

02-1861-CD
SIDNEY G. FYE, et al vs. BRYAN GMERK, et al

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

SIDNEY G. FYE and PAMELA
L. FYE, husband and wife,

Owners : No. 02-1861-cd

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BRYAN GMEREK t/d/b/a GMEREK
CONSTRUCTION
Contractor

FILED

NOV 20 2002

William A. Shaw
Prothonotary

WAIVER OF MECHANIC'S LIEN

WHEREAS, the undersigned, on or about the 25th day of November 2002, BRYAN GMEREK t/d/b/a GMEREK CONSTRUCTION of R.R. 1, Box 489, Woodland, PA 16881 entered into a Contract with SIDNEY G. FYE and PAMELA L. FYE, husband and wife, of 523 Frenchville Road, Frenchville, Pennsylvania, for the construction of a dwelling house on premises situate in Bradford Township, Clearfield County, Pennsylvania, bounded and described on Exhibit "A" which is attached hereto and incorporated herein by reference.

NOW, THEREFORE, BY THESE PRESENTS WITNESSETH: That in consideration of the grant of the Contract for the construction of said dwelling to the undersigned, and for the performance of said work and the sum of \$1.00 in hand paid at or before the signing and delivery hereof, the undersigned, covenants and agrees that no Mechanic's Lien or Materialman's Lien or claims shall be maintained or filed by the undersigned, or by any contractor, sub-contractor, person, firm or corporation, or any of them against the above described premises or lot or other appurtenances thereto, for or on account of any work done or materials furnished by him in the construction of said dwelling under his Contract to furnish all the labor and materials in and about the aforesaid work; and for the undersigned, himself, his heirs and assigns, and all others acting through or under him, hereby expressly waives and relinquishes the right to have filed and maintained any Mechanic's Lien or Materialman's Lien or claim against said building on the above described premises or any part thereof, and the undersigned further agrees that this agreement waiving the right to file a lien is an individual covenant and shall operate and be effective with respect to materials furnished and labor performed under the said Contract for the construction of said dwelling or any extra additions to be made to said Contract in and about said building or premises.

To give owner full power and authority to protect itself, the property, the estate, or title of owner therein, and the appurtenances thereto, against any and all liens filed by contractor or anyone acting under or through it in violation of the foregoing covenant, contractor hereby irrevocably authorizes and empowers any attorney of any Court of Common Pleas of the Commonwealth of Pennsylvania (i) to appear as attorney for it, them or any of them, in any such Court, and in its or their name or names, to the extent permitted by law, mark satisfied of record at the cost and expense of contractor or of any subcontractor or materialman, any and all lien or liens, filed in violation of the foregoing covenant, or (ii) to cause to be filed and served in connection with such lien or liens any pleading or instrument, or any amendment to any pleading or instrument previously filed by it or them, and to incorporate therein, as part of the record, the waiver contained in this instrument; and for such act or acts this instrument shall be good and sufficient warrant and authority. A reference to the court, term and number in which and where this agreement shall have been filed shall be conclusive evidence of the authority herein to warrant such action, and contractor, for itself and for them, hereby remises, releases and quitclaims all rights and all manner of errors, defects and imperfections whatsoever in entering such satisfaction or in filing such pleading, instrument or amendment, or in any way concerning them. In the event anyone acting through or under contractor shall so file a lien in violation of the foregoing covenant, owner may not exercise its rights under this Paragraph 3 unless such lien has not been stricken or discharged (by payment, posting of a bond or other means) for a period of ten days after notice of such lien shall have been received by contractor.

IN WITNESS WHEREOF, contractor has executed this instrument as of the day and year first above written.

Witness

By: Bryan Gmerek
Bryan Gmerek t/d/b/a Gmerek Construction

EXHIBIT "A"

ALL that certain piece or parcel of land situated in the Township of Bradford, County of Clearfield and State of Pennsylvania, bounded and described as follows:

BEGINNING at an iron pin on line of Lot Addition #7. Said point is also the Northeast corner of New Subdivision Lot #4; thence along New Subdivision Lot #4, North eighty-five degrees, twenty-seven minutes, thirty seconds West (N 85° 27' 30" W) two hundred twenty feet (220.0) to an iron pin; thence along New Subdivision Lot #2, North seventeen degrees, forty-nine minutes, five seconds East (N 17° 49' 05" E) two hundred one and fourteen hundredths feet (201.14) to an iron pin; thence still along same, North seventy-two degrees, four minutes, ten seconds East (N 72° 04' 10" E), seventy-one and ninety-four hundredths feet (71.94) to an iron pin; thence still along same, South seventy-five degrees, eighteen minutes, twenty-five seconds East (S 75° 18' 25" E), one hundred fifty-five and ninety-five hundredths feet (155.95) to an iron pin and also the Northwest corner of Lot Addition #7; thence along same, south seventeen degrees, forty-nine minutes, five seconds West (S 17° 49' 05" W), two hundred one and fourteen hundredths feet (201.14) to an iron pin and place of beginning. Containing 1.0581 acre.

Further granting unto Grantees, their heirs, successors and assigns the right to use in common with the owners of Undercofler New Subdivision Lot No.2, their heirs, successors and assigns, a certain existing road running from Lake Street through New Subdivision Lot No. 2 for purpose of ingress, egress and regress to New Subdivision Lot No. 1. Grantees, their heirs, successors and assigns shall share with the owners of Undercofler New Subdivision Lot No. 2, their heirs, successors and assigns in the maintenance of said roadway.

Further Granting unto the Grantees herein, their heirs, successors and assigns an easement ten (10') feet in width for purposes of installing and maintaining a sanitary sewer line and waterline to be shared in common with New Subdivision Lot No. 2 and New Subdivision Lot No. 4 and running from the Northern

line of New Subdivision Lot No. 2 in a Southernly direction to line of New Subdivision Lot No. 1 as shown on the map prepared by Shirokey Surveys hereinafter identified. The maintenance of said common line shall be shared equally by the users and the surface of said easement shall be restored to original condition as much as possible following any work on said easement.

Said property being identified as New Subdivision Lot No. 1, having been approved as part of a Subdivision in Bradford Township, Clearfield County, Pennsylvania, as shown on map prepared by Shirkey Surveys dated May 14, 1997 and recorded to Clearfield County in Map File # 1360.

BEING the same premises conveyed to Sidney G. Fye and Pamela L. Fye by deed dated October 12, 2000, recorded on October 13, 2000, as Clearfield County Instrument #20015323.

FILED

Aug Wood
Opd. 20.00

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11-20-02
Nov 20 2002
No CC*

William A. Shaw
Prothonotary