

08-940-CD

Teresa Dixon vs Lee Srock

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA

TERESA J. DIXON

(Plaintiff)

4846 HEVENLY BLVD.

(Street Address)

CONAPOINT, PA.

(City, State, ZIP)

CIVIL ACTION

No. 08-940-CD

Type of Case: Civil

Type of Pleading: WML

Filed on Behalf of:

TERESA J. DIXON

(Plaintiff/Defendant)

VS.

LEE SROCK

(Defendant)

104 SCOTTS RD.

(Street Address)

HOUTONS, PA. 16651

(City, State, ZIP)

Central PA Community Action, Inc.

(Filed by)

207 E Cherry Street, Clearfield PA 16830

(Address)

(814) 765-1551

(Phone)



Hugh A. Daly, Executive Director

FILED

08:04/08
MAY 20 2008

William A. Shaw
Prothonotary/Clerk of Courts

No cc
Community
Action pd.
\$20.00

Exhibit "C"
STIPULATION, WAIVER AND RELEASE OF LIENS
(See Section 5.2)

CONTRACTOR'S WAIVER OF LIENS

STIPULATION AND FINAL WAIVER AND RELEASE OF LIENS

This WAIVER, RELEASE, STIPULATION and AGREEMENT (collectively the "**Agreement**") is made effective as of the 7th day of May, 2008, by **Srock Contracting**, with an office located at **104 Scotts Rd., Houtzdale, PA** (the "**Contractor**") in favor and for the benefit of **Teresa J. Lansbery aka Teresa J. Dixon** (the "**Owner**") residing at **4846 Heverly Blvd., Coalport, Clearfield County, Pennsylvania**.

WHEREAS, Owner and Contractor effective as of the above date entered into a certain construction contract ("**Contract**") relating to the repair, installation, erection and/or construction and completion of certain improvements described in the Contract and generally described as work relating to reduction, control and/or the elimination of identified lead hazards in housing and/or other improvements and alterations ("**Project**") upon a parcel(s) of land owned by Owner and known as **4846 Heverly Blvd., Coalport, Clearfield County, Pennsylvania**, ("**Property**") and which Property is more fully described in **Exhibit "A"** attached hereto and incorporated herein by reference; and

WHEREAS, Contractor is a contractor within the meaning of the Mechanics Lien Law of 1963, 49 P.S. Section 1101, et seq. as exists now or in the future ("**Law**"). Whenever used in this Agreement, the terms "improvement", "labor", "materials" and "subcontractor" shall include and have the same meaning as set forth in the Law; and

WHEREAS, Contractor, in accordance with the Law and by this Agreement and the promises contained herein and in the Contract, warrants, covenants, promises and agrees that no mechanics' or materialmen's liens or any similar or other types or kinds of liens, claims, encumbrances, charges, security interests upon real or personal property or claims or demands of any kind whatsoever (individually and collectively "**Liens**") shall be filed, asserted, claimed or maintained against the improvements, Project, Property, estate, rights or title of Owner in the Property or any interest therein or any part thereof, or the appurtenances thereto, by or on behalf of Contractor, any subcontractor, materialman or any person or entity claiming or acting for, through or under Contractor or any of them for or on account of any work, labor, equipment, supplies or materials performed or supplied in the performance of any of the work (as defined or indicated in the Contract) or relating to the Project or under any supplemental contract or contract for additional or extra work in the construction, erection, repair, installation or completion of the improvements and/or alterations, Project or Work or on the Property or any part thereof or appurtenance thereto.

NOW, THEREFORE, to induce Owner to enter into the Contract and in consideration of the agreements of Owner therein contained, other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Contractor stipulates, covenants, warrants and agrees as follows:



1. Incorporation. All of the foregoing is incorporated herein by reference the same as though herein fully set forth.

2. Waiver and Release of Liens. Contractor, for himself/itself any and all subcontractors, laborers, materialmen and any person or entity (individually and collectively the "Subcontractors") claiming or acting for, through or under Contractor, does hereby fully and forever waive, release and relinquish all rights to have, file, maintain, claim or assert any Liens whatsoever or notice of intention to file any Liens and does hereby warrant, covenant and agree that no Liens shall be filed, maintained, asserted or claimed against the building, improvements, work, Project, Property, estate, rights or title of Owner in the Property or any part thereof or interest therein or the appurtenances thereto, by or in the name of Contractor, or by any Subcontractor or any person claiming or acting for, through or under any of them for any labor, work or services performed or supplies or materials furnished in connection with or relating to the work, Project, Contract, or Property or by any other person. Further, the Contractor for itself, any and all Subcontractors and any other person forever quitclaims to Owner all manner of Liens, claims and demands whatsoever which Contractor or any of them may have now or in the future on, in or against the Property, Project, work or improvements or any part thereof or the Owner.

3. Independent Covenant. This Agreement waiving and releasing all rights to have, file, assert, claim or maintain any Liens shall be and is an independent covenant and warranty by Contractor for itself, any Subcontractor and any person claiming or acting for, through or under Contractor and shall operate and be effective irrespective of Owner's performance and applies to all labor, work and services done, supplies, equipment and materials furnished under any supplemental agreement or for additional or extra work or otherwise in the erection, installation, construction and completion of the work or Project or in connection with or relating to the Contract, Property or above-described Project on or about the Property in the same manner and to the same extent as any work and labor done, supplies, services and materials furnished under or relating to the Contract or in connection with the Project or Property.

4. Power of Attorney to Satisfy Lien. To give Owner full power and authority to protect, himself, all buildings, improvements, the Project, Property, the estate, rights, interests and title of Owner therein, and all appurtenances thereto, against any Liens filed by Contractor or any Subcontractor or person claiming or acting for, through or under Contractor in violation of the foregoing covenant or this Agreement, 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 Contractor, Subcontractor or any of them, in any such court, and in Contractor's, Subcontractor's or their name or names, to the fullest extent permitted by law to strike and/or mark satisfied of record at the sole cost and expense of Contractor or of any Subcontractor or any other person, any Liens, filed or asserted in violation of the foregoing covenant, warranty or this Agreement, or (ii) to cause to be filed and served in connection with such Liens any pleading or instrument, or any amendment to any pleading or instrument previously filed by or on behalf of Contractor, Subcontractor or any of them, and to incorporate therein, as part of the record, the full release and waiver contained in this Agreement; and for such act or acts this Agreement 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 and binding evidence of the full authority herein to warrant and authorize all such action, and Contractor, for himself/itself and for all Subcontractor and any person and their respective heirs, personal representatives, successors and assigns, hereby fully and forever remises, releases, waives, and quitclaims all rights and all manner of errors, defects and imperfections whatsoever in striking any Liens or entering such satisfaction or in filing such pleading, instrument or amendment, or in any way relating to or concerning them or any of them.



5. Hold Harmless. Contractor covenants and agrees that all Subcontractors shall look to and hold only the Contractor personally liable and that there shall not be any Liens, claims or demands whatsoever against the Property or Owner for any work or labor done or supplies or materials furnished under or in connection with the Contract, Project, work or otherwise. Contractor agrees to and shall hold the Owner and his heirs, personal representatives, successors and assigns ("**Indemnitees**") harmless from and fully indemnify and defend Indemnitees and each of them against any and all Liens, losses, damages, liabilities, suits, judgments, fines, penalties, actions, costs and expenses including, without limitation, attorneys' and experts' fees, incurred by any or all Indemnitees and all demands or claims of any kind whatsoever asserted, made or brought and arising or alleged to arise, directly or indirectly, out of or resulting from, in whole or in part, any violation or breach of the agreements or representations in this Agreement or the Contract or from any Liens asserted, maintained, claimed or filed in violation of this Agreement or the Contract.

6. Binding Effect. It is the express purpose and intent of this Agreement that the Owner and his heirs, personal representatives, successors and assigns shall hold, have, use and enjoy the Project, Property and all materials and improvements free, clear and discharged from any and all Liens and claims whatsoever which Contractor, Subcontractor or anyone claiming or acting for, through or under, Contractor now have, or might or could have against the same if this Agreement had not been made. It is hereby warranted, stipulated and agreed, as part of the Contract and for the consideration therein set forth, that neither the Contractor, any Subcontractor nor any other person furnishing any work, services, labor, supplies, materials or equipment to or for the Contractor, work, Project or Property under or relating to the Contract or in regard to the Property, Project, work or improvements shall have the right to or will assert, claim, maintain or file any Liens for any work, labor or services done or supplies or materials furnished to or for the said improvements, work, Project, Property or any part thereof. Every part of this Agreement shall be fully binding upon Contractor, all Subcontractors and persons claiming or acting for, under or through Contractor or any of them and their respective heirs, personal or legal representatives, successors and assigns and inure to the benefit of Owner and his heirs, personal or legal representatives, successors and assigns.

7. Interpretation. If any one or more of the terms or provisions contained in this Agreement shall be held to be invalid or unenforceable in any respect as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, it is the specific intent of the Contractor and this Agreement that any such offending provision or term shall be deemed to be modified to be within the maximum limits of validity and be enforceable while most nearly preserving its original intent and purpose; however, if the offending provision cannot be so modified, it shall be stricken and all other terms and provisions of this Agreement in all respects shall remain valid and fully enforceable. Each paragraph, provision and part of this Agreement is separable and constitutes a separate and distinct covenant, warranty, stipulation, condition and agreement. Whenever used in this Agreement, the singular includes the plural, the plural the singular and the use of any gender includes all genders. Contractor covenants and agrees that this Agreement shall be construed in a neutral manner, and in interpreting this Agreement, there shall be no inference or presumption by operation of law or otherwise that any term, part or provision of this Agreement shall be more strictly construed against any person for any reason whatsoever. The term "person" whenever used in this Agreement shall mean and include any natural person, corporation, partnership, association, limited liability company, trust, estate, governmental or any other type of entity. Words or terms used herein and which are defined in the Contract shall have the meaning set forth in the Contract unless otherwise defined herein or the context otherwise requires.



ACKNOWLEDGMENT FOR INDIVIDUAL

8. Work Not Commenced. Contractor certifies and warrants to Owner and all other persons and entities that as of the date hereof, no labor, work or services of any kind or nature have yet been done nor any materials furnished relating to or for the Contract, work, improvements or on or about the Project or Property by any person. Further, Contractor warrants that the execution and delivery of this Agreement by the undersigned person has been duly authorized and approved by all requisite corporate and other action and constitutes a legal, valid and binding obligation of Contractor.

9. Further Actions. The Contractor agrees to and shall sign, acknowledge and deliver promptly to Owner and Lawrence County Social Services, Inc. ("LCSS") all such other documents and writings and promptly take all actions requested by Owner or LCSS to accomplish or more fully put into binding effect any or all of the provisions, purposes or intent as indicated in or contemplated by this Agreement and/or the Contract.

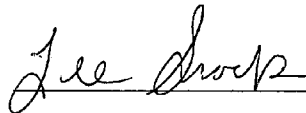
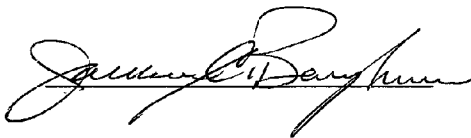
10. Filing With the Prothonotary. This Waiver, Release, Stipulation and Agreement is made and intended to be valid and enforceable to the maximum extent permitted by Law and to be filed with the Prothonotary for the County of Clearfield, Commonwealth of Pennsylvania in accordance with the requirements of all applicable laws including, without limitation, Section 402 of the Pennsylvania Mechanics' Lien Law of 1963, 49 P.S. Section 1402.

IN WITNESS WHEREOF, the Contractor, intending to be legally bound, has set his hand and seal effective the date first above written.

Signed, sealed, and delivered
In the presence of:

Witness/Attest:

Contractor:

 (Seal)

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DEED: Guardian, Trustee or Executor 1969

N.T.S.
Sold by The Flansburg Co., Williamsport, Pa. 17701

This Indenture,

MADE the 3rd day of September in the year of our Lord, nineteen hundred and eighty seven

BETWEEN CLAIR GATHAGAN, as Executor of the Estate of VERN M. GATHAGAN, deceased, of Coalport Borough, Clearfield County, Pennsylvania, party of the first part, Grantor,

AND

TERESA J. LANSBERRY, of R. D. 1, Box 756, Coalport, Beccaria Township, Clearfield County, Pennsylvania, party of the second part, Grantee,

WHEREAS, the said VERN M. GATHAGAN became in his lifetime seised of and in a certain lot or piece of ground together with the buildings and improvements thereon erected, situated in the Township of Beccaria, County of Clearfield, Commonwealth of Pennsylvania and more particularly described hereinafter; and being so thereof seised, departed this life on November 18, 1985 having first made his Last Will and Testament in writing dated April 19, 1980 duly probated and registered in the Office of the Register of Wills of Clearfield County on December 2, 1985 in Will Book No. 53 at page 141, wherein and whereby, inter alia he devised this lot or piece of ground and improvements thereon erected to his daughter, TERESA J. LANSBERRY and in said Will he appointed as Executor said CLAIR GATHAGAN to whom letters testamentary were duly issued by said Register of Wills on December 2, 1985 as in and by said Will and the records of said Register of Wills, recourse thereunto being had, appears:

NOW THIS INDENTURE WITNESSETH; That the said Grantor

for and in consideration of the sum of One and No Hundredths-----
 ----- (\$1.00) ----- Dollars,

lawful money of the United States, to him well and truly paid by the said Grantee
 at and before the sealing and delivery hereof, the receipt of which is hereby acknowledged, by virtue of the
 power granted by law, has granted, bargained, sold, aliened, released and confirmed, and by these presents
 does grant, bargain, sell, alien, release and confirm unto the said Teresa J. Lansberry

her heirs and assigns,

ALL that certain piece or parcel of land situate in Beccaria Township, Clearfield County, Pennsylvania, bounded and described as follows:

BEGINNING at a point in the center of a culvert and spring discharge on the northern right of way of State Route 865, also known as Legislative Route 17033, leading from Coalport to Utahville; thence in a northerly direction one hundred (100) feet more or less along the center of said discharge to a point, said center also being the eastern boundary of property intended to be conveyed by grantor to Virginia A. Spaid; thence in an easterly direction three hundred ninety (390) feet more or less to a point on the line now or formerly of Marilyn M. Mullen; thence in a southerly direction along said Mullen line one hundred (100) feet more or less to a point on the northern right of way of said State Route 865; thence in a westerly direction along said State Route three hundred ninety (390) feet more or less to the center of the culvert and point of beginning.

BEING inter alia, the same premises which was conveyed by A. V. Chaplin and Lala Chaplain, his wife, to Vern M. Gathagan and Ellie Marie Gathagan, his wife, by deed recorded in the Clearfield County Recorder's Office in Deed Book 401 at page 257. Said Ellie Marie Gathagan having departed this life on January 18, 1968 the entire title vested in her husband, Vern M. Gathagan by operation of law as surviving spouse.

EXCEPTING and RESERVING coal and other minerals with the usual mining privileges, as fully as are reserved in any former deed of conveyance.

FURTHER grantor intends to convey herewith any rights appurtenant to the parcel herein described which his predecessor in title may have acquired by adverse possession or any rights as vested in grantor by other deeds of the decedent not specifically referred to herein.

TOGETHER with all and singular the buildings, improvements, ways, waters, water courses, rights, liberties, privileges, hereditaments and appurtenances whatsoever thereunto belonging, or in anywise appertaining, and the reversions and remainders, rents, issues and profits thereof; and also all the estate, right, title, interest, use, trust, property, possession, claim and demand whatsoever of the said Vern M. Gathagan at and immediately before the time of his decease in law, equity, or otherwise, howsoever, of, in, to, or out of the same.

TO HAVE AND TO HOLD the said certain piece or parcel of land above described with the buildings and improvements thereon erected hereditaments and premises hereby granted and released, or mentioned and intended so to be, with the appurtenances, unto the said Grantee

her heirs and assigns, to and for the only proper use and behoof of the said heirs and assigns, forever.

AND the said Grantor

for himself, and his heirs, executors and administrators, do covenant, promise and agree, to and with the said Grantee

Grantor her heirs and assigns, by these presents, that he the said has not done, committed, or knowingly, or willingly suffered to be done or committed, any act, matter or thing whatsoever whereby the premises hereby granted, or any part thereof, is, are, shall or may be impeached, charged or incumbered, in title, charge, estate or otherwise howsoever.

IN WITNESS WHEREOF, The said Grantor

hereunto sets his hand and seal the day and

year first above written.

IN THE PRESENCE OF:

Timothy E. Durant

Clair A. Gathagan (SEAL)
Clair A. Gathagan

(SEAL)

(SEAL)

(SEAL)

I hereby certify that the precise address of the grantee

herein is:

R. D. 1, Box 756

Coalport, PA 16627

Timothy E. Durant
(Attorney for Grantor)