

03-1463-CD 4  
HAMILTON CONSTRUCTION CO. vs. FREDERICK W. IVORY, et al.

03-1463-CD

**MECHANIC'S LIEN WAIVER**

**FILED**

**SEP 29 2003**

Made this 29th day of September, 2003.

William A. Shaw  
Prothonotary/Clerk of Courts

**FROM HAMILTON CONSTRUCTION COMPANY**, having an office at 1449 Lyleville Road, Coalport, Pennsylvania 16627, hereinafter referred to as a "CONTRACTOR",

TO

FREDERICK W. IVORY and AMY J. IVORY, husband and wife, of P.O. Box 224, Irvona, Pennsylvania 16656, "OWNERS".

**RECITALS:**

1. CONTRACTOR has contracted with OWNERS by contract dated \_\_\_\_\_, 2003, referred to as ("CONTRACT") to provide all materials and perform all labor necessary for the reconstruction, renovations and repairs of a single family house located at 68 Julia Street, Irvona, Clearfield County, Pennsylvania 16656, the PROPERTY, which is described on the attached Schedule "A".
2. CSB BANK (hereinafter referred to as the "BANK"), has agreed and committed to provide a mortgage loan in the sum of FORTY NINE THOUSAND SIX HUNDRED AND 00/100 DOLLARS (\$49,600.00) to OWNERS. This sum is to be advanced by BANK as required by OWNERS and/or as the renovation and repair work progresses.

**MECHANIC'S LIEN WAIVER:**

NOW THEREFORE, intending to be legally bound, it is stipulated and agreed to as follows:

1. CONTRACTOR, for itself and anyone else acting or claiming through or under it, for and in consideration of the CONTRACT and the considerations stated

within the CONTRACT, and intending to be legally bound by this MECHANIC'S LIEN WAIVER, does waive and relinquish all right to file a mechanic's lien, claim or notice of intention to file any lien or claim, and does covenant, promise and agree that no mechanic's lien or claim or other lien or claim of any kind shall be filed or maintained against the improvements or the estate or the title of the OWNERS, their heirs, successors or assigns, in the PROPERTY or the curtilage or curtilages appurtenant thereto, or against any right, title or interest of OWNERS, their heirs, successors, or assigns, by or in the name of the CONTRACTOR or any subcontractors, 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 or about the improvements or the PROPERTY or any part thereof, or on credit thereof, and that all subcontractors, materialmen, and laborers on the work shall look to and hold CONTRACTOR personally liable for all subcontracts, materials furnished and work and labor done, so that there shall not be any legal or lawful claim of any kind against OWNERS, their heirs, successors or assigns for any subcontracts, and materials and work done and labor furnished under the CONTRACT for and about reconstruction, renovation and repair work on the house or under any contract for extra work, or for work supplemental thereto, or otherwise.

2. This agreement waiving the right of liens shall be an independent covenant and shall operate and be effective with respect to work done and materials furnished under any supplemental contract for extra work to the reconstruction, renovation and repair work as well as to any work and labor done and materials furnished under the CONTRACT.

3. In the event that a CONTRACTOR consists of more than one person, firm or corporation, the undertakings hereunder of such persons, firms or corporations shall be joint and several. For purposes of this MECHANIC'S LIEN WAIVER, the singular shall be deemed to include the plural, and the neuter shall be deemed to include the masculine and the feminine, as the context may require.

4. In the event that any mechanic's lien or claims filed by a CONTRACTOR or any person, firm or corporation claiming under, through or against a CONTRACTOR, CONTRACTOR, for itself and all such persons, firms and corporations, irrevocably waives any right to a jury trial in any action to strike or discharge the lien.

5. If a CONTRACTOR or any person, firm or corporation claiming under, through or against the a CONTRACTOR files a mechanic's lien, notwithstanding this waiver, OWNERS, their heirs, successors or assigns, and BANK, its successors and assigns shall each have the right to discharge the lien by appropriate legal proceedings and to retain out of any payment then due or

thereafter to become due to such CONTRACTOR, an amount sufficient to completely reimburse and indemnify OWNERS, their heirs, successors and assigns, BANK, its successors and assigns against all expenses and losses resulting from such liens. Such expenses and losses shall include, without limitation, any attorney's fees, surety bond premiums and other costs incurred in attempting to discharge or remove such lien, and any damages or other losses resulting from such lien, all of which such CONTRACTOR agrees to pay. If any payment then due to such CONTRACTOR by OWNERS, is not sufficient to reimburse and indemnify OWNERS their heirs, successors or assigns, and BANK, its successors and assigns by way of off-set, such CONTRACTOR agrees to pay the amount of the difference to OWNERS, their heirs, successors or assigns, or BANK, its successors and assigns, as the case may be, upon demand.

6. CONTRACTOR agrees to release any and all liens for all work done, and materials and supplies of any kind that have been delivered or ordered, in connection with the construction or other work with regard to the reconstruction, renovations and repairs on the house and any right to file for such liens, which have or may have attached prior to the execution of this MECHANIC'S LIEN WAIVER.

7. In addition, CONTRACTOR further agrees that all provisions of this MECHANIC'S LIEN WAIVER shall apply to the release of any and all mechanic's, materialmen's and any and all other liens, and the right to file such liens, which have attached to the PROPERTY, buildings, or otherwise, prior to the execution of this MECHANIC'S LIEN WAIVER, as those provisions apply to the waiver of any and all mechanic's liens.

8. This agreement and stipulation is made and is intended to be filed with the Cambria County Prothonotary within ten (10) days of the date of this MECHANIC'S LIEN WAIVER, in accordance with the authority granted by the ACT of August 24, 1963, P.L. 1175, SECTION 405, 49 P.S. SECTION 1402.

IN WITNESS WHEREOF, the undersigned have signed, sealed and delivered this MECHANIC'S LIEN WAIVER as of the date first written above.

CONTRACTOR:  
HAMILTON CONSTRUCTION COMPANY

Raymond Wendekier  
Witness

By: Richard A. Hamilton (SEAL)  
RICHARD A. HAMILTON

OWNERS:

Raymond Wendekier  
Witness

Fredrick W. Ivory (SEAL)  
FREDERICK W. IVORY

Raymond Wendekier  
Witness

Amy J. Ivory (SEAL)  
AMY J. IVORY

ACKNOWLEDGMENT

State of Pennsylvania |  
|ss  
County of Cambria |

On this the 29th day of September, 2003, before me, a notary public, the undersigned officer, personally appeared RICHARD A HAMILTON, known to me (or satisfactorily proven) who acknowledged himself to be the Owner of HAMILTON CONSTRUCTION COMPANY., and as such Owner being authorized to do so, executed the foregoing instrument by himself as \_\_\_\_\_ and acknowledged that he is authorized to execute the same by signing himself for the purposes contained therein.

In Witness Whereof, I hereunto set my hand and official seal.

(Seal)

Mary Ellen Wendekier  
Notary Public

Notarial Seal  
Mary Ellen Wendekier, Notary Public  
Patton Boro, Cambria County  
My Commission Expires Nov. 13, 2004  
Member, Pennsylvania Association of Notaries

ACKNOWLEDGMENT

State of Pennsylvania |  
County of Cambria | ss

On this the 29th day of September, 2003, before me, a notary public, the undersigned officer, personally appeared FREDERICK W. IVORY and AMY J. IVORY, husband and wife, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same for the purposes contained therein.

In witness whereof, I hereunto set my hand official seal.

(Seal)

*Mary Ellen Wendekier*  
Notary Public

Notarial Seal  
Mary Ellen Wendekier, Notary Public  
Patton Boro, Cambria County  
My Commission Expires Nov. 13, 2004  
Member, Pennsylvania Association of Notaries

ALL that certain piece or parcel of ground situate in Irvona Borough, Clearfield County, Pennsylvania, bounded and described as follows:

BEGINNING at a post on Julia Street and being on line of Lot No. 112; then by line of said Lot No. 112, seventy-five (75) feet to a post on alley; then by said alley eastward one hundred (100) feet to a post on corner of Lot No. 110; then by line of Lot No. 110, northward seventy-five (75) feet to a post; then westward from said post one hundred (100) feet to a post on Julia Street, the place of beginning; being marked and known as one-half of Lot No. 111 and one-half of Lot No. 112 on Plan of the Borough of Irvona.

THIS PARCEL OF LAND is further identified on the Clearfield County Tax Assessment Records as Tax Control No. 011.0-01135- and Tax Map No. 011.0-H16-350-00038

Schedule "A"