

03-928-CD
PERRY J. WINKLER, et al. vs. C. P. MITCHELL CONTRACTING

2003-928-cv

CONTRACTOR'S WAIVER OF LIENS

THIS AGREEMENT made and entered into this 19th day of June, 2003, by and between PERRY J. WINKLER and BRIAN S. MUSSER, of R.R. #1, Box 73A, Penfield, Pennsylvania 15849, hereinafter "Owner" and G. P. MITCHELL CONTRACTING, of Luthersburg, Pennsylvania, hereinafter "Contractor".

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 mechanic's 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's Lien Act of 1963 to file or enter on record any Mechanic's Lien or Liens against:

ALL those certain pieces, parcels or tracts of land situate, lying and being in the Village of Penfield, Huston Township, Clearfield County, Pennsylvania, recorded in the Office of the Recorder of Clearfield County as attached here as Exhibit "A".

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.

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William A. Shaw
Prothonotary

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:


(Seal)
Perry J. Winkler, Owner

Witness:


(Seal)
Brian S. Musser, Owner

Witness:

G. P. Mitchell Contracting


(Seal)
By:

EXHIBIT 'A'

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

BEGINNING at a point being in the center line of Route 153 being the northwest corner of the property described herein;

THENCE North 70 degrees 00 minutes 00 seconds East 141.91 feet along lines of property owned by Perry J. Winkler to an iron pin;

THENCE South 34 degrees 39 minutes 30 seconds East along lines now or formerly of Norman Shaffer 56.18 feet to a point;

THENCE South 22 degrees, 37 minutes 31 seconds East along lands now or formerly of Norman Shaffer 80.78 feet to an iron pin;

BEGINNING at a point being in the center line of Route 153 being the northwest corner of the property described herein;

THENCE North 70 degrees 00 minutes 00 seconds East 141.91 feet along lines of property owned by Perry J. Winkler to an iron pin;

THENCE South 34 degrees 39 minutes 30 seconds East along lines now or formerly of Norman Shaffer 56.18 feet to a point;

THENCE South 22 degrees, 37 minutes 31 seconds East along lands now or formerly of Norman Shaffer 80.78 feet to an iron pin;

THENCE South 59 degrees 32 minutes 48 seconds West along lands now or formerly of Frank and Margaret Segalla 91.28 feet to the center line of Route 153;

THENCE North 44 degrees 48 minutes 00 seconds West along the center line of Route 153 167.01 feet as described in a Map of Retracement Survey completed by David J. Thorpe, PLS No. SU-37822E dated September 18, 1998.

EXHIBIT 'A'

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

BEGINNING at the Southwest corner of the tract of land deeded by L. Bird to Hoover, Hughes & Company, November 9, 1885, recorded in Book 39, page 517; thence North 39° West, following the West line of said tract, along the highway 115 $\frac{1}{2}$ feet to corner of lot now or formerly of Fred L. Feldman; thence following the line of Feldman's lot about North 43° East 100 feet to a post; thence Southeasterly along the bank of Wilson Run, 132 feet, more or less, to South line of L. Bird tract referred to above, to a point 100 feet from the place of beginning; thence South 70° West 100 feet to the place of beginning. Containing 1/3 acre, more or less.

RESERVING a driveway 20 feet wide out to the public road up Wilson Run, next to the Feldman lot, for the use of people to whom Hoover, Hughes & Company have sold land back of this lot.

ALSO: reserving all the coal, coal oil and other minerals of every kind and character in, upon and under said land and every part thereof, with the right to enter and take away the same, to erect such structures, ways, building, railroads and shafts thereon, both up and down, to cut and fill the surface wherever needed for railways for such purposes, and to dig ditches or channels for waste water thereon in such manner as may be necessary in their judgment to successfully mine and take away the said coal, coal oil and other minerals, or any of them, from the lands aforesaid.