEMENT DATE OCT. 15, 1999, SALE PRICE \$ 150,000.

8. BUYERS ACKNOWLEDGE RECEIPT OF LEGAL DESCRIPTION.
9. SELLER TO PAY FOR SUBDIVISION OF OLD BUILDING AND APPROX. 1.5 ACRES. SELLER TO HAVE SEPARATE ELECTRIC METERS FOR RIDING STABLES, PRIOR TO CLOSING. SELLER TO MAINTAIN THE OLD BUILDING TO THE SAME STANDARDS AS BUYER'S STABLE. EXTERIOR COLOR, LANDSCAPING AND OVERALL APPEARANCE SHOULD COMPLEMENT BUYERS STABLE. SELLER SHOULD ACCOMPLISH THESE TASKS WITHIN 60 DAYS AFTER BUYER CLOSSES.
10. WELL WATER, SEWAGE, AND PARKING LOT TO BE SHARED BY BUYER AND SELLER. AND ALL EXPENSES INCURRED WITH SUCH MAINTENANCE SHALL BE SPLIT BETWEEN BUYER AND SELLER.
11. BUYER TO HAVE WELL TESTED AT BUYER'S EXPENSE. WELL INSPECTION MUST BE SATISFACTORY OR CONTRACT WILL BE RENEGOTIATED.
12. BUYER WILL HAVE THE OPTION TO LEASE SELLER'S LAND FOR \$1.00 FOR PASTURE LAND FOR THE LIFETIME OF THEIR SAID OWNERSHIP IN STABLE.
13. SELLER WILL GIVE SAID BUYERS OF STABLE FIRST RIGHT OF REFUSAL ON HIS BUILDING SHOULD HE SELL HIS BUILDING.
14. BUYER & SELLER WILL EACH HAVE TWO (2) TLPO ASSESSMENTS EACH.
15. BUYER & SELLER WILL SPLIT THE TLPOA TRANSFER FEE OF \$365.00.

ADDENDUM/ENDORSEMENT TO AGREEMENT OF SALE

Form 102-

RE: PROPERTY TREASURE LAKE STABLESSELLERS: J.W. RICE CONSTRUCTION, INC., JEFFREY W. RICE, PRESIDENTBUYERS: DELORIS SMITH, MARY JO SHAFFER, AND LORI L. SROCKDATE OF AGREEMENT SEPTEMBER 1, 1999

IN THE EVENT SUBDIVISION APPROVAL IS NOT GRANTED BY THE T.L.P.O.A. AND SANDY TWT,
 SELLER AGREES TO CONVEY THE ENTIRE PARCEL AND IMPROVEMENTS FOR THE ADDITIONAL
 SUM OF \$25,000.00

CLOSING WILL BE ON OCTOBER 1, 1999

All other terms and conditions of the said agreement shall remain unchanged and in full force and effect.

WITNESS	<u>[Signature]</u>	BUYER	<u>[Signature]</u>	DATE	<u>9-10-99</u>
WITNESS	<u>[Signature]</u>	BUYER	<u>[Signature]</u>	DATE	<u>9-10-99</u>
WITNESS	<u>[Signature]</u>	BUYER	<u>[Signature]</u>	DATE	<u>9-10-99</u>
WITNESS	<u>[Signature]</u>	SELLER	<u>[Signature]</u>	DATE	<u>9-10-99</u>
WITNESS	<u>[Signature]</u>	SELLER	<u>[Signature]</u>	DATE	<u>9-10-99</u>

COPIES: WHITE: SELLER, YELLOW: AGENT, PINK: BUYER, BLUE: MORTGAGES, GOLD: 3, GREEN: BUYER'S AT TIME OF SIGNING

PENNSYLVANIA ASSOCIATION OF REALTORS® SEPT 1999

HANAK, GUIDO and TALADAY
LAW OFFICES

498 Jeffers Street, P.O. Box 487
DuBois, Pennsylvania 15801

FILED

SEP 04 2001

D/A/KC Shing
William A. Shaw
Prothonotary

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 11473

J.W. RICE CONSTRUCTION, INC.

01-970-CD

VS.

DAVIS, ROBIN A.

AMENDED COMPLAINT

SHERIFF RETURNS

NOW SEPTEMBER 6, 2001, THOMAS KONTES, SHERIFF OF ELK COUNTY
WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY
TO SERVE THE WITHIN AMENDED COMPLAINT ON ROBIN A. DAVIS,
DEFENDANT.

NOW SEPTEMBER 12, 2001 SERVED THE WITHIN AMENDED COMPLAINT ON
ROBIN A. DAVIS, DEFENDANT BY DEPUTIZING THE SHERIFF OF ELK COUNTY.
THE RETURN OF SHERIFF KONTES IS HERETO ATTACHED AND MADE A PART
OF THIS RETURN.

Return Costs

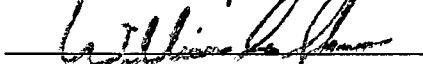
Cost	Description
27.89	SHFF. HAWKINS PAID BY: ATTY.
37.16	SHFF. KONTES PAID BY: ATTY.
10.00	SURCHARGE PAID BY; ATTY.

FILED
01 15 11 68
SEP 25 2001

William A. Shaw
Prothonotary

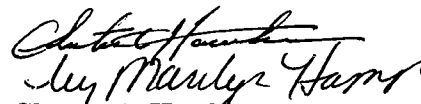
Sworn to Before Me This

25th Day Of September 2001



WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2002
Clearfield Co. Clearfield, PA.

So Answers,


Chester A. Hawkins
Sheriff

Affidavit of Service

J.W. Rice Construction, Inc.

vs.

Robin A. Davis

No. 970 Term, 20 01

Returnable within _____ days
from date of service hereof.

NOW September 12, 20 01 at 12:33 o'clock P.M.

served the within Amended Complaint on Robin A. Davis

at 737 N. St. Marys St., St. Marys, Elk County, PA

by handing to her

a true and attested copy of the original Amended Complaint and made

known to her the contents thereof. Sheriff's Costs - \$37.16 PAID

Sworn to before me this 13th

day of September A.D. 20 01

Constance A. By

Prothonotary

My Commission Expires
January 5, 2004

118.11-010

So answers,

Thomas C. Korte

Sheriff

Chase L. Pickard

Deputy



CHESTER A. HAWKINS
SHERIFF

Sheriff's Office Clearfield County

COURTHOUSE
1 NORTH SECOND STREET, SUITE 116
CLEARFIELD, PENNSYLVANIA 16830

OFFICE (814) 765-2641
AFTER 4:00 P.M. (814) 765-1533
CLEARFIELD COUNTY FAX
(814) 765- 5915

DARLENE SHULTZ
CHIEF DEPUTY

MARGARET PUTT
OFFICE MANAGER

MARILYN HAMM
DEPT. CLERK

PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

J.W. RICE CONSTRUCTION INC

TERM & NO. 01-970-CD

VS

ROBIN A. DAVIS

SERVE BY: 10/4/01

or

HEARING DATE:

DOCUMENT TO BE SERVED:
AMENDED COMPLAINT

MAKE REFUND PAYABLE TO: HANAK, GUIDO & TALADAY, Attorneys

SERVE: ROBIN A. DAVIS

ADDRESS: 737 N. St. Marys St., St. Marys, Pa. 15857

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF of CLEARFIELD COUNTY, State of Pennsylvania, do hereby deputize the SHERIFF of ELK County Pennsylvania to execute this writ.

This Deputation being made at the request and risk of the Plaintiff this 6th day of SEPTEMBER 2001.

Respectfully,

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY

**IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA**

J.W. RICE CONSTRUCTION, INC.

Plaintiff,

vs

ROBIN A. DAVIS,

Defendant

CIVIL ACTION – AT LAW

No. 01-970-CD

Type of Pleading:

ANSWER TO AMENDED COMPLAINT
AND NEW MATTER AND COUNTER CLAIM

Filed on Behalf of:
DEFENDANT

Counsel of Record for this Party:

Ronald P. McCall, Esq.
EKKER, KUSTER, McCONNELL & EPSTEIN, LLP
P.A. I.D. No. 49654
One East State Street
P.O. Box 91
Sharon, PA 16146
(724) 981-2000

FILED

OCT 26 2001

William A. Shaw
Prothonotary

**IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA**

J.W. RICE CONSTRUCTION, INC.	:	
	:	
	:	CIVIL ACTION – AT LAW
	:	
	:	No. 01-970-CD
Plaintiff,	:	
	:	
vs	:	
	:	
ROBIN A. DAVIS,	:	
	:	
Defendant	:	
	:	

ANSWER TO AMENDED COMPLAINT

AND NOW COMES the Defendant, Robin A. Davis, now known as Robin A. Williams, who files the following Answer to Amended Complaint, averring as follows:

1. Denied. After reasonable investigation, the Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegation set forth in Paragraph No. 1 and it is therefore denied.

2. Denied to the contrary, the Defendant is Robin A. Williams, an adult married individual whose current address is 737 North St. Mary's Road, St. Mary's, Pennsylvania 15857.

3. Denied to the contrary. On or about March 16, 1999, the Defendant executed an Agreement of Sale presented to her by Coldwell Banker DevelopPac, where the Defendant expressed her intent to purchase the Treasure Lake Stables, upon which she desired to build a residence and maintain a permanent residence, develop additional residential building lots, and operate a riding stable. It is denied that the purported copy of the Agreement of Sale, which the Plaintiff executed sometime after March 16, 1999, is attached to the Plaintiff's Complaint as Exhibit "A". To the contrary, the actual Agreement of Sale between the parties is attached hereto as Defendant's Exhibit "D1".

4. Denied to the contrary. To the best of the Defendant's knowledge, the property subject to the Agreement of Sale was obtained by the Plaintiff by two deeds, one the deed of Ben Lomman as recorded at Deed Book 1742 page 0074 and the other by Recreation Land

Corporation as recorded at Deed Book 1695 page 473, copies of said deeds being attached hereto as Defendant's Exhibit "D2".

5. Admitted in part and denied in part. It is admitted that the property subject to the purchase agreement between Plaintiff and Defendant contained a restriction against residential use of the property, and in fact, restricted the use of the property to horse riding stables, pasture and related activities. As to whether the restriction of the property was as set forth in Paragraph 5 of Plaintiff's Complaint, the Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of said allegation and, therefore, it is denied. By way of further answer, the attorney representing the Plaintiff in regard to the purchase of the property agreed to act on the Defendant's behalf in closing on the subject property, and therefore the Defendant did not receive notice of the restriction or counsel upon its meaning until approximately two months after the date of the Sales Agreement.

6. Denied to the contrary. Prior to the written Agreement of Sale, Defendant had no knowledge of any restriction regarding the use of the property, and in fact, was assured that the property could be used for a residence, for the development and sale of other residences, as well as for the storage of the Defendant's horses. By way of further answer, J.W. Rice never advised the Defendant of any restrictions on the property other than that the barn had to be available to the owners of lots in the development. By way of further answer, the Defendant was provided a list of restrictions on the property, which list of restrictions did not include any restriction of use in regard to property, which was the subject of the Sales Agreement. The restrictions provided to the Defendant are attached hereto and incorporated herein by reference as the Defendant's Exhibit "D3".

7. Denied. After a reasonable investigation, the Defendant is without sufficient knowledge or information sufficient to form a belief as to the truth or falsity of the allegation in Paragraph 7 and it is therefore denied.

8. Denied. The Plaintiff never offered to finance the property as set forth in Paragraph 8 of the Plaintiff's Complaint. To the contrary, the Plaintiff offered to finance \$150,000 of the purchase price of \$215,000. By way of further answer, the proposed financing by the Plaintiff to the Defendant was not as favorable or more favorable than the finance terms that would have been available to the Defendant had the property not had serious defects,

including, but not limited to a defect in the form of a use restriction limiting use of the property to horse riding stable and pasture. The Defendant was seeking one hundred percent (100%) financing of the purchase price and closing costs, and such financing was necessary in order to permit Defendant to purchase the property, and in order to obtain such terms of financing, it was necessary for the Defendant's parents to provide financial assurances to the lender. The Defendant's parents, although originally indicating a willingness to provide financial assurances to the Defendant's lender, upon learning that the property could not be developed for residential uses and could not be used for the Defendant's personal residential use, and could not be developed to sell additional residential lots, and was required to perpetually be used as a horse riding stable and pasture, regardless of whether such a venture could be operated profitably on the property, led to the Defendant's parents withdrawing all support for the project, and further led to the denial of the Defendant's loan application and further led to the inability of the Defendant to receive One Hundred percent (100%) financing of the purchase price and closing costs at favorable market conditions. By way of further answer, the Plaintiff at all times material and relevant, had full knowledge of the use restriction of the property and failed to disclose same to the Defendant, said use restriction being a material defect in the property with a material and adverse affect on the value of the property and its marketability. And had the Defendant known of the use restriction, the Defendant would never have entered into an agreement. By way of further answer, the Agreement of Sale provides in relevant part:

“Zoning Classification Commercial. Failure of this agreement to contain the zoning classification, {except in cases where the property (and each parcel thereof if sub-dividable) is zoned solely or primarily to permit single-family dwellings”} shall render this Agreement voidable at the option of the Buyer and, if voided, any deposits tendered by the Buyer shall be returned to the Buyer without any requirement for court action.

By way of further answer, the declaration that the zoning classification of the property was commercial indicates under general zoning principles, that not only were all commercial uses permitted on the property, but also all other more restrictive uses of the property (such as residential uses) were permitted thereon. In other words, under general zoning principles, a less restrictive commercial zoning district permits all uses, which are permitted in a more restrictive residential or multi-family residential zoning classification. In further answer, in this instance the correct zoning classification of the property was not commercial, the correct zoning classification of the property was commercial and limited by use restriction to a single use, that

being a riding stable and pasture, (an agricultural use). By way of further answer, the provisions of the agreement, as quoted herein, specifically provides for the right of the Defendant/Buyer to have an absolute right, at her option, to void the Agreement of Sale, should the property not be able to be utilized as zoned. By way of further answer, it is believed and therefore assumed that the property in question could not be used for the purposes set forth in the commercial zoning classification in Sandy Township, Clearfield County, Pennsylvania.

9. Denied. To the contrary, the Defendant/Buyer has been excused from performance under the contract and had no obligation whatsoever to follow through with the purchase of the property as set forth in the contract. By way of further answer, the Defendant incorporates by reference her answer to Paragraph 8 above. By way of further answer, the Defendant further incorporates by reference her answer to Paragraphs 5 and 6 above.

10. Denied. The allegation that the Defendant breached the contract is denied. To the contrary, the Defendant was excused from performing the contract due to the non-occurrence of the financing contingency and further due to the material title defect of a single-use restriction, and further due to the Agreement of Sale failing to set forth within Paragraph 2 that the property was subject to a use restriction. It is further denied that the Plaintiff attempted reasonably to mitigate damages or placed the property "on the market" in that it is believed, and therefore averred that the Plaintiff began almost immediately to negotiate a sale of the property to the listing realtor. As to the remaining allegations of Paragraph 10, after reasonable investigation, the Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 10 and such allegations are therefore denied.

11. Denied. After reasonable investigation, the Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 11 and such allegations are therefore denied. By way of further answer, had the Defendant not been excused from performing the contract, the Defendant had every right to demand that the Plaintiff perform excavation and roof repairs, pursuant to paragraph 5(D) in that the Defendant's right of pre-settlement inspection comes with it the right to refuse to close escrow due to material defects in the roof and in the fact that urine and feces from horses was running from the field adjacent to the barn back into the barn. Therefore, any implication that excavation and roof repairs were a damage because they were required in the Agreement with Triple S Stables, LLC and not required in the Contract with the Defendant is denied.

12. Denied. To the contrary, the repairs to the roof and the excavation work, as well as the survey work were necessary expenses whether the sale by Plaintiff was to the Defendant or whether it was to the party that purchased the real property. Defendant incorporates by reference her answer to Paragraph 11.

13. Denied. After reasonable investigation, the Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 13 and they are therefore denied. In further answer, the Defendant did not breach the contract, and rather was excused from purchasing the property. Defendant incorporates by reference its answer to Paragraphs 5-12, above.

14. Denied. The Defendant did not breach, and rather was excused from performing the contract and the Plaintiff has suffered no damages attributable to any breach of contract by the Defendant. In further response, Defendant incorporates by reference her answer to Paragraphs 5 – 13, inclusive, as if more fully set forth herein. Defendant further denies that the difference between the contract sales price and the price at which Plaintiff was subsequently able to sell the property was \$35,000, with reasonable efforts to mitigate damages. It is further denied that Plaintiff suffered additional damages of \$23,504. To the contrary, Defendant incorporates by reference her response to Paragraph 12 and 13 hereof.

WHEREFORE, Defendant respectfully requests this Honorable Court enter judgment for her, and against the Plaintiff.

NEW MATTER

1. Defendant, prior to making an offer on the property advised Mr. Rice and his realtor that she was interested in developing the property with her own residence and to develop lots for single-family residences, and the Plaintiff acknowledged that such uses were permitted.

2. Plaintiff did not exercise reasonable good-faith efforts to mitigate his damages by re-sale, in that between May 19, 1999, when the Defendant exercised her right to cancel the Agreement of Sale, and September 1, 1999, the Plaintiff did not actively market the premises and instead, immediately entered negotiations to sell the property to the realtor who was supposed to be seeking third-party offers.

3. The Agreement of sale provides:

10.(A) The premises are to be conveyed free and clear of all liens, encumbrances, and easements, with the exception of existing building restrictions, ordinances, easements of roads, easements visible upon the ground, and privileges or rights of public service companies. The title to the subject property shall be good and marketable and such as will be insurable by a reputable Title Insurance Company at the regular rates.

10.(B) In the event the Seller is unable to give a good and marketable title and such as will be insurable by a reputable Title Insurance Company, Buyer shall either take such title as the Seller can give without abatement of price or be repaid all monies that Buyer has paid to Seller on account of the purchase price including reimbursement for the items specified in paragraphs 10(C) items (1), (2), (3), and 10(D). In the latter event neither party shall have further liability or obligation, and this Agreement shall become VOID and all copies will be returned to Seller's Agent for cancellation.

Title to the property was subject to a single-use restriction, which fails to meet the standard of Paragraph 10.(A) and provided the Defendant the right of cancellation pursuant to Paragraph 10.(B), with no further liability to Plaintiff.

4. The Agreement of Sale, pursuant to Paragraph 5.(D) reserves the right, prior to closing, to inspect the property and implies the rights of cancellation in the event there were defects.

5. Roof leaks on the property, as well as improper drainage, which led to the run off from manure and urine to run back from the pasture into the stable, were defects on the property giving the Defendant the right of cancellation pursuant to Paragraph 5D of the Sales Agreement.

6. Defendant became aware of the defects set forth in Paragraph 5 of this Answer, but was initially willing to overlook them until her family members, who had excavation equipment and were willing to help Defendant cure the defects at no cost to her, withdrew all support for the purchase by Defendant upon learning the property could not be used for a residence, could not be developed with additional residences and was subject to a single use restriction, which support would have included:

- (a) Guaranteeing the 100% mortgage financing;
- (b) Performing excavation work at no cost to Defendant; and
- (c) Performing roof repairs at not cost to Defendant,

and would there have been any way to close escrow on the property for Defendant, the Defendant had every right under Paragraph 5.(D) to demand the repairs and excavation be done or she would be excused from the Agreement.

7. The Defendant did not learn of the single use restriction from her attorney because that attorney was the attorney for J.W. Rice Construction, Inc., Mr. Rice and the realtor, Ms. Srock, and upon learning of the restriction immediately notified Seller's attorney of the loss of financing and the materiality of the title defect.

8. Upon the Defendant being denied 100% mortgage financing, the Defendant was excused from performing the Agreement of Sale dated March 16, 1999 by the non-occurrence of a condition precedent.

9. The Defendant was excused from performing the Agreement of Sale dated March 16, 1999, by virtue of Paragraph 2 of the Agreement, which provides:

Zoning Classification Commercial. Failure of this agreement to contain the zoning classification, {except in cases where the property (and each parcel thereof if sub-dividable) is zoned solely or primarily to permit single-family dwellings"} shall render this Agreement voidable at the option of the Buyer and, if voided, any deposits tendered by the Buyer shall be returned to the Buyer without any requirement for court action.

WHEREFORE, the Defendant respectfully requests this Honorable Court enter judgment for her, and against the Plaintiff.

COUNTER CLAIM

1. Plaintiff and Defendant entered into an Agreement of Sale concerning real estate, a true and correct copy of which is attached hereto as Exhibit D-1.

2. Defendant was excused and released from performing her obligations under the Agreement of Sale by virtue of:

- (a) The non-occurrence of the 100% mortgage Financing contingency set forth in the Agreement of Sale;
- (b) By virtue of Paragraph (2) of the Agreement of Sale failing to correctly state that the zoning classification of the property was single-use restricted as a riding stable;

- (c) By virtue of defects in the roof of the buildings and the flow of run-off from manure and urine of horses into the barn of the premises; and
- (d) By virtue of the material defect of the single-use restriction of the premises to riding stable and pasture use, which materially and adversely negatively affect value and marketability of the real property, and its title.

3. Despite the Defendant being excused, the Plaintiff and/or its realty have retained the Defendant's earnest money of \$3,000.

4. The Defendant demanded return of the earnest money unless Plaintiff retained the same in full satisfaction of any and all claims against the Defendant.

5. The Plaintiff has filed or refused to return the earnest money.

WHEREFORE, the Defendant respectfully requests judgment against the Plaintiff for \$3,000 plus interest at the legal rate from May 19, 1999, plus costs of suit.

Respectfully submitted,

EKKER, KUSTER, McCONNELL & EPSTEIN, LLY

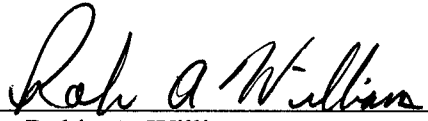
By: 

Ronald P. McCall, Esquire
P.A. I.D. No. 49654
One East State St.,
P.O. Box 91
Sharon, PA 16146
(724) 981-2000

Counsel for the Defendant, Robin A. Davis

VERIFICATION

I, Robin A. Williams, formerly known as Robin A. Davis, verify that the statements made in the foregoing Answer to Amended Complaint and New Matter and Counter Claim are true and correct to the best of our knowledge, information, and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S.A. 4904 relating to unsworn falsification to authorities.



Robin A. Williams

Dated 10-24-01

EXHIBIT D-1

AGREEMENT FOR THE SALE OF COMMERCIAL REAL ESTATE

This form recommended and approved for, but not restricted to, use by the members of the Pennsylvania Association of REALTORS®

Commercial
S & C 1989C

AGENT FOR SELLER
COLDWELL BANKER DEVELOPAC
998 BEAVER DRIVE
DU BOIS, PA 15801
PA. LICENSED BROKER

SUBAGENT FOR SELLER

PA. LICENSED BROKER

THIS AGREEMENT, this 16th day of March A.D. 19 99
1. PRINCIPALS: Between J.W. RICE CONSTRUCTION, INC

with mailing address of 80 BEAVER DRIVE
DU BOIS, PA Zip Code 15801 Phone # (814) 375-0500, hereinafter called Seller,
and ROBIN A. DAVIS

with mailing address of 743 MORAVIA ROAD
NEW GALILEE, PA Zip Code 16141 Phone # (724) 336-6788 hereinafter called Buyer.

2. PROPERTY: Seller hereby agrees to sell and convey to Buyer, who hereby agrees to purchase:
ALL THAT CERTAIN lot or piece of ground with buildings and improvements thereon erected, if any, known as:
TREASURE LAKE STABLES 3 BUILDINGS & 14.87 ACRES AND VACANT LOT SECTION

in the TOWNSHIP of SANDY County of CLEARFIELD
State of PA Zip Code 15801

Zoning Classification: COMMERCIAL

Failure of this agreement to contain the zoning classification (except in cases where the property {and each parcel thereof, if subdividable} is zoned solely or primarily to permit single-family dwellings) shall render this agreement voidable at the option of the Buyer, and, if voided, any deposits tendered by the Buyer shall be returned to the Buyer without any requirement for court action.

Tax Parcel No. 128-C3-714-00030 Deed Book 1695/1742 Page No. 473/0074

3. TERMS: 128-C3-16-514-21 U.S. Dollars

(A) Purchase Price TWO HUNDRED FIFTEEN THOUSAND AND NO/100
to be paid to the Seller by the Buyer as follows:
(1) Cash or check at signing this agreement: UPON ACCEPTANCE \$ 3,000.00
(2) Cash or check to be paid on or before: 19 \$
(3) \$
(4) \$
(5) Cash or certified check at time of settlement: \$ 212,000.00
TOTAL PRICE \$ 215,000.00

(B) Written approval of Seller to be on or before: MARCH 25, 19 99

(C) Settlement to be made on or before: MAY 3, 19 99

(D) Conveyance from Seller will be by fee simple deed of special warranty.

(E) Transfer taxes will be paid by 1% BUYER & 1% SELLER

(F) The following shall be apportioned pro-rata as of and at time of settlement: taxes as levied and assessed, rents, interest on mortgage assumptions, water and sewer rents, lienable municipal services, and condominium fees, if any.

4. STATUS OF WATER AND SEWER: Seller warrants that this property is served by:
☒ public water ☒ well water ☒ public sewer ☐ septic system ☐
Seller further warrants that these systems are fully paid for as of the date of this Agreement.

5. POSSESSION AND TENDER:

(A) Possession is to be delivered by deed, keys and physical possession to a vacant building (if any) free of debris at day and time of settlement, or by deed and assignment of existing lease(s) at time of settlement if premises are tenant occupied, unless otherwise specified herein. TENANT TO BE VACANT FROM PROPERTY AT TIME OF CLOSING

If tenant occupied, Buyer will acknowledge the existing lease(s) by initialing it (them) at the time of signing this Agreement of Sale and by attaching it (them) hereto.

(B) Seller will not modify or extend any existing leases or enter into any new or additional leases for the premises without the express written consent of the Buyer.

(C) Formal tender of an executed deed and purchase money is hereby waived.

(D) Buyer reserves the right to make a pre-settlement inspection of the subject property.

6. ITEMS OF PERSONALTY: The following items are included in this sale and purchase price: OFFICE DESKS & FURNITURE AND ANY REMAINING FEED, HAY AND SHAVINGS. ALL BARN EQUIPMENT SUCH AS BUCKETS, TACK, JUMPS, SHOVELS, WHEELBARROWS, RAKES, HOSES. NO MOTORIZED EQUIPMENT

Seller hereby warrants that he/she will deliver good title to all of the articles described in this paragraph and any other fixtures or items of personalty specifically scheduled and to be included in this sale.

7. SPECIAL CLAUSES:

E. CONTINGENT UPON BUYER OBTAINING MORTGAGE FINANCING. BUYER IS PRE-APPROVED

F. BUYER AGREES TO LET SELLER HAVE PETTING ZOO ANIMALS ON PREMISES AS LONG AS SELLER PAYS FOR FEED AND MAINTENANCE OF SAID ZOO ANIMALS.

G. SPLIT RAIL FENCE BUNDLES TO STAY WITH PROPERTY.

H. CONTINGENT UPON SELLER SATISFYING THE EXISTING LEASE ON NEW STABLE. BUYER DOES NOT WANT TO ASSUME OR TRANSFER LEASE.

8. PROPERTY DEFECTS DISCLOSURE:

- (A) Owner represents and warrants that Owner has no knowledge except as noted in this Agreement:
- (1) That the premises have been contaminated by any substance in any manner which requires remediation;
 - (2) That the property contains wet lands, flood plains, or any other environmentally sensitive areas, development of which is limited or precluded by law;
 - (3) That the property contains asbestos, polychlorinated biphenyls, lead-based paint or any other substance, the removal or disposal of which is subject to any law or regulation; and
 - (4) That any law has been violated in the handling or disposing of any material or waste or the discharge of any material into the soil, air, surface water, or ground water.
- (B) Seller and Buyer acknowledge that Broker:
- (1) Is a licensed real estate broker;
 - (2) Is not an expert in construction, engineering, or environmental matters; and
 - (3) Has not made and shall not make any representations or warranties nor conduct investigations of the environmental condition or suitability of the property or any adjacent property, including whether:
 - (a) The premises have been contaminated by any substance in any manner that requires remediation;
 - (b) The property contains wet lands, flood plains, or any other environmentally sensitive areas, the development of which is limited or precluded by law;
 - (c) The property contains asbestos, polychlorinated biphenyls, lead-based paint or any other substance, the removal or disposal of which is subject to any law or regulation; and
 - (d) Any law has been violated in the handling or disposing of any material or waste or the discharge of any material into the soil, air, surface water, or ground water, except as noted in this Agreement.
- (C) Seller agrees to indemnify and to hold Agent harmless from and against all claims, demands, or liabilities, including attorneys fees and court costs, which arise from or are related to the environmental condition or suitability of the property prior to, during, or after Seller's occupation of the property including without limitation any:
- (1) Contamination of the property as defined in paragraph 8(A)(1);
 - (2) Presence of any environmentally sensitive areas on the property as defined in paragraph 8(A)(2);
 - (3) Presence on the property of any substances which are the subject of paragraph 8(A)(3); or
 - (4) Violation of the law as described in paragraph 8(A)(4).
- (D) The provisions of this Section shall survive the performance of this Agreement.

9. NOTICES & ASSESSMENTS:

- (A) Seller represents, as of the acceptance date of this Agreement, that no public improvement assessments have been made against the premises which remain unpaid and that no notice by any government or public authority has been served upon the Seller or anyone on the Seller's behalf, including notices relating to violations of zoning, building, safety, or fire ordinances which remain uncorrected unless otherwise specified herein.
- (B) Any notice of improvements or assessments received on or before the date of Seller's acceptance of this Agreement, unless improvements consist of sewer or water lines not in use, shall be the responsibility of the Seller; any notices received thereafter shall be the responsibility of the Buyer.
- (C) If required by law, Seller shall deliver to Buyer, on or before settlement, a certification from the appropriate municipal department or departments disclosing notice of any uncorrected violation of zoning, building, safety, or fire ordinances.
- (D) Buyer is advised that access to a public road may require issuance of a highway occupancy permit from the Department of Transportation.

10. TITLE AND COSTS:

- (A) The premises are to be conveyed free and clear of all liens, encumbrances, and easements, with the exception of existing building restrictions, ordinances, easements of roads, easements visible upon the ground, and privileges or rights of public service companies. The title to the subject property shall be good and marketable and such as will be insurable by a reputable Title Insurance Company at the regular rates.
- (B) In the event the Seller is unable to give a good and marketable title and such as will be insurable by a reputable Title Insurance Company, Buyer shall either take such title as the Seller can give without abatement of price or be repaid all monies that Buyer has paid to Seller on account of the purchase price including reimbursement for the items specified in paragraphs 10(C) items (1), (2), (3), and 10(D). In the latter event neither party shall have further liability or obligation; and this Agreement shall become VOID and all copies will be returned to Seller's Agent for cancellation.
- (C) The Buyer will pay for the following:
- (1) The premium for mechanics lien insurance and/or title search, or fee for cancellation of same;
 - (2) The premiums for flood insurance and/or fire insurance with extended coverage, insurance binder charges or cancellation fee;
 - (3) Appraisal fees and charges paid in advance to mortgage lender;
 - (4) Buyer's normal settlement costs and accruals.
- (D) Any survey or surveys required by the Title Insurance Company or the abstracting attorney for the preparation of an adequate legal description of the premises or the correction thereof, shall be secured and paid for by the Seller. Any survey or surveys desired by the Buyer or required by his/her mortgage lender shall be secured and paid for by the Buyer.

11. **DEPOSIT AND RECOVERY FUND:** Deposits, regardless of the form of payment and the person designated as payee, shall be paid to Agent for the Seller who shall retain them in an escrow account until consummation or termination of this Agreement in conformity with all applicable laws and regulations. Agent for the Seller may, at his or her sole option, hold any uncashed check tendered as deposit, pending the acceptance of this offer. In the event of litigation for the return of deposit monies, Agent for the Seller will distribute the monies pursuant to a final order of court or the written agreement of the parties. Buyer and Seller agree that, in the event the Agent and/or Subagent are/is joined in litigation for the return of deposit monies, the Agent's and/or Subagent's attorneys fees and costs will be paid by the party joining the Agent or Subagent.
- A Real Estate Recovery Fund exists to reimburse any persons who have obtained a final civil judgment against a Pennsylvania real estate licensee owing to fraud, misrepresentation, or deceit in a real estate transaction and who has been unable to collect the judgment after exhausting all legal and equitable remedies. For complete details about the Fund, call (717) 783-3658.

12. MAINTENANCE AND RISK OF LOSS:

- (A) Seller shall maintain the property, and any personal property specified herein, in its present condition, normal wear and tear excepted.
- (B) Seller shall promptly notify the Buyer if, at any time prior to the time of settlement, all or any portion of the property is condemned, destroyed, or damaged as a result of any cause whatsoever.
- (C) Seller shall bear risk of loss from fire or other causes until time of settlement. In the event that damage to any property included in this sale is not repaired or replaced prior to settlement, Buyer shall have the option of rescinding this Agreement and receiving all monies paid on account or of accepting the property in its then condition together with the proceeds of any insurance recovery obtained by Seller. Buyer is hereby notified that he/she may insure his/her equitable interest in this property as of the time this Agreement is accepted.

13. **DEFAULT-TIME OF THE ESSENCE:** The time for settlement and all other times referred to for the performance of any of the obligations of this Agreement are hereby agreed to be of the essence. Should the Buyer:

- (A) Fail to make any additional payments as specified in paragraph 3; or
- (B) Furnish false or incomplete information to the Seller, the Seller's Agent, or the mortgage lender concerning the Buyer's legal or financial status, or fail to cooperate in the processing of the mortgage loan application, which acts would result in the failure to obtain the approval of a mortgage loan commitment; or
- (C) Violate or fail to fulfill and perform any other terms or conditions of this Agreement, then in such case, all deposit monies and other sums paid by the Buyer on account of the purchase price, whether required by this Agreement or not, may be retained by the Seller: (1) On account of the purchase, or (2) As monies to be applied to the Seller's damages, or (3) As liquidated damages for such breach as the Seller may elect. In the event that the Seller elects to retain the monies as liquidated damages, the Seller shall be released from all liabilities or obligations and this Agreement shall be VOID and all copies will be returned to the Seller's Agent for cancellation.

14. **AGENT(S):** It is expressly understood and agreed between the parties that the named Agent, Broker, and any Subagent, Broker and their salespeople, employees officers and/or partners, are Agent(s) for the Seller not the Buyer, however, the Agent(s) may perform services for the Buyer in connection with financing, insurance and document preparation.

15. **RECORDING:** This Agreement shall not be recorded in the Office of the Recorder of Deeds or in any other office or place of public record. If Buyer causes or permits this Agreement to be recorded, Seller may elect to treat such act as a breach of this Agreement.

16. **ASSIGNMENT:** This Agreement shall be binding upon the parties, their respective heirs, personal representatives, guardians and successors, and, to the extent assignable, on the assigns of the parties hereto. It is expressly understood, however, that the Buyer shall not transfer or assign this Agreement without the written consent of the Seller.

17. **REPRESENTATIONS:**

- (A) In entering into this Agreement, Buyer has not relied upon any representations, claims, advertising, promotional activities, brochures or plans of any kind made by Seller, Agents or their employees unless expressly incorporated or stated in this Agreement.
- (B) It is understood that Buyer has inspected the property, or hereby waives the right to do so, and has agreed to purchase it in its present condition. Buyer acknowledges that the Agents have not made an independent examination or determination of the structural soundness of the property, the age or condition of the components, environmental conditions, the permitted uses, or of conditions existing in the locale where the property is situated; nor have they made a mechanical inspection of any of the systems contained therein.
- (C) It is further understood that this agreement contains the whole agreement between Seller and Buyer, and there are no other terms, obligations, covenants, representations, statements or conditions, oral or otherwise of any kind whatsoever concerning this sale. Furthermore, this agreement shall not be altered, amended changed, or modified except in writing executed by the parties.

BUYER'S APPROVAL

WITNESS

WITNESS

BUYER

BUYER

VOLUNTARY TRANSFER OF CORPORATE ASSETS: The undersigned acknowledges that he/she is authorized by the Board of Directors to sign this Agreement on behalf of the Seller corporation and that this sale does not constitute a sale, lease, or exchange of all or substantially all the property and assets of the corporation, such as would require the authorization or consent of the shareholders pursuant to 15 P.S. Section 1311.

SELLER'S ACCEPTANCE: Seller hereby accepts the above contract this 28th day of March A.D. 19 95

WITNESS

WITNESS

AGENT BY:

SELLER

SELLER

EXHIBIT D-2

County Record No. _____

This Deed,

MADE the _____ day of January

in the year thousand nine hundred and ninety six (1996)

BETWEEN

BEN LORMAN, single, of 916 Nichols Street, Clearfield, Pennsylvania 16830,

GRANTOR

A
B
D

J. W. RICE CONSTRUCTION, INC. of 90 Beaver Drive, Dubois, Clearfield County, Pennsylvania,

GRANTEE

WITNESSETH, That in consideration of (\$1,500.00)

One Thousand Five Hundred and 00/100 Dollars

in hand paid, the receipt whereof is hereby acknowledged, the said grantor does hereby grant and convey to the said grantee:

ALL

ALL that certain tract of land designated as Lot No. 514, Section 16, in the Treasure Lake Subdivision in Sandy Township, Clearfield County, Pennsylvania, recorded in the Recorder of Deeds Office in Misc. Docket Map File No. 75. Excepting and reserving therefrom and subject to:

1. All easements, rights of way, reservations, restrictions and limitations shown or contained in prior instruments of record and in the aforesaid recorded plan.
2. The Declaration of Restrictions, Treasure Lake, Inc., recorded in Misc. Book Vol. 146, page 474; all of said restrictions being covenants which run with the land.
3. All minerals and mining rights of every kind and nature.
4. A lien for all unpaid charges or assessments as may be made by Developer or Treasure Lake Property Owners Association, Inc.; which lien shall run with the land and be an encumbrance against it.

BEING the same premises which became vested in the grantor by deed of Howard Sanner and Sandra Sanner dated July 29, 1985 and recorded in Clearfield County Deed Book 1040, page 133.

Stable

This Deed,

MADE this

22nd day of May

in the year nineteen hundred and ninety five (1995)

BETWEEN

RECREATION LAND CORPORATION, a business corporation organized and existing under the laws of the Commonwealth of Pennsylvania, with an office at 687 Treasure Lake, DuBois 15801,

GRANTOR

A
B
C

J. W. RICE CONSTRUCTION, INC., a Pennsylvania business corporation, 90 Beaver Drive, DuBois, Pennsylvania 15801,

GRANTEE

WITNESSETH That in consideration of _____ (\$35,000.00)

Thirty Five Thousand and 00/100

Dollars

to have paid, the receipt whereof is hereby acknowledged, the said grantor do as hereby grant and convey to the said grantee

ALL that certain tract of land as described in survey of Alexander & Associates, Inc. dated January 18, 1995, attached hereto as Exhibit "A", located in the Treasure Lake Subdivision in Sandy Township, Clearfield County, Pennsylvania, excepting and reserving therefrom and subject to:

1. All easements, rights of way, reservations, restrictions and limitations shown or contained in prior instruments of record and in the aforesaid recorded plan.

2. The Declaration of Restrictions, Treasure Lake, Inc., recorded in Misc. Book Vol. 146, page 476, to the extent that the provisions of the Declaration of Restrictions may grant certain privileges to the owners of lots in the Treasure Lake Subdivision to use the property as part of the recreational facilities of the Development.

3. All minerals and mining rights of every kind and nature.

4. The property must be used for a horse riding stables with an auxiliary pasture and for related activities to usage, but additional uses of the property are permitted as long as they do not diminish the use of the premises as a riding stable and are approved by the Treasure Lake Property Owners Association, Inc..

EXHIBIT D-3

DECLARATION OF RESTRICTIONS

This Declaration made this 28th day of May, 1968, by TREASURE LAKE, INC. a Pennsylvania corporation, herein referred to as "Declarant".

WITNESSETH

WHEREAS, Declarant is the owner of real property in Sandy Township, Clearfield County, which is specifically described in the deed dated February 7, 1968 and recorded on February 9, 1968 in the Recorder of Deeds Office, Clearfield County, in Deed Book Volume 535, page 394, hereinafter called the Property; and

WHEREAS, Declarant has and will subdivide portions of the aforesaid property into lots, some of the subdivisions heretofore made being recorded and others will be recorded in the Recorder of Deeds Office, Clearfield County (said subdivisions being hereinafter called the "Subdivisions"); and

WHEREAS, Declarant is about to sell and convey certain of said lots to be used for residential purposes and to develop the entire property into an integrated community enjoying pleasant residential and vacation living conditions, integral recreational facilities and harmonious commercial establishments for the convenience of the residents, intending to preserve to as large an extent as possible the natural beauty of the site, but before selling and conveying the residential lots Declarant, for the benefit and complement of all of the residential lots in the subdivision and in the light of its general plan or scheme of improvement set out above, desires to subject them to and impose upon them mutual and beneficial restrictions, covenants, conditions and charges, hereinafter collectively referred to as "Restrictions";

NOW, THEREFORE, Declarant hereby declares that all of said lots are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved subject to the following Restrictions, all of which are declared and agreed to be in furtherance of the general plan for the subdivisions, improvement and sale of said lots and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property. All of the Restrictions shall run with the land and shall be binding on all parties having or acquiring any right, title or interest in and to the real property or any part or parts thereof subject to such Restrictions.

1. APPLICABILITY

A. These Restrictions shall apply to all subdivided numbered lots which are for residential purposes only, but these restrictions shall not be applicable to such lands now or hereafter designated on the plat or otherwise as parcels or as lands of Declarant, which parcels and lands are intended for commercial, multiple dwelling, condominium or hotels, or recreational uses. Declarant is withholding these parcels pursuant to its general development scheme and the absence of restrictions thereupon is intended to further that scheme by providing additional conveniences to the residential property owners and by stimulating a truly integrated community.

2. TERM

A. These Restrictions shall affect and run with the land and shall exist and be binding upon all parties and all persons claiming under them until January 1, 1995. By accepting a deed to residential property subject to these Restrictions, the residential owners agree that after January 1, 1995 these Restrictions shall be extended for successive periods of ten (10) years each, unless an instrument signed by a majority of the then owners of the lots subject thereto has been recorded, agreeing to change the covenants in whole or in part, provided, however, that at any time after January 1, 1980, these Restrictions may be amended by the vote of the then record owners of two-thirds (2/3) of such residential lots to make variations in the Restrictions as to details to suit varying circumstances or changed conditions, but not to make changes that would annul any material part hereof.

B. Declarant reserves to itself, its successors and assigns the right to revoke at any time prior to the sale of any lot within a Section or Subdivision all or any part of these Restrictions if, in its opinion, such a revocation would further the general development scheme it has previously set out, and would be for the benefit of the other residential lots, and further to vacate any or all of the streets, parks, recreational facilities and any other amenity now or hereafter shown on any recorded plans, provided, however, that Declarant will not prevent access to or installation of utilities to lots in any other Section of the Subdivision.

3. MUTUALITY OF BENEFIT AND OBLIGATION

A. The Restrictions and agreements set forth herein are made for the mutual and reciprocal benefit of each and every lot in the Subdivisions and are intended to create mutual, equitable servitudes upon each of said lots in favor of each and all of the other lots therein; to create reciprocal rights between the respective owners of all of said lots; to create a privity of contract and estate between the grantees of said lots, their heirs, successors and assigns, and shall, as to the owner of each such lot, his heirs, successors or assigns, operate as covenants running with the land for the benefit of each and all other lots in the Subdivisions and their respective owners.

4. EXCLUSIVE RESIDENTIAL USE AND IMPROVEMENTS

A. No lot shall be used except for single family residential purposes. No structure shall be erected, placed or permitted to remain on any lot other than one (1) detached, single family residence dwelling and such outbuildings as are usually accessory to a single family residence dwelling including a private garage.

5. PROPERTY CONTROL COMMITTEE

A. All plans and specifications for any structure or improvement whatsoever to be erected on

or moved upon or to any lot, and the proposed location thereof on any lot or lots, the construct material, the roofs and exterior color schemes, any later changes or additions after initial approval thereof and any remodeling, reconstruction, alterations, or additions thereto on any lot shall subject to and shall require the approval in writing before any such work is commenced of the Property Control Committee (herein called "Committee"), as the same is from time to time composed.

B. The Committee shall be composed of three (3) members to be appointed by Declarant. Committee members shall be subject to removal by Declarant and any vacancies from time to time existing shall be filled by appointment of Declarant, or in the event of Declarant's failure to appoint within two (2) months after any such vacancy, then by the Board of Directors of Treasure Lake Property Owners Association, Inc. (hereinafter called "Association"); provided however, that at any time hereafter the Declarant may, at its sole option, relinquish to the Board of Directors of the Association the power of appointment and removal reserved herein to Declarant. Such transfer of power must be evidenced in writing.

C. There shall be submitted to the Committee two (2) complete sets of the final plans specifications for any and all proposed improvements, the erection or alteration of which is desired and no structures or improvements of any kind shall be erected, altered, placed or maintained on any lot unless and until the final plans, elevations, and specifications therefor have received a written approval as herein provided. Such plans shall include plot plans showing the location on lot of the building, wall, fence or other structure proposed to be constructed, altered, placed, maintained, together with the proposed construction material, color schemes for roofs and exterior thereof and proposed landscape planting. A filing fee of \$30.00 shall accompany the submission of such plans to defray Committee expenses. No additional fee shall be required for resubmission of plans revised in accordance with Committee recommendations.

D. The Committee shall approve or disapprove plans, specifications and details within thirty (30) days from the receipt thereof. One (1) set of said plans and specifications and details with approval or disapproval endorsed thereon, shall be returned to the person submitting them and other copy thereof shall be retained by the Committee for its permanent files.

E. The Committee shall have the right to disapprove any plans, specifications or details submitted to it in the event the same are not in accordance with any of the provisions of these Restrictions, if the design or color scheme of the proposed building or other structure is not in harmony with the general surroundings of such lot or with the adjacent buildings or structure. The plans and specifications submitted are incomplete or in the event the Committee deems plans, specifications or details, or any part thereof, to be contrary to the interests, welfare or right of all or any part of the real property subject hereto, or the owners thereof. The decisions of the Committee shall be final and not subject to appeal or review.

F. Neither the Committee nor any architect or agent thereof or of Declarant shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing provisions, nor for any structural or other defects in any work done according to such plans and specifications.

G. Wherever the Committee shall approve plans and specifications for a boat shelter, platform or similar structure on or extending into any lake, such approval shall constitute a non-revocable license from Declarant or its successor or successors in interest to said lake for construction, placement and maintenance of the proposed structure.

6. SIZE AND PLACEMENT OF RESIDENCES AND STRUCTURES

A. Every residence dwelling constructed on a lot subject to these restrictions shall contain at least the following number of square feet of fully enclosed floor area devoted to living purposes (exclusive of roofed or unroofed porches, terraces, garages, carports and other outbuildings):

1. Lake Front Lots, i.e., those which are not separated from the lake by another lot in Subdivision, 1000 square feet;
2. Lake View Lots, i.e., lots other than Lake Front Lots, 800 square feet.

B. Each dwelling shall be of single story construction; provided, however, that split level or story residences may be constructed on lots where, in the opinion of the Committee, the terrain of such lot lends itself to such construction, and the erection of such a structure would not detract from the general development scheme.

C. The Committee shall have the authority to establish regulations pertaining to the height, size requirements of all other types of structures, including but not limited to fences, walls, copings and boat docks. Such regulations shall, in the Committee's sole discretion, conform with the general development scheme.

D. In order to preserve the natural quality and aesthetic appearance of the existing geographical areas within the Subdivisions, all property lines shall be kept free and open. No fences shall be permitted on any lot or lot lines except if, in the sole opinion of the Committee, a fence or enclosure will contribute to and be in keeping with the character of the area.

E. No above-grade structure (except approved fences or walls) may be constructed or placed on any lot in any Subdivision except within the building lines shown on the recorded plan, and if building lines are not shown or if the plan is not recorded, then the building lines, other than those which may be shown on a recorded plan, shall be:

- a. Fifty (50) feet from the front line of each lot;
- b. Ten (10) feet from each lot side line;
- c. Twenty-five (25) feet or twenty-five percent (25%) of the depth of the lot, whichever is greater, from the rear line of each lot.

7. PARTICULAR RULES FOR APPLICATION OF SETBACK REQUIREMENTS

A. If the line from which a setback is to be measured is a meandering line, the average length of the two lot lines intersecting the meandering line shall be determined, and using that average length, an imaginary straight line shall be drawn through the meandering line and the setback measurement shall be made along a line perpendicular to such imaginary line.

B. The term "side line" defines a lot boundary line that extends from the street on which the lot abuts to the front or rear line of the lot.

C. Except for Lake Front Lots, the term "rear lot line" defines the boundary line of the lot that is farthest from and substantially parallel to, the line of the street on which the lot abuts, except that on corner lots it may be determined from either street line.

D. A corner lot shall be deemed to have a front line on each street on which the lot abuts, and such lot need have only one rear yard as defined by 6-E(c).

8. GENERAL PROHIBITIONS AND REQUIREMENTS

A. The following general prohibitions and requirements shall prevail as to the construction or activities conducted on any lot in the Subdivisions:

- a. No outside toilet shall be constructed or permitted on any lot. All plumbing fixtures, dishwashers, toilets or sewage disposal systems shall be connected to a septic tank or other sewage system constructed by the lot owner and approved by the appropriate governmental authority and Declarant, and when a central sewer becomes available, it shall be exclusively used.
- b. No temporary house, trailer, tent, garage or other outbuilding shall be placed or erected on any lot, provided, however, that the Committee may grant permission for any such temporary structure for storage of materials during construction. No such temporary structures as may be approved shall be used at any time as a dwelling place.
- c. Once construction of improvements is started on any lot, the improvements must be substantially completed in accordance with plans and specifications, as approved, within six (6) months from commencement.
- d. No residence shall be occupied until the same has been substantially completed in accordance with its plans and specifications and a certificate of occupancy has been issued by the Committee.
- e. All structures constructed or placed on any lot shall be built of substantially new material and no used structures shall be relocated or placed on any such lot.
- f. No animals or livestock of any description, except the usual household pets, shall be kept on any lot.
- g. No sign (including but not limited to "For Sale" or similar signs), billboard, or other advertising structure of any kind may be erected or maintained upon any lot except after applying to and receiving written permission from the Committee.
- h. No stripped, partially wrecked, or junk motor vehicle, or part thereof, shall be permitted to be parked or kept on any street or lot.
- i. Every fuel storage tank shall be buried below the surface of the ground or screened by fencing or shrubbery to the satisfaction of the Committee. Every outdoor receptacle for ashes, trash, rubbish or garbage shall be installed underground, screened or so placed and kept as not to be visible from any street, lake or recreation area.
- j. All outdoor clothes poles, clothes lines and similar equipment shall be so placed or screened by shrubbery as not to be visible from any street, lake or recreation area.
- k. No structure erected upon any lot may be used as a model exhibit or house unless prior written permission to do so shall have been obtained from the Committee.
- l. All lots, whether occupied or unoccupied, shall be well maintained and no unattractive growth or accumulation of rubbish or debris shall be permitted.
- m. No noxious, offensive or illegal activities shall be carried on on any lot nor shall anything be done on any lot that shall be or become an unreasonable annoyance or nuisance to the neighborhood.
- n. No oil or natural gas drilling, refining, quarrying or mining operations of any kind shall be permitted upon or in any lot and no derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any lot.
- o. No vehicle shall be parked on any street in the Subdivisions. No truck shall be parked for storage overnight or longer, on any lot, in such a manner as to be visible to the occupants of other lots or the users of any street, lake or recreation area.
- p. Any dwelling or outbuilding on any lot which may be destroyed in whole or in part by fire, windstorm or for any other cause or act of God must be rebuilt or all debris removed and the lot restored to a slightly condition with reasonable promptness, provided, however, that in no event shall such debris remain longer than six (6) months.
- q. No tree over six inches in diameter shall be removed from any lot without the prior written consent of the Committee.
- r. No radio station or shortwave operators of any kind shall operate from any lot or residence. No exterior television or radio antenna of any kind shall be constructed or erected on any lot or residence after such time as a central television system has been made available at rates commensurate with those prevailing in the area.
- s. No trash, ashes, garbage or other refuse shall be dumped or stored or accumulated on any

lot or upon any recreational area in the Subdivisions. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted. In order to enhance the appearance and orderliness of the Subdivisions, the Declarant hereby reserves for itself, its successors and assigns, the exclusive right to operate, or from time to time to grant an exclusive license to a third party to operate a commercial scavenging service for the purpose of removing garbage, trash and other like household refuse. Such refuse collection and removal service shall be provided not less often than once each week on a day or days designated by the Declarant or its successors or assigns. The charge for such refuse collection and removal service is to be paid by the lot owner and shall be commensurate with the rates charged by commercial scavengers serving other Subdivisions of high standards in the area, and shall be subject to change from time to time.

- t. There shall be no access to any lot on the perimeter of the Subdivisions except from designated roads within the Section or Subdivision.

9. VARIANCES

A. The Committee may allow reasonable variances and adjustments of these Restrictions in order to overcome practical difficulties and prevent unnecessary hardships in the application of the provisions contained herein; provided, however, that such is done in conformity with the intent and purposes of the general development scheme and provided also that in every instance such variance or adjustment will not be materially detrimental or injurious to other property or improvements in the neighborhood or the Subdivisions.

10. EASEMENTS

A. Declarant reserves for itself, its successors and assigns, for purposes incident to its development of the real property subject to these Restrictions, the following easements and/or rights-of-way:

- a. A 15-foot easement and right-of-way over each lot as Declarant may deem necessary for the use and maintenance of storm and sanitary sewers and the installation of utility services.
- b. A 10-foot wide easement along each side of all road rights-of-way and a 7 1/2 foot wide easement along all other property boundary lines for the purpose of installing, operating and maintaining utility lines and mains. It also reserves the right to trim, cut and remove any trees and brush and to locate guy wires and braces wherever necessary for the installation, operation and maintenance, together with the right to install, operate and maintain gas, water and sewer mains and other services for the convenience of the property owners and appurtenances thereto; reserving also the right of ingress and egress to such other areas for any of these purposes.
- c. Such other easements or right-of-way as may be needed for the natural and orderly development and occupation of the Subdivisions.

B. Declarant reserves for itself, its successors or assigns an exclusive easement for the installation and maintenance of radio and television transmission cables within the rights-of-way and easement areas reserved and defined above.

C. On each lot, the rights-of-way and easement areas reserved by Declarant or dedicated to public utilities purposes shall be maintained continuously by the lot owner but no structures, plantings or other material shall be placed or permitted to remain or other activities undertaken which may damage or interfere with the installation or maintenance of utilities, which may change the direction or maintenance of utilities, which may change the direction of flow or drainage channels in the easements, which may obstruct or retard the flow of water through drainage channels in the easements, or which damage or interfere with established slope ratios or create erosion or sliding problems, provided, however, that where the existing location of a drainage channel would hinder the orderly development of a lot the drainage channel may be relocated, provided such relocation does not cause an encroachment on any other lot in the Subdivision. Improvements within such areas shall also be maintained by the respective lot owner except for those for which a public authority or utility company is responsible.

D. The lots shall be burdened by such additional easements as may be shown on any recorded plats.

E. Every lot in the Subdivision, if any, that lies contiguous to a lake shall be subject to a flowage easement to an elevation on the lot equal to the high water elevation of such lake.

11. OWNERSHIP, USE AND ENJOYMENT OF STREETS, PARKS AND RECREATIONAL AMENITIES

A. Each of the streets in the Subdivisions now or hereafter designated on any plat is a private street, and every park, recreational facility, and other amenity within the Subdivisions is a private park, facility or amenity and neither Declarant's execution nor recording of the plat nor any other act of Declarant with respect to the Property is, or is intended to be, or shall be construed as a dedication to the public of any of said streets, parks, recreational facilities and amenities other than as reflected therein. An easement for the use and enjoyment of each of said streets and areas designated as parks is reserved to Declarant, its successors and assigns; to the persons who are from time to time, members or associate members of the Treasure Lake Property Owners' Association Inc.; to the members and owners of any recreational facility; to the residents, tenants, and occupants of any multi-family residential buildings, guest house, inn or hotel facilities, and all other kinds of residential structures that may be erected within the boundaries of the Property and to the invitees of all the aforementioned persons; the use of which shall be subject to such rules and regulations as may be prescribed by Declarant or the Association, if the Association is the owner of the facility or property involved.

B. The ownership of the recreational amenities within the Property which may include bu

shall not be limited to lakes, dams, marinas, beaches, lake access tracts, golf courses, tennis courts, swimming pools, clubhouses, and adjacent clubhouse grounds, and campgrounds shall be in Declarant or its successors or assigns and the use and enjoyment thereof shall be on such terms and conditions as Declarant, its successors or assigns, shall from time to time license; provided, however, that any or all of such amenities may be conveyed to the Association, which conveyance shall be accepted by it, provided the same is free and clear of all financial encumbrances.

12. TREASURE LAKE PROPERTY OWNERS ASSOCIATION, INC.

A. Every person before acquiring title, legal or equitable, to any lot in the Subdivisions must be a member of the Treasure Lake Property Owners Association, Inc., a Pennsylvania non-profit corporation, herein referred to as "Association", and no such person shall acquire such title until he has been approved for membership in the Association, nor shall the owner of a lot or lots in the Subdivisions convey title to said lot or lots to any person who has not been approved in writing for membership in the Association, provided, however, that such membership is not intended to apply to those persons who hold an interest in any such lot merely as security for the performance of an obligation to pay money, e.g., mortgages, deeds of trust, or real estate contract purchases. However, if such person should realize upon his security and become the real owner of a lot, he will then be subject to all the requirements and limitations imposed in these Restrictions on owners of lots within the Subdivision and on members of the Association, including those provisions with respect to alienation and the payment of an annual charge.

B. The general purpose of the Association is to further and promote the community welfare of property owners in the Subdivisions.

C. The Association shall be responsible for the maintenance, repair and upkeep of the private streets and parks owned by it within the Subdivisions. The Association shall also promulgate and enforce all regulations necessary for the use and enjoyment of such streets and parks and such other properties as it may from time to time own.

D. The Association shall have all the powers that are set out in its Articles of Incorporation and all other powers that belong to it by operation of law, including (but not limited to) the power to levy against every member of the Association a uniform annual charge per single-family residential lot within the Subdivisions, the amount of said charge to be determined by the Board of Directors of the Association after consideration of current maintenance needs and future needs of the Association, for the purposes set forth in its Articles of Incorporation; provided, however, that the uniform annual charge shall in no event be less than \$30.00 per year for road maintenance and after a clubhouse is built, \$10.00 per month for membership in the club. No such charge shall ever be made against, or be payable by, the Declarant, the Association itself, or any corporation or corporations that may be created to acquire title to, and operate, the water or sewer utilities serving the area, or any lakes, dams, beaches, lake access tracts, marinas, golf courses, tennis courts, swimming pools, clubhouse grounds, campgrounds, or other like recreational facilities.

- a. Every such charge so made shall be paid by the member of the Association or its designee on or before the first day of May of each year, for the ensuing year. The Board of Directors of the Association shall fix the amount of the annual charge per lot on or before the first day of April of each year, and written notice of the charge so fixed shall be sent to each member.
- b. If any such charge shall not be paid when due, it shall bear interest from the date of delinquency at the rate of six percent (6%) per annum. The annual charge shall, if unpaid within 30 days of its due date, become a lien or encumbrance upon the land and acceptance of each deed, not including acceptance by a mortgagee, shall be construed to be a covenant to pay the charge. The Association may publish the names of the delinquent members, and may record a lien to secure payment of the unpaid charge plus costs and reasonable attorneys' fees. Every such lien may be foreclosed at any time. In addition to the remedy of lien foreclosure, the Association shall have the right to sue for such unpaid charges, interest costs, and reasonable attorneys' fees, in any court of competent jurisdiction as for a debt owed by any delinquent member to the Association. Every person who shall become the owner of the title (legal or equitable) to any lot in the Subdivisions by any means shall be conclusively held to have covenanted to pay the Association or its designee all charges that the Association shall make pursuant to any paragraph or subparagraph of these Restrictions or its By-Laws. Any lot acquired is taken subject to the lien for any prior unpaid charges.
- c. The Association shall upon demand at any time furnish a certificate in writing signed by an officer of the Association certifying that the charges on a specified lot have been paid or that certain charges against said lot remain unpaid, as the case may be. A reasonable charge may be made by the Board of Directors of the Association for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any charges therein stated to have been paid.

E. The fund accumulated as the result of the charges levied by the Association shall be used exclusively to promote the recreational facilities of, and the health, safety and welfare of the members of the Association and in particular for the improvement and maintenance of the streets, those areas designated as parks, and other property within the Subdivisions which shall have been conveyed to or acquired by the Association.

F. The lien of a mortgage or deed of trust representing a first lien placed upon any lot for the purpose of permanent financing and/or constructing a residence or other improvement thereon recorded in accordance with the laws of Pennsylvania, shall be, from the date of recordation, superior to any and all such liens provided for herein.

G. The Board of Directors of the Association shall have the right to suspend the voting rights (if any) and the right to use of the recreational facilities of the Association or of Declarant of any member:

- a. For any period during which any Association charge (including the charges and the fines,

if any, assessed under paragraphs 12-D, 13 and 14 of these Restrictions) owed by the member remains unpaid;

- b. During the period of any continuing violation of the restrictive covenants for the Subdivision, after the existence of the violation shall have been declared by the Board of Directors of the Association;
- c. During the period that any utility bill for water or sewer service rendered to the member or associate member shall remain unpaid.

13. MOTOR VEHICLE SPEED LIMITS

A. Speed limits for streets and the rules governing the use of parks within the Subdivision shall be as promulgated from time to time by the Declarant, its successors and assigns. Appropriate postings of these speed limits shall be made. The Association shall have the power to assess fines for the violation of the motor vehicle speed limits in accordance with a schedule of fines promulgated by the Association. Every such fine shall be paid promptly upon its being assessed; if it is not, the Association may add the amount of the fine to the annual charge made by the Association, pursuant to subparagraph 12-D of the Restrictions and the amount of such fine shall be collectable by the same means as are prescribed in said subparagraph for the collection of delinquent annual charges of the Association or through the use of the sanctions prescribed in subparagraph 12-G of the Restrictions.

B. No vehicle except a duly licensed vehicle shall be operated on any street and no such vehicle shall be operated except by a duly licensed operator.

14. ASSOCIATION'S RIGHT TO PERFORM CERTAIN MAINTENANCE

A. In the event an owner of any lot shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors of the Association, the Association shall have the right, through its agents and employees, to enter upon said lot and repair, maintain and restore the lot and the exterior of the buildings and any other improvements erected thereon. Such right shall not be exercised unless two-thirds of such Board of Directors shall have voted in favor of its being exercised. The cost of such exterior maintenance shall be added to and become part of the annual charge to which such lot is subject and until paid shall be a lien on said lot.

15. PROVISIONS IN RESPECT OF LAKES AND LOTS CONTIGUOUS THERETO

A. The water in, and the land under, Treasure Lake or lakes as shown on the plan, is and will be owned by the Declarant, its subsidiaries or its successors and assigns. The title that will be acquired by the grantee of the Declarant's title to any lot fronting on said lake (and by the successors or assigns of such grantee) shall extend only to such point as designated on the plan and in no event shall it extend beyond the shoreline of the lake to which such lot is fronting or contiguous. No such grantee, nor any of such grantee's successors or assigns, shall have any right with respect to a stream that is a tributary to said lake or with respect to said lake, the land thereunder, the water therein, or its elevation, use, or condition, and none of said lots shall have any riparian rights or incidents appurtenant; provided, further, that title shall not pass by reliction or submergence or changing water elevations. The Declarant, its successors and assigns shall have the right at any time to dredge or otherwise remove any accretion or deposit from any of said lots in order that the shoreline of the lake may be moved toward or to, but not inland beyond, the location of said shoreline as it would exist as of the date hereof.

16. RESERVATION OF EASEMENT OF DECLARANT FOR OPERATION OF LAKE

A. The Declarant reserves to itself, and its successors and assigns, such an easement upon across and through the lakefront portion of each of said lots contiguous to said lake as is reasonable necessary in connection with operating said lake. Without limiting the generality of the immediately preceding sentence, it is declared that neither the Declarant nor any successor or assign of the Declarant shall be liable for damages caused by ice, erosion, washing, flooding or other acts by the water.

17. RIGHTS OF FIRST REFUSAL

A. Whenever the owner of any lot in the Subdivision shall receive a bona fide offer to purchase said lot, which offer is acceptable to said owner, or shall independently decide to put said lot on the market, said owner shall offer to sell said lot at the price and on the same terms contained in said bona fide offer or (if said owner shall independently have decided to put said lot on the market) the price and on the terms acceptable to said owner, first to the Declarant, its successors or assigns which shall have ten (10) days within which to accept or refuse such offer. If Declarant refuses purchase said lot at the price and on the terms proposed by said owner, said owner shall be free subject to the limitations contained herein requiring the purchaser to have been approved for membership in the Association, to sell said lot to the party who shall have made said bona fide offer or (if said owner shall independently have decided to put said lot on the market) to the third party, either case at a price and on terms not substantially more favorable to the purchaser than those offered, as aforesaid, to Declarant or its successors or assigns.

18. CHARGES FOR WATER SERVICE

A. Every owner (legal or equitable) of a lot in the Subdivisions shall be conclusively presumed to have covenanted, by acquiring title to his lot (regardless of the means of such title acquisition) pay charges for water service to the Association or its designee as follows: At the rate of TWENTY DOLLARS (\$2.00) per month commencing upon the availability of water service to the lot; at the same time as the owner of a lot shall elect to have service connected, he shall pay a connection charge THREE HUNDRED EIGHTY-FIVE DOLLARS (\$385.00); thereafter, he shall pay for water service at reasonable consumption rates, subject to a minimum monthly charge of not less than FOUR DOLLARS (\$4.00), as established by Declarant or its designee. Said availability consumption rates may be billed monthly or quarterly or semi-annually.

19. CHARGES FOR SEWER SERVICE

A. Notwithstanding the provisions of Paragraph 8-A(a) above as the same applies to septic tanks or other sewage systems, every owner (legal or equitable) of a lot shall be conclusively presumed to have covenanted, by acquiring title to his lot (regardless of the means of such title acquisition) to pay charges for sewer service as provided in this paragraph. Owners of all dwellings shall be required to connect to said sewer service as follows: Within 30 days after the time said services should be made available in the case of dwellings already constructed; before the time of occupancy in the case of dwellings constructed after said service should be made available. Charges for sewer service shall be at the rate of at least TWO DOLLARS (\$2.00) per month commencing upon the availability of sewer service to the lot; at such time as the owner of a lot has service connected, he shall pay a connection charge of SEVEN HUNDRED EIGHTY-FIVE DOLLARS (\$785.00), or such other charge as may be authorized by the governing body having jurisdiction, to the Association or its designee; thereafter, he shall pay for sewer service at reasonable rates, subject to a minimum monthly charge of not less than FOUR DOLLARS (\$4.00) per month. Said availability or use rates may be billed monthly or quarterly or semi-annually in arrears at the option of the utility. Easements in addition to those reserved throughout these Restrictions and on any plans shall be granted for the practical construction, operation and maintenance of said sewer facilities upon request of the applicable utility.

20. REMEDIES

A. The Declarant, Association or any party to whose benefit these Restrictions inure may proceed at law or in equity to prevent the occurrence, continuation or violation of any of these Restrictions and the court in any such action may award the successful party reasonable expenses in prosecuting such action, including attorneys' fees.

B. The remedies hereby specified are cumulative, and this specification of them shall not be taken to preclude an aggrieved party's resort to any other remedy at law, in equity, or under any statute. No delay or failure on the part of Declarant, the Association or an aggrieved party to invoke an available remedy in respect of a violation of any of these Restrictions shall be held to be a waiver by that party or (or an estoppel of that party to assert) any right available to him upon the recurrence or continuation of said violation or the occurrence of a different violation.

21. GRANTEE'S ACCEPTANCE

A. The grantee of any lot subject to the coverage of this Declaration, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent owner of such lot, shall accept such deed or contract upon and subject to each and all of these Restrictions and the agreements herein contained, and also the jurisdiction, rights and powers of Declarant, and by such acceptance shall for himself, his heirs, personal representatives, successors and assigns, covenant, consent and agree to and with Declarant, and to and with the grantees and subsequent owners of each of the lots within the Subdivision to keep, observe, comply with and perform said Restrictions and agreements.

B. Each such grantee also agrees, by such acceptance, to assume, as against Declarant, his successors or assigns, all the risks and hazards of ownership or occupancy attendant to such lot, including but not limited to its proximity to any recreational facility.

C. Each such grantee whose lots are adjacent to available underground electrical service, if any, also agrees to complete the underground secondary electrical service to their respective residences.

22. SEVERABILITY

A. Every one of the Restrictions is hereby declared to be independent of, and severed from the rest of the Restrictions and of and from every other one of the Restrictions and of and from every combination of Restrictions. Therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability, or "running" quality of any other one of the Restrictions.

23. CAPTIONS

A. The captions preceding the various paragraphs and subparagraphs of these Restrictions are for convenience of references only, and none of them shall be used as an aid to the construction of any provision of the Restrictions. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

24. PRIOR RESTRICTIONS

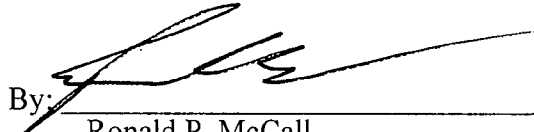
A. These Restrictions are amendments and additions to all restrictions heretofore imposed on any of the Property or lots sold therefrom by Declarant or its predecessors in title.

IN WITNESS WHEREOF, the said Declarant has caused its common and corporate seal to be affixed to these presents by the hand of its President, and the same to be duly attested by its Secretary, dated the day and year first above written.

CERTIFICATE OF SERVICE

I hereby certify that I mailed a certified copy of **DEFENDANT'S ANSWER TO AMENDED COMPLAINT AND NEW MATTER AND COUNTER CLAIM** to counsel of record for the Plaintiffs by regular United States Mail, postage prepaid, on the 25th day of October, 2001, at the following address:

Matthew B. Taladay, Esquire
Hanak, Guido and Taladay
498 Jeffers Street
P.O. Box 487
DuBois, PA 15801

By: 

Ronald P. McCall

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

J.W. RICE CONSTRUCTION, INC.,	:	CIVIL ACTION - AT LAW
Plaintiff	:	
	:	No. 01-970-CD
vs.	:	
	:	Type of pleading:
ROBIN A. DAVIS,	:	
Defendant	:	REPLY TO NEW MATTER
	:	AND ANSWER TO
	:	COUNTERCLAIM
	:	
	:	Filed on behalf of:
	:	
	:	PLAINTIFF
	:	
	:	Counsel of record for this
	:	party:
	:	
	:	Matthew B. Taladay, Esq.
	:	Supreme Court No. 49663
	:	Hanak, Guido and Taladay
	:	498 Jeffers Street
	:	P. O. Box 487
	:	DuBois, PA 15801
	:	
	:	814-371-7768

FILED

FEB 19 2002

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - AT LAW

J.W. RICE CONSTRUCTION, INC.,	:	
Plaintiff	:	
	:	
vs.	:	No. 01-970-CD
	:	
ROBIN A. DAVIS,	:	
Defendant	:	

REPLY TO NEW MATTER

AND NOW, comes the Plaintiff, J.W. Rice Construction, Inc., by its attorneys, Hanak, Guido and Taladay, and hereby responds to Defendant's New Matter and Counterclaim as follows:

Plaintiff incorporates the allegations of paragraphs 1 through 14 of the Complaint as if set forth in full.

1. Denied. By way of further answer, however, it is averred that at some point after the execution of the Sale Agreement, Defendant indicated her interest in developing a single family dwelling on the property, and Plaintiff, by his attorneys, Blakley, Jones and Mohney, secured clearance from the Treasure Lake Property Owners Association for construction of a single family dwelling on the premises.

2. Denied. To the contrary, Plaintiff exercised reasonable and good faith efforts to mitigate his damages by securing a purchaser for the premises.

3. Admitted in part and denied in part. The excerpts from the Agreement of Sale are admitted to be contained within said

Agreement. The remaining averments of paragraph 3 constitute a conclusion of law to which no response is required, however, to the extent that a response is required, it is denied that these provisions constitute a lien or cloud on title to the premises.

4. Admitted in part and denied in part. It is admitted that paragraph 5(d) of the Agreement gives the buyer the right of inspection. The implications set forth in paragraph 4 of the Complaint are denied and strict proof thereof is demanded at the time of trial.

5. Denied. It is denied that there are any substantial defects on the premises which would give Defendant the right of cancellation.

6. Admitted in part and denied in part. It is admitted that Defendant was aware of any alleged defects to the property and agreed to purchase the property in "as is" condition. The remaining averments of paragraph 6 are denied.

7. Admitted in part and denied in part. It is admitted that Defendant did not learn of the property restriction from her attorney in that Defendant was advised as to the restriction by Plaintiff and also by the Realtor, Lori Srock. The remaining averments of paragraph 7 are denied.

8. Denied. By way of further answer, it is averred that Defendant failed to exercise her best efforts to secure financing and further asserted that Plaintiff offered to provide financing in the amount requested by Defendant, and under terms more favorable than a commercially available loan.

9. Denied.

WHEREFORE, Plaintiff demands judgment in his favor.

ANSWER TO COUNTERCLAIM

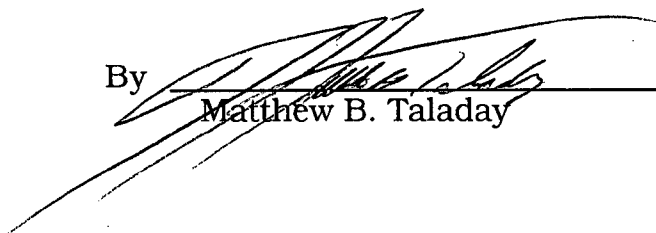
Plaintiff, and Respondent in Counterclaim, hereby incorporates paragraphs 1 through 14 of the Complaint as if set forth in full.

1. Admitted.
2. Denied, as more fully set forth in the Complaint and Reply to New Matter.
3. Admitted in part and denied in part. It is denied that the Defendant is excused. It is admitted that the Plaintiff retained Defendant's down payment in the amount of \$3,000.00 due to Defendant's breach.
4. Admitted in part and denied in part. Plaintiff is unaware of Defendant's demand for return of down payment money. It is further denied that Plaintiff retained the down payment money in satisfaction of all claims.
5. Admitted in part. It is admitted that Plaintiff refuses to return the down payment money for reasons more fully set forth in the Complaint. The remaining averments of paragraph 5 are denied.

WHEREFORE, Plaintiff demands judgment in his favor.

HANAK, GUIDO AND TALADAY

By

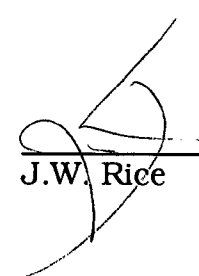

Matthew B. Taladay

VERIFICATION

I, **J.W. Rice**, as President of J.W. Rice Construction, Inc., do hereby verify that I have read the foregoing Reply to New Matter and Answer to Counterclaim. The statements therein are correct to the best of my personal knowledge or information and belief.

This statement and verification are made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn fabrication to authorities, which provides that if I make knowingly false averments I may be subject to criminal penalties.

Date: 02-15-02



J.W. Rice

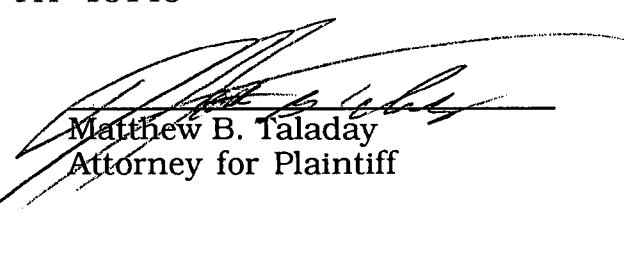
IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - AT LAW

J.W. RICE CONSTRUCTION, INC.,	:	
Plaintiff	:	
	:	
vs.	:	No. 01-970-CD
	:	
ROBIN A. DAVIS,	:	
Defendant	:	

CERTIFICATE OF SERVICE

I certify that on the 18th day of February, 2002 a true and correct copy of the attached REPLY TO NEW MATTER and ANSWER TO COUNTERCLAIM was sent via first class mail, postage prepaid, to the following:

Ronald P. McCall, Esq.
Attorney for Defendant
One East State Street
P.O. Box 91
Sharon, PA 16146


Matthew B. Taladay
Attorney for Plaintiff

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
CIVIL TRIAL LISTING

CERTIFICATE OF READINESS

TO THE PROTHONOTARY

03/27/02

CASE NUMBER	TYPE TRIAL REQUESTED	DATE PRESENTED	ESTIMATED TRIAL TIME
-------------	----------------------	----------------	----------------------

No. 01-970-CD Date Complaint Filed: 06/20/01	() Jury (x) Non-Jury () Arbitration
---	--

1 Days

PLAINTIFF(S)

J.W. Rice Construction, Inc. ()
DEFENDANT(S)

Robin A. Davis ()
ADDITIONAL DEFENDANT(S)

Check Block if
a Minor is a
Party to the
Case

JURY DEMAND FILED BY:

DATE JURY DEMAND FILED:

AMOUNT AT ISSUE	CONSOLIDATION	DATE CONSOLIDATION ORDERED
-----------------	---------------	----------------------------

more than \$58,504.00	() yes () no
--------------------------	----------------

PLEASE PLACE THE ABOVE CAPTIONED CASE ON THE TRIAL LIST.

I certify that all discovery in the case has been completed; all necessary parties and witnesses are available; serious settlement negotiations have been conducted; the case is ready in all respects for trial, and a copy of this Certificate has been served upon all counsel of record and upon all parties of record who are not represented by counsel.

FOR THE PLAINTIFF

Matthew B. Taladay

FOR THE DEFENDANT

Ronald P. McCall

FOR ADDITIONAL DEFENDANT

FILED

MAR 28 2002

William A. Shaw
Prothonotary

TELEPHONE NUMBER

(814) 371-7768

TELEPHONE NUMBER

(724) 981-2000

TELEPHONE NUMBER

FILED

MAR 28 2002

M10:301 RD CE
William A. Shaw
Prothonotary

Copy CA


CA

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

J.W. RICE CONSTRUCTION, INC.	:	CIVIL ACTION – LAW
	:	
	:	No. 01-970-CD
	:	
Plaintiff,	:	Type of Pleading:
	:	
vs	:	MOTION IN LIMINE
	:	
ROBIN A. DAVIS,	:	Filed on Behalf of:
	:	DEFENDANT
Defendant	:	
	:	Counsel of Record for this Party:
	:	
	:	Ronald P. McCall, Esq.
	:	EKKER, KUSTER, McCONNELL & EPSTEIN,
	:	P.A. I.D. No. 49654
	:	One East State Street
	:	P.O. Box 91
	:	Sharon, PA 16146
	:	(724) 981-2000
	:	

FILED

AUG 15 2002

0/11:10/02
William A. Shaw
Prothonotary

1 SENT TO ART

[Signature]

**IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA**

J.W. RICE CONSTRUCTION, INC.	:	CIVIL ACTION – LAW
	:	
	:	No. 01-970-CD
	:	
Plaintiff,	:	
	:	
vs	:	
	:	
ROBIN A. DAVIS,	:	
	:	
Defendant	:	

ORDER

AND NOW, this _____ day of _____, 2002, after consideration of the within Motion in Limine of the Defendant, and the supporting Brief in support of the Motion in Limine, IT IS HEREBY ORDERED AND DECREED that the Plaintiff and its Counsel, Mathew B. Taliday shall be prohibited from inquiring or introducing any evidence concerning any of the following:

- a) any alleged representations or alleged disclosures of any use restriction or defect of title as to the property involved in the present case;
- b) any alleged conversations or agreements between the Plaintiff and Defendant concerning any restrictions affecting the property;
- c) any allegations of the proposed use that the Defendant planned to make of the property;
- d) any evidence that the Defendant had any knowledge of the restrictions encumbering the property, which is the subject matter of this lawsuit;
- e) any evidence of alleged prior discussions, negotiations, alleged oral agreements, representations, warranties, disclaimers,

understandings, terms, obligations, covenants, or conditions, oral or otherwise, that are not set forth in the written Agreement, which is the subject matter of this case; or

- f) any alleged motive of the Defendant in rescinding the contract.

BY THE COURT

_____ J

**IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA**

J.W. RICE CONSTRUCTION, INC.	:	CIVIL ACTION – LAW
	:	
	:	No. 01-970-CD
	:	
Plaintiff,	:	Type of Pleading:
	:	
vs	:	MOTION IN LIMINE
	:	
ROBIN A. DAVIS,	:	Filed on Behalf of:
	:	DEFENDANT
Defendant	:	

MOTION IN LIMINE

AND NOW, come the Defendant, Robin A. Davis, through her attorneys, Ekker, Kuster, McConnell & Epstein, and file this Motion in Limine whereof the following is a statement:

1. The present case involves the issue of whether the Defendant had the right to rescind a written contract for the purchase of land.

2. The contract here represents that the land at issue was zoned commercially and that “the property would be conveyed free and clear of all liens, encumbrances and easements... the title to the subject property shall be good and marketable.

3. The contract involved in this case further contains an integration clause, which provides:

17(A) In entering into this Agreement, Buyer has not relied upon any representations, claims, advertising, promotional activities, brochures or plans of any kind made by Seller, Agents, or their employees unless expressly incorporated or stated in this Agreement.

(C) It is further understood that this agreement contains the whole agreement between the Seller and Buyer and there are no other terms, obligations, covenants, representations, statements or conditions, oral or otherwise of any kind whatsoever concerning this sale. Furthermore, this agreement shall not be altered, amended, changed or modified except in writing executed by the parties.

4. Plaintiff in this matter, J. W. Rice Construction, Inc., has filed a Pre-Trial Narrative indicating that the Plaintiff plans to introduce testimony contradicting the terms of the written "Agreement for the Sale of Commercial Real Estate" to the effect that the Plaintiff represented that the property was restricted to use as a stable and pasture.

5. Evidence of alleged oral representations or understandings varying the terms of the written agreement between the parties is irrelevant and even if the Buyer has knowledge of the encumbrance, that knowledge has no effect upon the right of the Defendant Buyer to rescind the written contract due to the use restriction which renders title to the property unmarketable. McDermott v. Reiter, 279 Pa 545, 124 A. 187; Ritter v. Hill, 282 Pa. 115, 127 A. 455; Moyer v. DeVincentis Construction Co., 107 Pa. Super 588, 164 A. 111 (1933); Lackow v. MacTaggart, 19 Pa. D. 116, 1910 WL 3763 (Philadelphia County, 1910); Seligman v. Maund, 2 D & C 2d 572 (Delaware County, 1955).

6. Evidence of alleged oral representations or understandings varying the terms of the written agreement between the parties is prohibited by the parole evidence rule.

7. The use that the Defendant, Buyer, planned to make of the property, even if consistent with the restrictions, is immaterial to whether or not the Buyer has the right to rescind the contract. Batley v. Foerderer, 162 Pa. 460, 29 A. 868 (1894); Seligman v. Maund, 2 D & C 2d 572 (Delaware County, 1955)

WHEREFORE, for the foregoing reasons, the Defendant respectfully requests this Honorable Court enter an order prohibiting the Plaintiff and its Counsel, Mathew B. Taliday, from inquiring or introducing any evidence concerning any of the following:

- a) any alleged representations or alleged disclosures of any use restriction or defect of title as to the property involved in the present case;
- b) any alleged conversations or agreements between the Plaintiff and Defendant concerning any restrictions affecting the property;
- c) any allegations of the proposed use that the Defendant planned to make of the property;
- d) any evidence that the Defendant had any knowledge of the restrictions encumbering the property, which is the subject matter of this lawsuit;
- e) any evidence of alleged prior discussions, negotiations, alleged oral agreements, representations, warranties, disclaimers, understandings, terms, obligations, covenants, or conditions, oral or otherwise, that are not set forth in the written Agreement, which is the subject matter of this case;
- f) any alleged motive of the Defendant in rescinding the contract.

Respectfully submitted,

Respectfully submitted,

EKKER, KUSTER, McCONNELL & EPSTEIN, LLP

By: 

Ronald P. McCall, Esquire
PA ID #49654
One East State Street
P. O. Box 91
Sharon, PA 16146
(412) 981-2000
Attorneys for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

J.W. RICE CONSTRUCTION, INC.
Plaintiff

vs.

ROBIN A. DAVIS,
Defendant

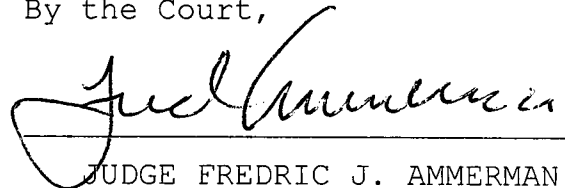
*
*
*
*
*
*
*

NO. 2001-970-C.D.

ORDER

NOW, this 15th day of August, 2002, following Pre-Trial Conference with counsel for both parties and the Court, it is the ORDER of this Court that Non-Jury Trial be scheduled for two days, Thursday, December 12, 2002 and Friday, December 13, 2002, each day beginning at 9:00 a.m. in Courtroom No. 2, Clearfield County Courthouse, Clearfield, Pennsylvania.

By the Court,



JUDGE FREDRIC J. AMMERMAN

FILED

AUG 15 2002

01344/Dec atty Takaday
William A. Shaw
Prothonotary

Dec atty McCall
KES

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

J.W. RICE CONSTRUCTION, INC.

Plaintiff,

vs

ROBIN A. DAVIS,

Defendant

CIVIL ACTION – LAW

No. 01-970-CD

Type of Pleading:

MOTION FOR SUMMARY JUDGMENT

Filed on Behalf of:

DEFENDANT

Counsel of Record for this Party:

Ronald P. McCall, Esq.

EKKER, KUSTER, McCONNELL & EPSTEIN, LLP

P.A. I.D. No. 49654

One East State Street

P.O. Box 91

Sharon, PA 16146

(724) 981-2000

FILED

AUG 20 2002

William A. Shaw
Prothonotary

**IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA**

J.W. RICE CONSTRUCTION, INC.	:	CIVIL ACTION – LAW
	:	
	:	No. 01-970-CD
	:	
Plaintiff,	:	Type of Pleading:
	:	
vs	:	MOTION FOR SUMMARY JUDGMENT
	:	
ROBIN A. DAVIS,	:	Filed on Behalf of:
	:	DEFENDANT
Defendant	:	

MOTION FOR SUMMARY JUDGMENT

AND NOW, comes the Defendant, Robin A. Davis, and (hereinafter “Defendant”), by and through her attorneys, Ekker, Kuster, McConnell & Epstein, LLP, pursuant to Rule 1035 of the Pennsylvania Rules of Civil Procedure, file this Motion for Summary Judgment, whereof the following is a statement:

1. Plaintiff, J.W. Rice Construction, Inc. (hereinafter “Plaintiff”) was the owner of land in Treasure Lake Development, commonly known as the Treasure Lake Stable, which contained a stable and appurtenant acreage.

2. On or about March 16, 1999 the Defendant made a written offer to purchase Tax parcels 128-C3-714-00030 and 128-C3-16-514-21 for the sum of \$215,000.00 on the Pennsylvania Association of Realtors Form entitled “Agreement for the Sale of Commercial Real Estate”.

3. On or about March 28, 1999, the Plaintiff accepted the offer by executing the Agreement for the Sale of Commercial Real Estate form, hereinafter (the “Agreement”), a true

and correct copy of the Agreement being attached hereto and incorporated herein by reference and labeled as Exhibit "A".

4. The Agreement provides, in pertinent part, the following:

- (a) That settlement is to be made on or before May 3, 1999 (paragraph 3(C);
- (b) That "the time for settlement and all other times referred to for the performance of any of the obligations of this Agreement are hereby agreed to be of the essence."
- (c) "Zoning Classification: Commercial Failure of this agreement to contain the zoning classification ...shall render this agreement voidable at the option of the Buyer, and, if voided, any deposits tendered by the Buyer shall be returned to the Buyer without any requirement for court action."
(Paragraph 2)
- (d) "the property would be conveyed free and clear of all liens, encumbrances and easements...the title to the subject property shall be good and marketable." (Paragraph 10(A))
- (e) "In the event the Seller is unable to give a good and marketable title, and such as will be insurable by a reputable Title Insurance Company Buyer shall either take such title as the Seller can give without abatement of price or be repaid all monies that Buyer has paid to Seller on account of the purchase price including reimbursement for the items specified in paragraphs 10(C) items (1), (2), (3), and 10(D). In the latter event, neither party shall have further liability or obligation and this Agreement shall

become void and all copies will be returned to Seller's Agent for cancellation. (Paragraph 10(B))

(f) "In entering into this Agreement, Buyer has not relied upon any representations, claims, advertising, promotional activities, brochures or plans of any kind made by Seller, Agents, or their employees unless expressly incorporated or stated in this Agreement." (Paragraph 17(A))

(g) "It is further understood that this agreement contains the whole agreement between the Seller and Buyer and there are no other terms, obligations, covenants, representations, statements or conditions, oral or otherwise of any kind whatsoever concerning this sale. Furthermore, this agreement shall not be altered, amended, changed or modified except in writing executed by the parties." (Paragraph 17(C))

(h) "Contingent upon Buyer obtaining Mortgage Financing." (Paragraph 7E.)

4. It is an undisputed fact that the property was subject to a restriction and covenant that the property could only be used as a stable and pasture. (Plaintiff's Amended Complaint, Paragraph 5.)

5. It is an undisputed fact that both Plaintiff and Defendant were aware that the Defendant planned to construct a residence and reside on the property that was the subject of the Agreement. (Plaintiff's Reply to New Matter, Paragraph 1.)

6. The Court may take judicial notice that the entire Treasure Lake Development is part of a Planned Residential Development under Article 8 of the Sandy Township Zoning Ordinance, and is not subject to the Sandy Township Zoning ordinance except as otherwise set forth in Article 8 of the Zoning Ordinance.

7. The Court may further take judicial notice that the Sandy Township Zoning Ordinance does not permit single-family dwellings in commercial zoning districts.

8. The Court may further take judicial notice that the property in question was not zoned commercially, and rather was subject to the Planned Residential Development Ordinance and was subject to a private use restriction prohibiting each and every commercial use that is permitted by the Sandy Township Zoning Ordinance.

9. The Plaintiff avers that Defendant breached the Agreement for the Sale of Commercial Real Estate, by refusing to close on the purchase and the Plaintiff further avers that the Defendant was aware of the use restriction by virtue of oral representations that the property was subject to a use restriction.

10. As a matter of law, the Plaintiff is prohibited by the Parole Evidence Rule from introducing testimony of oral representations, discussions or agreements that contradict paragraph 10(A) of the integrated written contract of the parties.

11. There are no disputed issues of material fact, which prevent the entry of the summary judgment requested within this Motion.

12. As a matter of law, the presence of a use restriction is an encumbrance, rendering the title to the subject property unmarketable.

13. As a matter of law, whether or not the Defendant had knowledge of the presence of the use restriction, where the agreement of sale contains a covenant of the Plaintiff to convey good and marketable title free of encumbrances, is irrelevant and has no bearing on the right of the Defendant to rescind the Agreement.

14. As a matter of law, whether or not the Defendant planned to use the property in a manner that is permitted under the use restriction where the agreement of sale contains a

covenant of the Plaintiff to convey good and marketable title free of encumbrances, is irrelevant and has no bearing on the right of the Defendant to rescind the Agreement.

15. As a matter of law, due to the presence of an encumbrance on the property, the Defendant had the right to rescind the Agreement.

16. As a matter of law, the Agreement in this case requires that the \$3,000.00 earnest money be returned to the Defendant.

17. As a matter of law, the express terms of the contract permit the Defendant to rescind the contract where the title is not marketable.

18. As a matter of law, allegations of the actual motive of the Defendant in rescinding the Agreement have no bearing where the Defendant had the right to rescind the Agreement due to the property being encumbered by a use restriction.

19. As a matter of law, the express terms of the contract permit the Defendant to rescind the Contract where the zoning classification is not correctly completed.

WHEREFORE, Defendants respectfully requests this Honorable Court enter Summary Judgment against the Plaintiff, dismissing the Plaintiff's Complaint, with prejudice, and entering judgment in favor of the Defendant on her Counterclaim for return of the Three Thousand (\$3,000.00) Dollar earnest money.

Respectfully submitted,

EKKER, KUSTER, MCCONNELL & EPSTEIN, LLP

By: 

Ronald P. McCall, Attorneys for the Defendant

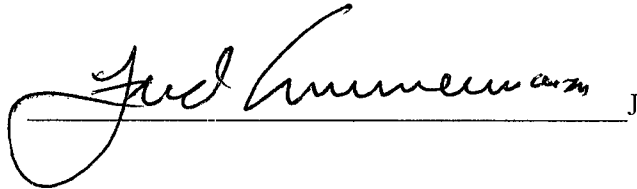
IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

J.W. RICE CONSTRUCTION, INC.	:	CIVIL ACTION – LAW
	:	
	:	No. 01-970-CD
	:	
Plaintiff,	:	Type of Pleading:
	:	
vs	:	ORDER
	:	
ROBIN A. DAVIS,	:	Filed on Behalf of:
	:	DEFENDANT
Defendant	:	

ORDER

AND NOW, TO-WIT, this 30 day of August, 2002, upon review of the Motion in Limine of the Defendant and the Motion for Summary Judgment of the Defendant, it is hereby ORDERED, ADJUDGED and DECREED that both Motions shall be argued before the Court on the 14th day of October, 2002 in Courtroom 1 of the Clearfield County Courthouse, and the Defendant as the moving party shall file her Briefs on said Motions on or before Sept. 6, 2002 and the Plaintiff shall file its Briefs on said Motions on or before Sept. 9, 2002. 2nd 2:30 P.M.

BY THE COURT

 J

FILED

SEP 10 2002
01110012cc atty McCell
William A. Shaw
Prothonotary
EX-4

**IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA**

J.W. RICE CONSTRUCTION, INC.	:	CIVIL ACTION – LAW
	:	
	:	No. 01-970-CD
	:	
Plaintiff,	:	Type of Pleading:
	:	
vs	:	ORDER
	:	
ROBIN A. DAVIS,	:	Filed on Behalf of:
	:	DEFENDANT
Defendant	:	

ORDER

AND NOW, TO-WIT, this _____ day of _____, 2002, upon consideration of the Defendant's Motion for Summary Judgment, the Brief in support thereof, and the admissions in pleadings of record, it is hereby ORDERED, ADJUDGED and DECREED that the foregoing Motion for Summary Judgment will be and the same is hereby granted in the following respects:

- A. that the Defendant is granted summary judgment on the Plaintiff's Complaint, and judgment is entered against the Plaintiff, with costs of this action assessed against the Plaintiff; and
- B. that the Defendant is granted summary judgment on the Defendant's Counterclaim for return of the earnest money of Three Thousand (\$3,000.00) as a result of the proper rescission of the agreement of sale between the parties, with costs assessed against the Plaintiff.

BY THE COURT

J

EXHIBIT "A"

AGREEMENT FOR THE SALE OF COMMERCIAL REAL ESTATE

This form recommended and approved for, but not restricted to, use by the members of the Pennsylvania Association of REALTORS®

Commercial
S & C 1989C

AGENT FOR SELLER

COLDWELL BANKER DEVELOPAC
998 BEAVER DRIVE
DU BOIS, PA 15801
PA. LICENSED BROKER

SUBAGENT FOR SELLER

PA. LICENSED BROKER

THIS AGREEMENT, this 16th day of March A.D. 19 99
1. PRINCIPALS: Between J.W. RICE CONSTRUCTION, INC

with mailing address of 80 BEAVER DRIVE
DU BOIS, PA Zip Code 15801 Phone # (814) 375-0500, hereinafter called Seller,
and ROBIN A. DAVIS

with mailing address of 743 MORAVIA ROAD
NEW GALILEE, PA Zip Code 16141 Phone # (724) 336-6788 hereinafter called Buyer.

2. PROPERTY: Seller hereby agrees to sell and convey to Buyer, who hereby agrees to purchase:
ALL THAT CERTAIN lot or piece of ground with buildings and improvements thereon erected, if any, known as:
TREASURE LAKE STABLES 3 BUILDINGS & 14.87 ACRES AND VACANT LOT SECTION

in the TOWNSHIP of SANDY County of CLEARFIELD
State of PA Zip Code 15801
Zoning Classification: COMMERCIAL

Failure of this agreement to contain the zoning classification (except in cases where the property (and each parcel thereof, if subdividable) is zoned solely or primarily to permit single-family dwellings) shall render this agreement voidable at the option of the Buyer, and, if voided, any deposits tendered by the Buyer shall be returned to the Buyer without any requirement for court action.

Tax Parcel No. 128-C3-714-00030 Deed Book 1695/1742 Page No. 473/0074

3. TERMS: 128-C3-16-514-21

(A) Purchase Price TWO HUNDRED FIFTEEN THOUSAND AND NO/100 U.S. Dollars
to be paid to the Seller by the Buyer as follows:

- | | |
|---|----------------------|
| (1) Cash or check at signing this agreement: <u>UPON ACCEPTANCE</u> | \$ <u>3,000.00</u> |
| (2) Cash or check to be paid on or before: <u>19</u> | \$ <u></u> |
| (3) <u></u> | \$ <u></u> |
| (4) <u></u> | \$ <u></u> |
| (5) Cash or certified check at time of settlement: <u></u> | \$ <u>212,000.00</u> |

TOTAL PRICE \$ 215,000.00

(B) Written approval of Seller to be on or before: MARCH 25, 19 99

(C) Settlement to be made on or before: MAY 3, 19 99

(D) Conveyance from Seller will be by fee simple deed of special warranty.

(E) Transfer taxes will be paid by 1% BUYER & 1% SELLER

(F) The following shall be apportioned pro-rata as of and at time of settlement: taxes as levied and assessed, rents, interest on mortgage assumptions, water and sewer rents, lienable municipal services, and condominium fees, if any.

4. STATUS OF WATER AND SEWER: Seller warrants that this property is served by:
☒ public water ☒ well water ☒ public sewer ☐ septic system ☐
Seller further warrants that these systems are fully paid for as of the date of this Agreement.

5. POSSESSION AND TENDER:

(A) Possession is to be delivered by deed, keys and physical possession to a vacant building (if any) free of debris at day and time of settlement, or by deed and assignment of existing lease(s) at time of settlement if premises are tenant occupied, unless otherwise specified herein. TENANT TO BE VACANT FROM PROPERTY AT TIME OF CLOSING

If tenant occupied, Buyer will acknowledge the existing lease(s) by initialing it (them) at the time of signing this Agreement of Sale and by attaching it (them) hereto.

(B) Seller will not modify or extend any existing leases or enter into any new or additional leases for the premises without the express written consent of the Buyer.

(C) Formal tender of an executed deed and purchase money is hereby waived.

(D) Buyer reserves the right to make a pre-settlement inspection of the subject property.

6. ITEMS OF PERSONALTY: The following items are included in this sale and purchase price: OFFICE DESKS & FURNITURE AND ANY REMAINING FEED, HAY AND SHAVINGS. ALL BARN EQUIPMENT SUCH AS BUCKETS, TACK, JUMPS, SHOVELS, WHEELBARROWS, RAKES, HOSES. NO MOTORIZED EQUIPMENT

Seller hereby warrants that he/she will deliver good title to all of the articles described in this paragraph and any other fixtures or items of personalty specifically scheduled and to be included in this sale.

7. SPECIAL CLAUSES:

E. CONTINGENT UPON BUYER OBTAINING MORTGAGE FINANCING. BUYER IS PRE-APPROVED

F. BUYER AGREES TO LET SELLER HAVE PETTING ZOO ANIMALS ON PREMISES AS LONG AS SELLER PAYS FOR FEED AND MAINTENANCE OF SAID ZOO ANIMALS.

G. SPLIT RAIL FENCE BUNDLES TO STAY WITH PROPERTY.

H. CONTINGENT UPON SELLER SATISFYING THE EXISTING LEASE ON NEW STABLE. BUYER DOES NOT WANT TO ASSUME OR TRANSFER LEASE.

8. PROPERTY DEFECTS DISCLOSURE:

- (A) Owner represents and warrants that Owner has no knowledge except as noted in this Agreement:
- (1) That the premises have been contaminated by any substance in any manner which requires remediation;
 - (2) That the property contains wet lands, flood plains, or any other environmentally sensitive areas, development of which is limited or precluded by law;
 - (3) That the property contains asbestos, polychlorinated biphenyls, lead-based paint or any other substance, the removal or disposal of which is subject to any law or regulation; and
 - (4) That any law has been violated in the handling or disposing of any material or waste or the discharge of any material into the soil, air, surface water, or ground water.
- (B) Seller and Buyer acknowledge that Broker:
- (1) Is a licensed real estate broker;
 - (2) Is not an expert in construction, engineering, or environmental matters; and
 - (3) Has not made and shall not make any representations or warranties nor conduct investigations of the environmental condition or suitability of the property or any adjacent property, including whether:
 - (a) The premises have been contaminated by any substance in any manner that requires remediation;
 - (b) The property contains wet lands, flood plains, or any other environmentally sensitive areas, the development of which is limited or precluded by law;
 - (c) The property contains asbestos, polychlorinated biphenyls, lead-based paint or any other substance, the removal or disposal of which is subject to any law or regulation; and
 - (d) Any law has been violated in the handling or disposing of any material or waste or the discharge of any material into the soil, air, surface water, or ground water, except as noted in this Agreement.
- (C) Seller agrees to indemnify and to hold Agent harmless from and against all claims, demands, or liabilities, including attorneys fees and court costs, which arise from or are related to the environmental condition or suitability of the property prior to, during, or after Seller's occupation of the property including without limitation any:
- (1) Contamination of the property as defined in paragraph 8(A)(1);
 - (2) Presence of any environmentally sensitive areas on the property as defined in paragraph 8(A)(2);
 - (3) Presence on the property of any substances which are the subject of paragraph 8(A)(3); or
 - (4) Violation of the law as described in paragraph 8(A)(4).
- (D) The provisions of this Section shall survive the performance of this Agreement.

9. NOTICES & ASSESSMENTS:

- (A) Seller represents, as of the acceptance date of this Agreement, that no public improvement assessments have been made against the premises which remain unpaid and that no notice by any government or public authority has been served upon the Seller or anyone on the Seller's behalf, including notices relating to violations of zoning, building, safety, or fire ordinances which remain uncorrected unless otherwise specified herein.
- (B) Any notice of improvements or assessments received on or before the date of Seller's acceptance of this Agreement, unless improvements consist of sewer or water lines not in use, shall be the responsibility of the Seller; any notices received thereafter shall be the responsibility of the Buyer.
- (C) If required by law, Seller shall deliver to Buyer, on or before settlement, a certification from the appropriate municipal department or departments disclosing notice of any uncorrected violation of zoning, building, safety, or fire ordinances.
- (D) Buyer is advised that access to a public road may require issuance of a highway occupancy permit from the Department of Transportation.

10. TITLE AND COSTS:

- (A) The premises are to be conveyed free and clear of all liens, encumbrances, and easements, with the exception of existing building restrictions, ordinances, easements of roads, easements visible upon the ground, and privileges or rights of public service companies. The title to the subject property shall be good and marketable and such as will be insurable by a reputable Title Insurance Company at the regular rates.
- (B) In the event the Seller is unable to give a good and marketable title and such as will be insurable by a reputable Title Insurance Company, Buyer shall either take such title as the Seller can give without abatement of price or be repaid all monies that Buyer has paid to Seller on account of the purchase price including reimbursement for the items specified in paragraphs 10(C) items (1), (2), (3), and 10(D). In the latter event neither party shall have further liability or obligation; and this Agreement shall become VOID and all copies will be returned to Seller's Agent for cancellation.
- (C) The Buyer will pay for the following:
- (1) The premium for mechanics lien insurance and/or title search, or fee for cancellation of same;
 - (2) The premiums for flood insurance and/or fire insurance with extended coverage, insurance binder charges or cancellation fee;
 - (3) Appraisal fees and charges paid in advance to mortgage lender;
 - (4) Buyer's normal settlement costs and accruals.
- (D) Any survey or surveys required by the Title Insurance Company or the abstracting attorney for the preparation of an adequate legal description of the premises or the correction thereof, shall be secured and paid for by the Seller. Any survey or surveys desired by the Buyer or required by his/her mortgage lender shall be secured and paid for by the Buyer.

11. **DEPOSIT AND RECOVERY FUND:** Deposits, regardless of the form of payment and the person designated as payee, shall be paid to Agent for the Seller who shall retain them in an escrow account until consummation or termination of this Agreement in conformity with all applicable laws and regulations. Agent for the Seller may, at his or her sole option, hold any uncashed check tendered as deposit, pending the acceptance of this offer. In the event of litigation for the return of deposit monies, Agent for the Seller will distribute the monies pursuant to a final order of court or the written agreement of the parties. Buyer and Seller agree that, in the event the Agent and/or Subagent are/is joined in litigation for the return of deposit monies, the Agent's and/or Subagent's attorneys fees and costs will be paid by the party joining the Agent or Subagent.
- A Real Estate Recovery Fund exists to reimburse any persons who have obtained a final civil judgment against a Pennsylvania real estate licensee owing to fraud, misrepresentation, or deceit in a real estate transaction and who has been unable to collect the judgment after exhausting all legal and equitable remedies. For complete details about the Fund, call (717) 783-3658.

12. MAINTENANCE AND RISK OF LOSS:

- (A) Seller shall maintain the property, and any personal property specified herein, in its present condition, normal wear and tear excepted.
- (B) Seller shall promptly notify the Buyer if, at any time prior to the time of settlement, all or any portion of the property is condemned, destroyed, or damaged as a result of any cause whatsoever.
- (C) Seller shall bear risk of loss from fire or other causes until time of settlement. In the event that damage to any property included in this sale is not repaired or replaced prior to settlement, Buyer shall have the option of rescinding this Agreement and receiving all monies paid on account of or accepting the property in its then condition together with the proceeds of any insurance recovery obtained by Seller. Buyer is hereby notified that he/she may insure his/her equitable interest in this property as of the time this Agreement is accepted.

13. **DEFAULT-TIME OF THE ESSENCE:** The time for settlement and all other times referred to for the performance of any of the obligations of this Agreement are hereby agreed to be of the essence. Should the Buyer:

- (A) Fail to make any additional payments as specified in paragraph 3; or
- (B) Furnish false or incomplete information to the Seller, the Seller's Agent, or the mortgage lender concerning the Buyer's legal or financial status, or fail to cooperate in the processing of the mortgage loan application, which acts would result in the failure to obtain the approval of a mortgage loan commitment; or
- (C) Violate or fail to fulfill and perform any other terms or conditions of this Agreement, then in such case, all deposit monies and other sums paid by the Buyer on account of the purchase price, whether required by this Agreement or not, may be retained by the Seller: (1) On account of the purchase, or (2) As monies to be applied to the Seller's damages, or (3) As liquidated damages for such breach as the Seller may elect. In the event that the Seller elects to retain the monies as liquidated damages, the Seller shall be released from all liabilities or obligations and this Agreement shall be VOID and all copies will be returned to the Seller's Agent for cancellation.

14. **AGENT(S):** It is expressly understood and agreed between the parties that the named Agent, Broker, and any Subagent, Broker and their salespeople, employees officers and/or partners, are Agent(s) for the Seller not the Buyer, however, the Agent(s) may perform services for the Buyer in connection with financing, insurance and document preparation.

15. **RECORDING:** This Agreement shall not be recorded in the Office of the Recorder of Deeds or in any other office or place of public record. If Buyer causes or permits this Agreement to be recorded, Seller may elect to treat such act as a breach of this Agreement.

16. **ASSIGNMENT:** This Agreement shall be binding upon the parties, their respective heirs, personal representatives, guardians and successors, and, to the extent assignable, on the assigns of the parties hereto. It is expressly understood, however, that the Buyer shall not transfer or assign this Agreement without the written consent of the Seller.

17. **REPRESENTATIONS:**

- (A) In entering into this Agreement, Buyer has not relied upon any representations, claims, advertising, promotional activities, brochures or plans of any kind made by Seller, Agents or their employees unless expressly incorporated or stated in this Agreement.
- (B) It is understood that Buyer has inspected the property, or hereby waives the right to do so, and has agreed to purchase it in its present condition. Buyer acknowledges that the Agents have not made an independent examination or determination of the structural soundness of the property, the age or condition of the components, environmental conditions, the permitted uses, or of conditions existing in the locale where the property is situated; nor have they made a mechanical inspection of any of the systems contained therein.
- (C) It is further understood that this agreement contains the whole agreement between Seller and Buyer and there are no other terms, obligations, covenants, representations, statements or conditions, oral or otherwise of any kind whatsoever concerning this sale. Furthermore, this agreement shall not be altered, amended changed, or modified except in writing executed by the parties.

BUYER'S APPROVAL

WITNESS

WITNESS

BUYER

BUYER

VOLUNTARY TRANSFER OF CORPORATE ASSETS: The undersigned acknowledges that he/she is authorized by the Board of Directors to sign this Agreement on behalf of the Seller corporation and that this sale does not constitute a sale, lease, or exchange of all or substantially all the property and assets of the corporation, such as would require the authorization or consent of the shareholders pursuant to 15 P. S. Section 1311.

SELLER'S ACCEPTANCE: Seller hereby accepts the above contract this

28th

day of

March

A.D. 19 95

WITNESS

WITNESS

AGENT BY:

SELLER

SELLER

**IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA**

J.W. RICE CONSTRUCTION, INC.

Plaintiff,

vs

ROBIN A. DAVIS,

Defendant

CIVIL ACTION – LAW

No. 01-970-CD

Type of Pleading:

MOTION IN LIMINE

Filed on Behalf of:
DEFENDANT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 19th day of August, 2002, a true and correct copy of the Motion For Summary Judgment, filed herein on behalf of the Plaintiff, was served upon the Plaintiffs by First Class U.S. Postage-Paid mail, addressed as follows:

Matthew B. Taladay, Esquire
Hanak, Guildo and Taladay
498 Jeffers Street
P.O. Box 487
DuBois, PA 15801

EKKER, KUSTER, McCONNELL & EPSTEIN, LLP

By 

Ronald P. McCall, Esquire
Attorney for Defendant

FILED

M 11:20 AM
AUG 20 2002

William A. Shaw
Prothonotary

1ce
D
61
KST

**IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA**

J.W. RICE CONSTRUCTION, INC.	:	CIVIL ACTION – LAW
	:	
	:	No. 01-970-CD
	:	
Plaintiff,	:	Type of Pleading:
	:	
vs	:	MOTION IN LIMINE
	:	
ROBIN A. DAVIS,	:	Filed on Behalf of:
	:	DEFENDANT
Defendant	:	

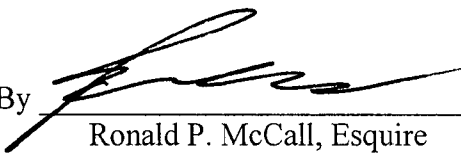
CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 15th day of August, 2002, a true and correct copy of the Motion in Limine, filed herein on behalf of the Plaintiff, was served upon the Plaintiffs by Hand-Delivery, addressed as follows:

Matthew B. Taladay, Esquire
Hanak, Guildo and Taladay
498 Jeffers Street
P.O. Box 487
DuBois, PA 15801

EKKER, KUSTER, McCONNELL & EPSTEIN, LLP

By



Ronald P. McCall, Esquire
Attorney for Defendant

FILED

AUG 20 2002

William A. Shaw
Prothonotary

FILED

1cc

M 11:22 AM
AUG 20 2002

W. A. Shaw
Prothonotary

William A. Shaw
Prothonotary

C/A

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

J.W. RICE CONSTRUCTION, INC.	:	CIVIL ACTION – LAW
	:	
	:	No. 01-970-CD
	:	
Plaintiff,	:	Type of Pleading:
	:	
vs	:	BRIEF IN SUPPORT OF MOTION IN LIMINE
	:	
ROBIN A. DAVIS,	:	Filed on Behalf of:
	:	DEFENDANT
Defendant	:	


CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 30th day of August, 2002, a true and correct copy of the **BRIEF IN SUPPORT OF MOTION IN LIMINE** filed herein was served upon the Plaintiff by mailing the same first-class mail, postage prepaid, addressed as follows:

Matthew B. Taladay, Esquire
Hanak, Guido and Taladay
498 Jeffers Street
P.O. Box 487
DuBois, PA 15801

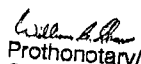
Respectfully submitted,

Ekker, Kuster, McConnell & Epstein, LLP

By: 

Ronald P. McCall
Attorney for Defendant

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

SEP 03 2002
Attest, 
Prothonotary/
Clerk of Courts

FILED
SEP 03 2002
013:00/w
William A. Shaw
Prothonotary
1 SENT TO ATTY

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

J.W. RICE CONSTRUCTION, INC :

-vs-

: No. 01-970-CD

ROBIN A. DAVIS :

O R D E R

NOW, this 19th day of August, 2002, the Court being in receipt of the Motion In Limine filed on behalf of the Defendant, with the Court further noting that the issues in question were discussed among counsel and the Court at pre-trial conference and that counsel for the Defendant has previously briefed the issues, it is the ORDER of this Court that Plaintiff have no more than twenty (20) days from this date in which to supply the Court with appropriate brief.

BY THE COURT,



Judge

FILED

AUG 22 2002

01:55/1cc atty Taladay

William A. Shaw

Prothonotary

1cc atty. McCall



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

J.W. RICE CONSTRUCTION, INC.
Plaintiff

vs.

ROBIN A. DAVIS,
Defendant


*
*
*
*
*
*

No. 2001-970-C.D.

O R D E R

NOW, this 12th day of September, 2002, relative the Briefs to be filed on the Defendant's Motion In Limine and Motion for Summary Judgment, it is the ORDER of this Court that Briefs on the Motions be provided by both parties to the Court by no later than Monday, October 7, 2002.

By the Court,


JUDGE FREDRIC J. AMMERMAN

FILED

SEP 13 2002

William A. Shaw
Prothonotary

FILED

ol: A-1
SEP 13 2002

William A. Shaw
Prothonotary

WAS

- 2 certified copies to Matthew B. Taladay, Esquire
HANAK, GUIDO and TALADAY
498 Jeffers Street, P.O. Box 487, DuBois, PA 15801
- 2 certified copies to Ronald P. McCall, Esquire
EKKER, KUSTER, McCONNELL & EPSTEIN, LLP
One East State Street, P.O. Box 91, Sharon, PA 16146
- 1 copy to Judge Ammerman
- 1 copy to Court Administrator

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

J.W. RICE CONSTRUCTION, INC.,
Plaintiff

vs.

ROBIN A. DAVIS,
Defendant

CIVIL ACTION - AT LAW

No. 01-970-CD

Type of Pleading:

PRAECIPE FOR
DISCONTINUANCE

Filed on Behalf of:

PLAINTIFF

Counsel of Record for This
Party:

Matthew B. Taladay, Esq.
Supreme Court No. 49663
Hanak, Guido and Taladay
498 Jeffers Street
P. O. Box 487
DuBois, PA 15801

(814) 371-7768

FILED

M 11:39 AM

NOV 08 2002

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - AT LAW

J.W. RICE CONSTRUCTION, INC., :
Plaintiff :

vs. :

No. 01-970-CD

ROBIN A. DAVIS, :
Defendant :

PRAECIPE FOR DISCONTINUANCE

TO THE PROTHONOTARY:

Please mark the above caption matter settled and
discontinued.

HANAK, GUIDO AND TALADAY

Dated: 11-7-02

By 

Matthew B. Taladay
Attorney for Plaintiff

EKKER, KUSTER, McCONNELL &
EPSTEIN

By 

Ronald P. McCall
Attorney for Counterclaimant,
Robin Davis

FILED

NOV 08 2002 NO AC -
2. out of office to attend
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

COPY

J. W. Rice Construction, Inc.

Vs.

No. 2001-00970-CD

Robin A. Davis

CERTIFICATE OF DISCONTINUATION

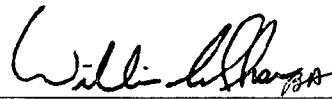
Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on November 8, 2002 marked:

Settled and Discontinued

Record costs in the sum of \$247.94 have been paid in full by Matthew B. Taladay, Esq..

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 8th day of November A.D. 2002.



William A. Shaw, Prothonotary

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA