

03-811-CD
JAMES U. ZMITRANICH, et al vs. BRYAN D. ELLENBERGER

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CONTRACTOR'S WAIVER OF LIENS

THIS AGREEMENT, made and entered into this 2nd day of June, 2003, by and between JAMES U. ZMITRAVICH and BESSIE A. ZMITRAVICH, husband and wife, of 621 West Washington Avenue, DuBois, Clearfield County, Pennsylvania 15801, hereinafter "Owners", and BRYAN D. ELLENBERGER, d/b/a ELLENBERGER EXCAVATING, of R.R.#1 Box 92A, Luthersburg, Clearfield County, Pennsylvania 15848, hereinafter "Contractor";

See Exhibit "A" which is attached hereto, incorporated herein, and made a part hereof as though fully set forth herein.

NOW, THEREFORE, INTENDING TO BE LEGALLY BOUND HEREBY, the parties do agree as follows:

1. The Contractor for himself and anyone else acting or claiming through or under him, intending to be legally bound hereby, does hereby waive and relinquish all right to file a mechanics' lien, claim or notice of intention to file any lien or claim, and does hereby covenant, promise and agree that no mechanics' lien or claim or other lien or claim of any kind whatsoever shall be filed or maintained against the improvements or the estate or the title of the Owner in the Property or the curtilage or curtilages appurtenant thereto, by or in the name of the Contractor or any subcontractor, materialmen or laborers for work done or materials furnished under the Contract or by any other party acting through or under them or any of them for and about the improvements or the Property or any part thereof, or on credit thereof, and that all subcontractors, materialmen and laborers on the works shall look to and hold Contractor personally liable for all subcontractors, materials furnished and work and labor done, so that there shall not be any legal or lawful claim of any kind whatever against Owner for any work done or labor or materials furnished under the Contract for and about the erection, construction and completion of the improvements or under any contract for extra work, or for work supplemental thereto, or otherwise.

2. The Contractor does hereby remise, release and waive for himself, subcontractor and materialmen the right under the Act of Assembly entitled the Mechanics' Lien Act of 1963 to file or enter on record any Mechanics' Lien or Liens against ALL that certain piece, parcel or lot of ground situate in the City of DuBois, County of Clearfield, State of Pennsylvania, more particularly set forth on Exhibit "A", attached hereto and made a part hereof.

3. This Agreement waiving the right of lien shall be an independent covenant and shall operate and be effective as well with respect to work done and materials furnished under any

supplemental contract for extra work in the erection, construction and completion of the improvements as to any work and labor done and materials furnished under the Contract.


4. In the event Contractor consists of more than one person, firm or corporation, the undertakings hereunder of each of such persons, firms or corporations shall be joint and several, and the word "Contractor" shall mean all or some or any of them. For purposes of this Agreement, the singular shall be deemed to include the plural, and the neuter shall be deemed to include the masculine and feminine, as the context may require. This Agreement shall be binding upon the parties hereto, their heirs, executors, administrators and assigns.

IN WITNESS WHEREOF, the parties hereto intending to be legally bound, hereby do execute this Agreement the day and year first above written.

WITNESS:

ELLENBERGER EXCAVATING:

Kathleen M. Ellenberger

By  (SEAL)
Bryan D. Ellenberger
Contractor

WITNESS:

James U. Zmitravich

James U. Zmitravich (SEAL)
James U. Zmitravich

Bessie A. Zmitravich

Bessie A. Zmitravich (SEAL)
Bessie A. Zmitravich
Owners

Exhibit "A"

ALL that certain lot or piece of land situated in the City of DuBois, Clearfield County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at the intersection of Washington Avenue and Wood Street; thence South $62^{\circ} 30'$ East, 60 feet to a pin; thence South $32^{\circ} 19'$ West, 76 feet to a pin; thence North $62^{\circ} 30'$ West 60 feet to a pin at Wood Street; thence along Wood Street North $32^{\circ} 19'$ East, 76 feet to the intersection of Washington Avenue and Wood Street, and the place of beginning. Being the Northeast portion of Lot No. 227 in John Rumbarger's Addition to the City of DuBois.