

2005-759-CD
V&R Constr. vs FD Properties

V&R. Construction LLC v. FD Properties
2005-759-CD

2005-759-00

WAIVER OF RIGHT TO FILE MECHANIC'S LIEN CLAIM

WAIVER OF LIENS

This instrument is executed this 23d day of May, 200~~2~~⁵, by
V&R Construction LLC ("Contractor") (or Subcontractor) in
favor of FD Properties I LLC ("Owner")

WITNESSETH:

1. Contractor is a contractor within the meaning of the Mechanics Lien Law of 1963.
2. Owner and contractor intend to enter or have entered into a certain contract
("Contract") in connection with the construction of a retail store
on a parcel of ground
known as 1100 Old Town Rd., Clearfield, Pennsylvania ("Property"),
described as follows:

SEE Exhibit "A".

3. Contractor has, by this instrument and the promises contained herein, covenanted, promised and agreed that no mechanics' or materialmen's liens shall be filed or maintained against the estate or title or Owner in the property or any part thereof, or the appurtenances thereto, either by itself or anyone else acting or claiming through or under it for or on account of any work, labor or materials supplied in the performance of the work under the contract or under any supplemental contract for extra work.

NOW THEREFORE, in consideration of the contract and the covenants of Owner therein contained, and the sum of one dollar (\$1.00) paid in hand to contractor, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby:

1. Contractor, for itself and any one else acting or claiming through or under it, does hereby waive and relinquish all right to file a mechanic's or materialmen's lien, or notice of intention to file any lien, and does hereby covenant, promise and agree that no mechanics' lien or other lien of any kind whatsoever shall be filed or maintained against the estate or title of owner in the property or appurtenances thereto, by or in the name of contractor, or any subcontractor, materialman or laborer acting or claiming through or under for work done or materials furnished in connection with the contract or by any other party acting through or under them or any of them for and about the property or any part of it.

FILED

MAY 26 2005

0/11:45 PM
William A. Shaw

Prothonotary/Clerk of Courts

No 4/C

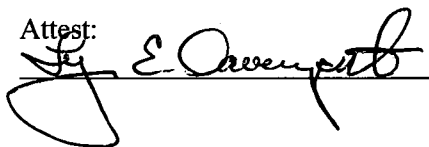
2. This agreement waiving the right of lien shall be an independent covenant by contractor and shall operate and be effective as well with respect to work done and materials furnished under any supplemental contract for extra work in connection the above described project on the property to the same extent as any work and labor done and materials furnished under the contract.

3. In order 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 empower any attorney of any Court of Common Pleas of the Commonwealth of Pennsylvania to (i) 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 materialmen, any and all lien or liens, filed in violation of the foregoing covenant, or (ii) cause to be filed and served in connection with such a 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 quit-claims all rights and 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 the 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.

4. It is the intention of the parties that this waiver shall be recorded in the office of the Prothonotary of Clearfield County to provide constructive notice of this waiver to any and all subcontractors, materialmen and other persons furnishing labor or materials under this contract.

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

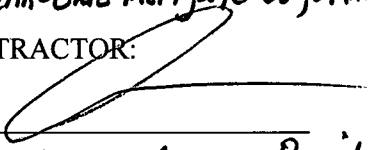
Attest:



VBR Construction LLC
By Penn-Ohio Mortgage Co., B Manager

CONTRACTOR:

BY:


Anthony L. Cocca, President

State of Ohio
~~COMMONWEALTH OF PENNSYLVANIA~~ :
: SS
COUNTY OF *Mahoning* :

On this *23d* day of *May*, 200*2*, before me, the undersigned officer, personally
Appeared *Anthony L. CoCCA **, known to me (or satisfactorily proven) to be
The person whose name is subscribed to the written instrument, and acknowledged that he executed the
Same for the purpose therein contained.

** President, Penn-Ohio Mortgage Co, Manager, V&R Construction LLC*
IN WITNESS WHEREOF, I hereunto set my hand and official seal.



William Anthony Myers (SEAL)
Notary Public
~~My commission expires:~~

WILLIAM ANTHONY MYERS
NOTARY PUBLIC-STATE OF OHIO
ATTORNEY'S COMMISSION
NO EXPIRATION DATE - R.C. Section 147.03

Return to
Penn-Ohio Title LLC
100 De Bartolo Place, Suite 375
Boardman OH 44512



EXHIBIT "A"

LEGAL DESCRIPTION

Case Number: 05-01083-CDC

Parcel 1.

All that certain piece or parcel of land situate in Lawrence Township, Clearfield County, Pennsylvania, being part of Lot No. 15 in Block Q of the G.L. Reed Addition to Clearfield Borough, bounded and described as follows:

Beginning at a point at the corner of South Second Street and Alexander Street; thence along the line of Alexander Street in a southerly direction 140 feet to a point; thence southwestwardly along the line parallel to South Second Street 66 feet, more or less, to the line of Lot No. 14 in Block Q; thence in a northwesterly direction along the line of Lot No. 14 in Block Q, 140 feet to the line of South Second Street; thence in a northerly direction along South Second Street 66 feet to the place of beginning.

Lawrence Township Map No. 123-K08-235-00038

Parcel 2.

All that certain piece or parcel of land situate in Lawrence Township, Clearfield County, Pennsylvania, being part of Lot 13 in Block Q of the G.L. Reed Addition to Clearfield Borough, bounded and described as follows:

Beginning at a stake on Alexander Street 140 feet distance from South Second Street; thence South 54°-30' East, 60 feet to an alley; thence along said alley South 35°-30' West 196.92 feet to the common corner of Lots 12 and 13 in Block Q of the G.L. Reed Addition to the Borough of Clearfield; thence along the line dividing Lots 12 and 13 North 54°-30' West, 80.7 feet to a stake in the line between Lots 12 and 13 in Block Q and 140 feet from South Second Street; thence North 41°-30' East, 198 feet to the place of beginning.

Lawrence Township Map No. 123-K08-235-00037

Parcel 3.

All that certain piece or parcel of land situate in Lawrence Township, Clearfield County, Pennsylvania, being Lot 9 in Block "O" of the G.L. Reed Addition to the Borough of Clearfield, bounded and described as follows:

Beginning at a point at the western corner of the lot hereby conveyed and the corner of South Second Street and Alexander Street; thence by line of Alexander Street South 54°-30' West, 200 feet to the line of an alley; thence by line of said alley North 35°-30' East 66 feet to the southern line of Lot No. 10 in Block O; thence by the southern line of Lot No. 10 in Block O, North 54°-30' West, 200 feet to a line of South Second Street; thence by line of South Second Street South 35°30' West, 66 feet to the place of beginning.

Lawrence Township Map No. 123-K08-235-00047

Parcel 4

All that certain piece or parcel of land situate in Lawrence Township, Clearfield County, Pennsylvania, being part of Lot 13 and 14 in Block Q of the G.L. Reed Addition to the Borough of Clearfield bounded and described as follows:

Beginning at a point South 54°-30' West, 97.35 feet from the common corner of Lots 12 and 14 and 15 in Block Q of the G.L. Reed Addition to the Borough of Clearfield and on line of Lot No. 15, Block Q; thence South 41°-30' West, 132 feet along the line of land of previous grantors to a point on line of Lot No. 12 in Block Q; thence along the line of said Lot 12 in Block Q, North 54°-30' West, 42.65 feet; thence North 41°-30' East, 132 feet to a point on line of Lot No. 15 in Block Q; thence along the line of Lot No. 15 in Block Q, South 54°30' East, 42.65 feet to a point on line of Lot No. 15 in Block Q, being the place of beginning.

This conveyance is subject to all conditions and restrictions with respect to the plat structure of which the lots are a part.

Lawrence Township Map No. 123-K08-235-028.1

Parcel 5

All those two lots of land situate in Lawrence Township, Clearfield County, Pennsylvania, being Lots Nos. 7 and 8 in Block O as per plan of G.L. Addition to the Borough of Clearfield, each of said lots having a frontage of 49 ½ feet on Linden Street, and a depth of 200 feet on Alexander Street.

Lawrence Township Map No. 123-K08-235-036.1

Parcel 6

All that certain parcel of land situate in Lawrence Township, Clearfield County, Pennsylvania, being a portion of Lots 13 and 14 of Block Q of the G.L. Reed's Addition to the Borough of Clearfield bounded and described as follows:

Beginning at the common corner of Lots 12 and 13 on South Second Street as extended; thence along South Second Street in a northerly direction a distance of 132 feet to the common corner of Lots 14 and 15; thence along line of Lot 15 in an easterly direction a distance of 97.35 feet to a point; thence South 41°-30' East along line of lot nor or formerly of Clearco Realty Corporation and parallel to South Second Street a distance of 132 feet to a line of Lot 12; thence along line of Lot 12 in a westerly direction a distance of 97.38 feet to the place of beginning.

Lawrence Township Map No. 123-K08-235-00028

Parcels 1 through 6 together being all of the property conveyed to Jerry Gottlieb, Trustee of the Eleanor M. Diehl Charitable Remainder Trust under trust agreement dated April 22, 1999 by Trustee's Deed from Eleanor M. Diehl, Trustee of the El-Mic Trust under trust agreement dated April 10, 1981, which deed is dated May 31, 1999 and recorded June 14, 1999 at 12:25 p.m. in the Recorder's Office for Clearfield County, Pennsylvania as Instrument No. 199909814