

2004-1282-CD
Mark A. Russell and Stephanie Russell AND Josh and Rick Berndt
R&B Contracting

Mark Russell et al vs Josh Berndt et al
2004-1282-CD

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

MARK A. RUSSELL and STEPHANIE :
D. RUSSELL, husband and wife, :
Owners :
A-N-D :
JOSH BERNDT and RICK BERNDT t/d/b/a :
R & B CONTRACTING :
Contractor :

FILED *268*
0125231 *Nbcc*
AUG 19 2004 *Bell, Sibersblatt*
20.00
William A. Shaw
No. 2004-1282-03 Prothonotary/Clerk of Courts

WAIVER OF MECHANIC'S LIEN

WHEREAS, the undersigned, R & B CONTRACTING of P.O. Box 211, Ramey, PA 16671, on or about the 15 day of AUGUST, 2004, entered into a Contract with MARK A. RUSSELL and STEPHANIE. D. RUSSELL, husband and wife, of 2106 Legion Road, Clearfield, PA, for construction and installation of a home on premises situate in Morris 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 and installation 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 and installation 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 and installation of said dwelling or any extra additions to be made to said Contract in and about said building or premises.


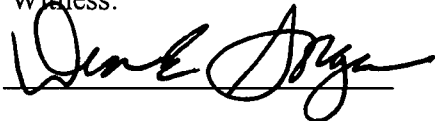
To give owner full power and authority to protect itself, the property, the estate, or title of owner therein, and the appurtenances thereto, against any and all liens filed by contractor or anyone acting under or through it in violation of the foregoing covenant, contractor hereby irrevocably authorizes 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.

R & B CONTRACTING

Witness:


By: Josh Berndt, Partner

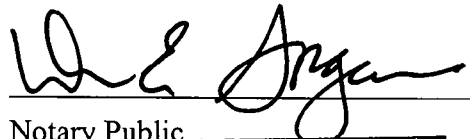
COMMONWEALTH OF PENNSYLVANIA :

SS

COUNTY OF :

On this 10 day of August 2004, before me, the undersigned officer, personally appeared JOSH BERNDT, who acknowledged himself/herself to be a Partner of R & B CONTRACTING and that as such is authorized to execute this Instrument, and further acknowledged that he has done so for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Notary Public

Notarial Seal
Dennis E. Borger, Notary Public
Curwensville Boro, Clearfield County
My Commission Expires Apr. 10, 2005
Member, Pennsylvania Association of Notaries

ALL that certain parcel or tract of land located and situate in Morris Township, Clearfield County, Pennsylvania, more fully described as follows:

BEGINNING at an iron pin on the Northern side of Mirkwood Drive, said iron pin being at the common corner of Lot No.32 and Lot No. 33; thence South 84 degrees 40 minutes East along Mirkwood Drive 105.0 feet to a point on the Northern side of Mirkwood Drive, said point being at the common corner of Lot No.33 and Lot No. 34; thence North 6 degrees East 101 feet along the line of Lot No.34 to a point on the line of lands now or formerly of West Branch Area Schools; thence North 84 degrees 40 minutes West along the line of said lands now or formerly of West Branch Area Schools, 105.0 feet to an iron pin at the common corner of Lot No. 32 and Lot No. 33; thence South 6 degrees West 101 feet to an iron pin on Mirkwood Drive, the aforesaid point and place of beginning.

BEING Lot No. 33 in the East Shady Acres Sub-division, a plot plan of which was recorded in the Office of the Recorder of Deeds in and for Clearfield County, Pennsylvania in August of 1978.

UNDER AND SUBJECT TO the twelve (12) Expressed Restrictions, Covenants and Conditions which are more particularly set forth and enumerated in a deed dated July 14, 1979 from Harold J. Smeal and Jueveta Smeal, his wife, to Timothy Eldon Woodside and Marjorie Ann Woodside, his wife, which was recorded in the Office of the Recorder of Deeds in and for Clearfield County, Pennsylvania on August 1, 1979 in Deed Book 785, Page 20.

BEING the same premises conveyed to Mark A. Russell and Stephanie D. Russell by deed recorded as Clearfield County Instrument #2004009785.

EXHIBIT "A"