

05-950-CD

T. Foley et vs Michael Powers Cons.

2005-950-CD
T. Foley et v. Michael Powers Cons.

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

Thomas M Foley & Carol J. Foley CIVIL ACTION
(Plaintiff)

Treasure Lake
(Street Address)

Dubois PA 15801
(City, State ZIP)

No. 05-950-CD

Type of Case: Waiver of Hires

Type of Pleading: WAIVER

Filed on Behalf of:

vs.

Michael E Powers Construction Plaintiff/Defendant
(Defendant)

Treasure Lake
(Street Address)

Dubois PA 15801
(City, State ZIP)

Plaintiff

DAVID P. KING, Esq
(Filed by)

FILED ¹⁰
^{10 CC}
^{07/06/2005}
^{Atty pd.}
^{20.00}
JUL 01 2005

William A. Shaw
Prothonotary/Clerk of Courts

Po Box 1016
(Address)

Dubois PA 15801
(Phone) 814 371-3760

DAVID P. KING
(Signature)

CONTRACTOR'S WAIVER OF LIENS

THIS AGREEMENT made and entered into this 1st day of July, 2005 by and between Thomas M Foley and Carol J Foley, hereinafter "Owner(s)", of Lot 76, Sylvan Heights, DuBois, PA 15801, and Michael E. Powers Construction, hereinafter "Contractor" of 970 Treasure Lake, DuBois, PA 15801.

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 Township of Sandy, County of Clearfield, State of PA.
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:

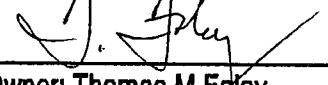
Michael E Powers Construction

By:


(SEAL)

Michael E Powers

Owner: Thomas M Foley


(SEAL)

Owner: Carol J Foley


(SEAL)

ALL that certain lot or parcel of ground situate, lying and being in Sandy Township, Clearfield County. Said property being known as Lot #76 in the former Schall Land Company Subdivision Plan dated July 12, 1994, surveyed by Lee-Simpson Associates, Inc., and which is more fully bounded and described on Exhibit "A" attached hereto and made a part hereof.

BEGINNING at a point in the right of way of Moravian Drive, said point being the southern corner of Lot No. 62 and the southwest corner of Lot No. 76;

Thence North 34 degrees 57 minutes 50 seconds East along Lot No. 62, a distance of 149.87 feet to a point;

Thence North 17 degrees 53 minutes 23 seconds East along Lot No. 61, a distance of 123.63 feet to a point;

Thence North 83 degrees 33 minutes 33 seconds East along Lot No. 35, a distance of 88.13 feet to a point;

Thence South 10 degrees 00 minutes 32 seconds West along Lot No. 77, a distance of 135.54 feet to a point;

Thence South 16 degrees 16 minutes 07 seconds West along Lot No. 77, a distance of 180.66 feet to a point in the right of way of Moravian Drive;

Thence North 67 degrees 36 minutes 39 seconds West along the right of way of Moravian Drive, a distance of 148.46 feet to the point and place of beginning.

BEING known as Lot No. 76. Containing 32,359 square feet, 0.74 acres.

UNDER AND SUBJECT, nevertheless, to the express conditions and restrictions as appear below which Grantees, for themselves, their heirs and assigns, by acceptance of this indenture, agree with the Grantors, their heirs and assigns, that said restrictions and conditions may be amended, expanded, or eliminated, either in part or in entirety from future conveyances by the Grantors from its lands:

1. Minimum Size of Home:
 - A. 2300 Sq. ft. Single Story, not including garage or porch; or
 - B. 2700 Sq. Ft. Two-story, not including garage or porch.
2. 50% brick or stone for front and sides;
3. Siding and shingles must be architectural grade;
4. All homes must have full basements;
5. Each home must have a minimum of a two car garage;
6. All homes must have multiple roof lines;
7. All homeowners and builders must follow formal blueprints;
8. All homeowners and builders must follow all federal, state and local codes when building their homes, performing landscaping and paving their driveways;
9. All landscaping and driveways must be completed within twelve (12) months of the start of construction of the home;

10. Any outbuildings or sheds constructed on the homeowner's property must be the same architectural design as the home constructed on the same site;
11. No outside wood or coal furnaces are allowed to be constructed on the property.

EXCEPTING AND RESERVING therefrom and subject to:

1. All easements, rights-of-way, reservations, and limitations shown or contained in prior instruments of record and as recorded.
2. All coal, mining, mineral, oil and gas rights of every kind and nature.

BEING a part of the same premises which became vested in D&R Land Development Company, LP by deed of Frank S. Schall, single, and Raymond E. Schall and Margaret S. Schall, husband and wife, individually and doing business as the Schall Land Company, dated March 15, 2004, and recorded in the office of the Recorder of Deeds of Clearfield County as Instrument No. 200404730.

SUBJECT to all exceptions, reservations, conditions, restrictions, easements and rights-of-way as fully as the same are contained in all prior deeds, instruments or writings or in any other manner touching or affecting the premises hereby conveyed.