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DIANA ZALESKI

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SUMMIT COUNTY
CLERK OF COURTS

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

VILLAGE OF BOSTON HEIGHTS)	CASE NO.: CV-97-10-5421
)	
Plaintiff)	JUDGE JANE BOND
)	
vs.)	
)	
DENNIS CERNY)	<u>STIPULATED ENTRY</u>
)	
Defendant)	
)	

This matter is before the Court on Plaintiff's Motion to Show Cause why Defendant should not be held in Contempt. On May 30, 2001, this Court enjoined and prohibited the Defendant from operating any business on his property at 6367 Chittenden Road in the Village of Boston Heights, hereinafter "Property." Plaintiff alleges in its Motion that Defendant is currently operating a trucking and/or excavating business from the Property, and has also erected a trailer on the Property to serve as an office for the business. Plaintiff also alleges that Defendant has graded and regraded his property in conjunction with said business, in direct violation of the laws of the Village of Boston Heights.

The parties have reached an agreed plan that allows the Defendant to come into compliance with this Court's Order of May 30, 2001 and the zoning and building codes of the Village of Boston Heights. Therefore, it is agreed and stipulated as follows:

Within fifteen (15) days of the date of this Order, Defendant shall cease and desist from operating any business use on the Property. Defendant will not conduct any business use on the Property unless permitted by the terms of this Order.

Within fifteen (15) days of the date of this Order, Defendant shall remove all equipment, vehicles, materials, and trailers from the Property. Defendant shall not return any of the equipment, vehicles, materials, or trailers onto the Property until such time as permitted by this Order. Defendant shall not bring any new equipment, vehicles, materials, or trailers onto the Property until such time as permitted by this Order. Defendant is expressly permitted to store the following vehicles on said property, but is not permitted to use these vehicles for any business use or for grading or altering the Property: an excavator and screener that are presently on the Property.

Defendant shall not move any of said equipment, vehicles, materials, and trailers onto the portion of the Property located in the City of Hudson, County of Summit, and State of Ohio.

If Defendant fails to remove said equipment, vehicles, materials, and trailers from his Property within fifteen (15) days of the date of this Order, Plaintiff may enter upon the Property and remove any equipment, vehicles, materials, or trailers on the Property. If Defendant returns the equipment, vehicles, materials, and trailers to the Property or brings new equipment, vehicles, materials, and trailers on the Property prior to such time as permitted by this Order, Plaintiff may enter upon the Property and remove the same. Should Plaintiff enter upon the Property to remove any equipment, vehicles, materials, or trailers pursuant to this paragraph, Defendant shall be liable to Plaintiff for the cost to remove, move, store, and sell the same. Plaintiff may sell any equipment, vehicles, materials, or trailers removed pursuant to this Order.

Plaintiff may use the proceeds from said sale to satisfy its costs incurred in removing, moving, storing, and selling said vehicles.

Defendant shall not grade, regrade, or alter his property in any way until such time as he is permitted by the Plaintiff pursuant to this Order.

After obtaining a zoning certificate and preliminary site plan approval from the Village of Boston Heights, Defendant is hereby permitted to move certain equipment and vehicles onto the Property that are necessary to prepare the Property in conformity with the site plan for the proposed business use. However, prior to moving any vehicles or equipment onto the property as permitted by this paragraph, Defendant, either individually or through counsel, shall agree with Plaintiff, through Plaintiff's counsel, as to what vehicles and equipment shall be permitted on said Property.

Following preliminary site plan approval, Defendant shall make any changes to the site plan suggested by the Village of Boston Heights Planning and Zoning Committee. Defendant shall then present a final site plan to the Village of Boston Heights Planning and Zoning Committee for approval.

Upon approval of the final site plan, Defendant may apply for an Occupancy Permit from the Plaintiff for the business use on the Property. Plaintiff shall issue said occupancy permit contingent on Defendant complying with the terms of the zoning code of the Village of Boston Heights.

Upon receipt of the Occupancy Permit, Defendant may conduct business on the Property only in accordance with the approved business use and approved site plan. Defendant shall not conduct any business use or scope outside of the zoning certificate and site plan approved pursuant to this Order. Defendant shall not conduct any business use on the property until after

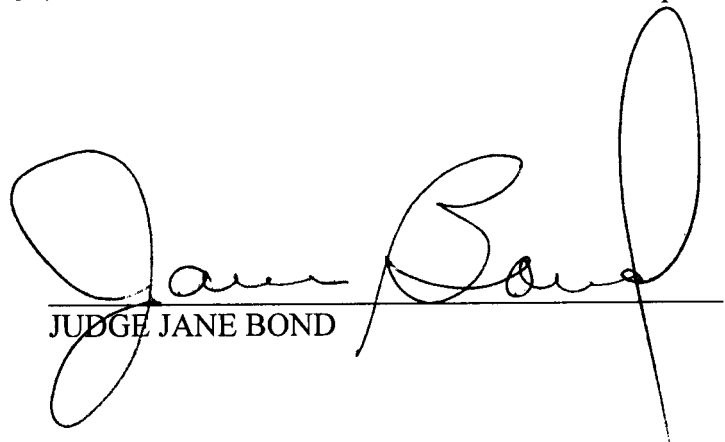
he has obtained the Occupancy Permit and completed all other preceding steps required by this Order.

Upon approval of the final site plan, Defendant may apply for and obtain any and all permits necessary to erect or construct any structures or buildings on the property for use in his approved business. Defendant shall not erect or construct any structures or buildings on said property until he has obtained the approval for the final site plan and all necessary permits. All buildings or structures constructed or erected pursuant to this paragraph must conform to Plaintiff's zoning and building codes.

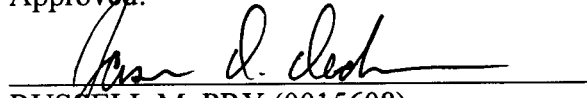
This Court shall hold in abeyance its determination of whether the Defendant should be held in contempt of the May 30, 2001 Order of this Court, pending compliance with this Order. The Court's prior Permanent Injunction Order shall remain in effect until Defendant complies with the terms of this Order.

Costs to the Defendant.

IT IS SO ORDERED.


JUDGE JANE BOND

Approved:


RUSSELL M. PRY (0015608)
JASON D. DODSON (0078124)
Solicitor for the Village of Boston Heights

per telephone approval
JOHN DAILY (0024741)
Attorney for Defendant