

OFFICIAL RECORD

Requested By:

KELLY R CHASE

APN#: 1219-11-001-014

RECORDING REQUESTED BY:

Kelly R. Chase, Esq.
P.O. Box 2800
Minden, Nevada 89423

Douglas County - NV
Werner Christen - Recorder

Page: 1 Of 4 Fee: 17.00
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ORDER TO RELEASE AND EXPUNGE LIEN
AND JUDGMENT

FILED

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DEC 27 2005
DOUGLAS COUNTY
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2005 DEC 27 PM 2:45

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1 Case No. 05-CV-0329
2 Dept. II

6 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF DOUGLAS

9 STEVE BROWN and SUZANNE C. BROWN,

10 Petitioners,

ORDER
TO RELEASE AND EXPUNGE
LIEN

11 v.

12 DAVID W. MARTIN,

13 Respondent

14
15 This matter came before the Court for hearing on December 27, 2005, on the Motion filed by
16 Petitioners STEVE BROWN and SUZANNE BROWN, for an Order to Show Cause Re: Frivolous or
17 Excessive Mechanic's Lien and for an award of fees and costs pursuant to NRS 108.2275. Respondent,
18 DAVID W. MARTIN, opposed the motion and requested relief outside the limited purpose of the hearing.
19 Petitioners appeared and were represented by their attorney Kelly R. Chase, and Respondent appeared and
20 represented himself *in pro per*. The parties introduced both oral and documentary evidence, and the Court
21 heard and considered the evidence and arguments of counsel and parties.

22 The subject of this action is the "Notice of Lien" recorded October 6, 2005 as Document No.
23 0657075, in Book 1005, at page 2383, in the Official Records of Douglas County, that affects that certain
24 real property described as:

25 Parcel 3-A, as set forth on that certain Parcel Map LDA #03-033 for
26 MOTTSVILLE MEADOWS filed for record in the office of the County
Recorder of Douglas County, Nevada on July 20, 2005 in Book 0705, at
Page 8112, as Document No. 619273.

27 Douglas County APN 1219-11-001-014
28

1 The Court hereby finds that Respondent's purported services do not constitute the type of labor
2 contemplated under the mechanic's lien statutes, NRS Chapter 108. Respondent's theory that he was a
3 partner in the development of the real property equates to an ownership interest, and NRS Chapter 108 is
4 not applicable to an owner attempting to assert his interest in the property. Most importantly, Respondent
5 did not record or file the lien in a timely manner as the completion of the work for which the services applied
6 was completed on July 20, 2004, the date the final maps for the subject development were recorded. Further,
7 Respondent terminated his employment with Petitioners on May 12, 2003, which is the last date of services.
8 Respondent's lien was filed October 6, 2005, well over two (2) years after the lapse of the referenced time
9 periods. Accordingly, the lien is untimely pursuant to NRS 108.226(1)(a)(3), which requires that a lien must
10 be filed within 90 days of the last performance of work by the lien claimant for the work of improvement.

11 The Court further finds that the lien was filed without reasonable cause as being well outside
12 the time permitted to file a lien. Therefore, Petitioners are entitled to an award of costs and reasonable
13 attorneys fees. Petitioners filed a memorandum of costs and affidavit on attorneys fees and the same are
14 approved by the Court. Therefore, on the basis of the foregoing, and good cause appearing.

15 IT IS HEREBY ORDERED that the Notice of Lien recorded October 6, 2005 as Document
16 No. 0657075, in Book 1005, at page 2383, in the Official Records of Douglas County shall be, and is
17 hereby, released and expunged and shall be of no further force or effect from the date hereof.

18 IT IS FURTHER ORDERED that Respondent DAVID W. MARTIN shall pay to Petitioners
19 attorneys fees in the amount of \$ 3,500.00 and costs incurred in the amount of \$ 519.57
20 pursuant to Petitioners' Memorandum of Costs.

21 Dated this 27 day of December 2005.

22
23 Michael P. [Signature]
24 District Court Judge

25 SUBMITTED BY:
26 Kelly R. Chase
27 P.O. Box 2800
28 Minden NV 89423
(775) 782-3099
Attorney for Petitioners



COPY

CERTIFIED COPY SEAL

The document to which this certificate is attached is a full, true and correct copy of the original on file and of record in my office.

DATE: December 27, 2005

B. Reed Clerk of the 11th Judicial District Court of the State of Nevada, In and for the County of Douglas,

By [Signature] Deputy

