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RECORDS, VIRGINIA

IN THE
Supreme Court
of
Virginia

AT RICHMOND



RECORD No. 790071

UNITED VIRGINIA MORTGAGE CORPORATION, et al,
Appellants,

v.

HAINES PAVING CO., INC.,
Appellee.

APPENDIX

JOHN H. RUST, JR., STEPHEN M. PRATT AND RICHARD E. HENNING, JR.,
RUST, RUST & PRATT
4009 Chain Bridge Road
P. O. Box 537
Fairfax, Virginia 22030

Counsel for Appellants

UNITED VIRGINIA MORTGAGE CORPORATION
AND
CARLETON P. MOFFATT, JR., *Trustee*

IN THE
SUPREME COURT OF VIRGINIA
AT RICHMOND

RECORD NO. 790071

UNITED VIRGINIA MORTGAGE CORPORATION, et al.,

Appellants,

v.

HAINES PAVING CO., INC.

Appellee.

APPENDIX

JOHN H. RUST, JR., STEPHEN M. PRATT and RICHARD E. HENNING, JR.
4009 Chain Bridge Road
P.O. Box 537
Fairfax, Virginia 22030

COUNSEL FOR APPELLANTS

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MEMORANDUM FOR MECHANIC'S LIEN
CLAIMED BY SUB-CONTRACTOR

✓ NAME OF OWNER: Growth-Land Inc.

ADDRESS OF OWNER: 7777 Leesburg Pike, Falls Church, Va.

NAME OF GENERAL
CONTRACTOR:

Research Homes of Virginia, Inc.

✓ NAME OF CLAIMANT:

Haines Paving Company, Inc.

ADDRESS OF CLAIMANT:

56 Quincy Street, Herndon, Va.

- - - - -

1. TYPE OF MATERIALS OR SERVICES FURNISHED:

Labor, materials, equipment and supervisory personnel necessary to construct base and pave streets in housing subdivision.

2. AMOUNT OF CLAIM: \$9,111.22, together with 10% attorney's fees.

3. TYPE OF STRUCTURE ON WHICH WORK DONE OR MATERIALS FURNISHED: Streets in housing subdivision.

4. DESCRIPTION OF REAL PROPERTY: All lots, common grounds, streets and parking lots located in and which constitute the development known as OCCOQUAN FOREST SUBDIVISION, located on Davis Ford Road, Prince William County, Virginia, more particularly described as: "Section 3, OCCOQUAN FOREST as shown on a certain plat prepared by Edward W. Dove, CLS., dated March 28, 1972, entitled "Section Three, Occoquan Forest", a copy of which is attached to the Deed of Dedication dated July 10, 1973 which Deed is platted and recorded among the land records of Prince William County in Deed Book 697, Page 363."

5. DATE FROM WHICH INTEREST ON THE ABOVE
AMOUNT IS CLAIMED: Interest is claimed at the rate of 18% from
September 14, 1974.

DATE: October 8, 1974

James H. Haines, President
HAINES PAVING COMPANY, INC.

Robert E. Sevila
Robert E. Sevila
Its Attorney and Agent

V I R G I N I A :

CIRCUIT COURT OF PRINCE WILLIAM COUNTY

HAINES PAVING CO., INC.,

Complainant,

vs.

GROWTH LAND, INCORPORATED

and

RESEARCH HOMES OF VIRGINIA, INC.,

and

UNITED VIRGINIA MORTGAGE CORPORATION,

and

UNITED VIRGINIA BANK NATIONAL,

and

CARLETON P. MOFFATT, trustee,

and

JOHN H. RUST, Trustee,,

Respondents.

STATEMENT OF ACCOUNT

IN CHANCERY NO. _____

For the value of labor, materials and supervision used in and about the construction of streets and driveways located on the real property of Growth Land, Inc, in Section Three, Occoquan Forest Subdivision, Prince William County, Virginia, the following Statement of Account is presented:

STATEMENT PRESENTED ON AUGUST 14, 1974

Turkey Run Court

8" 21-A Stone - 2626 sq. yd.

\$7,878.00

Extras: To bring road bed to grade

Grader Rental	8 hrs.	@\$17.00	136.00
Tandem Truck Rental	8 hrs.	@\$17.00	136.00
Tandem Truck Rental	8 hrs.	@\$17.00	136.00
Roller Rental	8 hrs.	@\$16.00	128.00
Water Truck Rental	8 hrs.	@\$12.00	96.00

(Listing Continued)

Loader Rental	8 hrs.	@\$20.00	\$ 160.00
Laborer	8 hrs.	@\$12.00	96.00
Laborer	8 hrs.	@\$ 6.00	48.00


Note: Labor required to bring stakes and stake out for engineers.

1 x 2 x 24 stakes - 150 36.00

Price Increase of 21-A

Chantilly Crushed Stone	235.08 tons	@\$.15	35.26
Vulcan Materials - July	192.41 tons	@\$.15	28.86
Aug.	788.40 tons	@\$.25	<u>197.10</u>

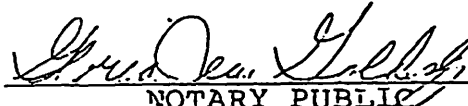
TOTAL BILL DUE AND OWING TO COMPLAINANT \$9,111.22


HAINES PAVING CO., INC.
Gary C. Haines, President
Complainant

COMMONWEALTH OF VIRGINIA

COUNTY OF LOUDOUN, to-wit

GARY C. HAINES, President of HAINES PAVING CO., INC., being first duly sworn on oath, deposes and says that the above Statement of Account is true and correct, and that RESEARCH HOMES OF VIRGINIA, INC. and GROWTH LAND, INC., are justly indebted to him in the amount of \$9,111.22, plus interest and attorney's fees, this 7th day of April, 1975.


NOTARY PUBLIC

My Commission Expires:

September 30, 1978

V I R G I N I A :

CIRCUIT COURT OF PRINCE WILLIAM COUNTY

HAINES PAVING CO., INC.,
A Virginia Corporation,

Complainant,

vs.

GROWTH LAND, INCORPORATED
7777 Leesburg Pike
Falls Church, Virginia
SERVE: MORRIS D. MUSIG
Room 307

and

RESEARCH HOMES OF VIRGINIA, INC.
7777 Leesburg Pike
Falls Church, Virginia
SERVE: MORRIS D. MUSIG
Room 307

and

UNITED VIRGINIA MORTGAGE CORPORATION
515 King Street
Alexandria, Virginia 22314
SERVE: CARLETON P. MOFFATT, JR.
900 East Main Street
Richmond, Virginia 23219

and

UNITED VIRGINIA BANK NATIONAL
515 King Street
Alexandria, Virginia 22314

and

CARLETON P. MOFFATT, Trustee
900 East Main Street
Richmond, Virginia 23219

and

JOHN H. RUST, Trustee
4009 Chain Bridge Road
Fairfax, Virginia 22030,

Respondents.

AMENDED BILL OF

COMPLAINT

IN CHANCERY NO. 8391

TO THE HONORABLE JUDGES OF THE AFORESAID COURT:

COMES NOW your Complainant, HAINES PAVING COMPANY, INC., by counsel, and files this, its Amended Bill of Complaint, to enforce a Mechanic's Lien, and in support thereof states as follows:

1. That the Complainant is a domestic corporation, organized and incorporated under the laws of the Commonwealth of Virginia, with its principle place of business at 56 Quincy Street, Herndon, Virginia 22070.

2. That the Complainant is a subcontractor engaged in the business of street and driveway excavation and paving.

3. That the Defendant, GROWTH LAND, INCORPORATED, is a domestic corporation organized and incorporated under the laws of the Commonwealth of Virginia with its principal place of business at 7777 Leesburg Pike, Falls Church, Virginia, and at all times pertinent herein, was, and still is, the owner of real estate herein more particularly described.

4. That the Defendant, RESEARCH HOMES OF VIRGINIA, INC., is a domestic corporation organized and incorporated under the laws of the Commonwealth of Virginia with its principal place of business at 7777 Leesburg Pike, Falls Church, Virginia.

5. That the Defendant, RESEARCH HOMES OF VIRGINIA, INC., is a General Contractor engaged in the business of constructing homes, subdivisions, and residential developments, and at all times pertinent herein, was the general contractor on a certain parcel of property in Prince William County owned by the Defendant, GROWTH LAND, INC., which is more particularly described herein.

6. That on March 19, 1974, your Complainant entered

into a contract and agreement with the Defendant, RESEARCH HOMES OF VIRGINIA, INC., whereby, for agreed sums and upon agreed terms and conditions, your Complainant contracted to construct and pave a network of streets and roads in a development known as Occoquan Forest Subdivision owned by GROWTH LAND, INC.

7. That pursuant to the aforesaid agreement between your Complainant and the Defendant, RESEARCH HOMES OF VIRGINIA, INC., the said Defendant promised and agreed to pay to your Complainant for labor, times and cost of materials expended in the construction of streets and roads in said Occoquan Forest Subdivision the contract price of THIRTY THOUSAND SEVEN HUNDRED AND EIGHTY DOLLARS (\$30,780.00), all of which was to be paid by the Defendant, RESEARCH HOMES OF VIRGINIA, INC., to the Complainant when and as billed by the Complainant.

8. That upon acceptance of the aforesaid contract by the Defendant, RESEARCH HOMES OF VIRGINIA, INC., on April 8, 1974, your Complainant began excavation and construction of the roads and streets pursuant to the agreement, and continued thereafter until August, 1974.

9. That on August 14, 1974, your Complainant billed the Defendant, RESEARCH HOMES OF VIRGINIA, INC., pursuant to the terms of the agreement, for work completed through July 30, 1974. The total amount of work billed on August 14, 1974, was NINE THOUSAND, ONE HUNDRED ELEVEN AND 22/100 DOLLARS (\$9,111.22).

10. That notwithstanding the aforesaid promises and agreements to pay as billed, and your Complainant's reliance upon said promises and agreements, the Defendant, RESEARCH HOMES OF VIRGINIA, INC., has failed and refused to pay the aforesaid balance of \$9,111.22, due and owing by the said Defendant to your Complainant, as aforesaid, or any part thereof.

11. That in the agreement dated March 19, 1974, accepted by the Defendant, RESEARCH HOMES OF VIRGINIA, INC., on April 8, 1974, the said Defendant agreed and contracted to pay interest and service charges on all amounts due your Complainant and billed to the Defendant, RESEARCH HOMES OF VIRGINIA, INC., pursuant to the terms of the agreement, along with twenty-five (25%) percent attorney's fees in the event attorney's fees are incurred by the Complainant in the collection of the amounts due under the contract.

12. That the construction and work done by the Complainant was done in the excavation for and the construction of roads and streets on the property owned by the Defendant, GROWTH LAND, INC., said property being located in Prince William County, Virginia, and being more particularly described as follows:

Section 3, Occoquan Forest, as shown on a certain plat as prepared by Edward W. Dove, CLS, dated March 28, 1972, Entitled "Section 3, Occoquan Forest", a copy of which is attached to the Deed of Dedication dated July 10, 1973, which deed is plated and recorded among the land records of Prince William County in Deed Book 697, page 363.

13. That on October 3, 1974, after the foregoing work had been done by the Complainant, and after all charges and expenses hereinbefore set forth had been incurred and before the completion of the subdivision, or termination of the work thereon, your Complainant filed in the Clerk's Office in the Circuit Court of Prince William County, Virginia, a Memorandum as required by statute, showing the name of the owner of the aforesaid property sought to be charged, the name of the claimant of the lien, the description of the property on which your claimant claims a lien, the amount, character and con-

sideration of your Complainant's claim, and the time when the same was due and payable, all of which was verified by your Complainant. Said Memorandum was duly recorded in Deed Book 758 at page 252 among the Land Records of Prince William County on the 8th day of October, 1974, and a copy of the same is attached hereto, marked Exhibit A, and is prayed to be read as a part hereof.

14. That the aforesaid land of the Defendant, GROWTH LAND, INC., is encumbered by the Deed of Trust as follows:

Deed of Trust dated July 12, 1973, and recorded in Deed Book 698, page 102 of the land records of Prince William County, conveying the aforesaid real property to Carlton P. Moffatt, Jr. and Robert L. Tolson, Trustees, in trust, to secure the prompt payment of \$710,000, together with interest, to United Virginia Mortgage Corporation, the entire amount being due and payable on January 12, 1975.

15. That this suit to enforce the Mechanic's Lien aforesaid was commenced by the filing of a Bill of Complaint in the Clerk's Office of this Court within six months from the date of filing the Memorandum referred to in Paragraph 13 above.

16. That by letter of November 4, 1974, the Plaintiff sent notice to the Defendant, RESEARCH HOMES OF VIRGINIA, INC., and the Defendant, GROWTH LAND, INC., advising both Defendants of the nature and character of the lien claimed by Haines Paving Co., Inc., pursuant to Section 43-7 of the Code of Virginia, as amended. Said notice was sent by registered mail, return receipt requested, and was received by the Defendants, as evidenced by the signatures on the return receipts.

17. Your Complainant avers that there is now due and owing to it the sum of NINE THOUSAND ONE HUNDRED ELEVEN AND 22/100 DOLLARS (\$9,111.22), plus interest at the rate of eighteen (18%) percent per annum from September 10, 1974, and

attorney's fees of twenty-five (25%) percent of the total amount due and owing; that no part of the same has been paid by the Defendant, RESEARCH HOMES OF VIRGINIA, INC., or by anyone in their behalf; and that the same is, together with the interest thereon, a valid and subsisting lien against the land, property and appurtenances thereon, hereinbefore described.

WHEREFORE, your Complainant, being remediless, save in a Court of Equity, prays that its debt may be ascertained; that the property aforesaid may be sold to pay off your Complainant's claim for the said sum of \$9,111.22 with interest and attorney's fees thereon from September 10, 1974, after the liens on the said property and their priorities have been duly ascertained, and that your Complainant may have all such further and general relief as in equity may seem meet and proper.

HAINES PAVING COMPANY, INC.

By Robert E. Sevil
Counsel


KUYKENDALL, WHITING, COSTELLO & HANES

By Robert E. Sevil
Robert E. Sevil
Post Office Box 678
Leesburg, Virginia 22075
Counsel for the Complainant

CERTIFICATE OF SERVICE

I hereby CERTIFY that a copy of the foregoing AMENDED BILL OF COMPLAINT was sent, postage prepaid, to Henry A. Schutz,

III, Esquire, Rust, Rust & Pratt, 4009 Chain Bridge Road, Post
Office Box 537, Fairfax, Virginia 22030, and to Growth Land,
Incorporated/Research Homes of Virginia, Inc., 7777 Leesburg Pike,
Falls Church, Virginia, Attention Mr. Morris D. Musig, Room 307,
this ³⁰27th day of April 1976.



ROBERT E. SEVILA

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY, VIRGINIA

HAINES PAVING CO., INC.,

Complainant,

v.

GROWTH LAND, INCORPORATED,
et al.

Defendants.

IN CHANCERY No. 8391

DEMURRER TO AMENDED BILL OF
COMPLAINT

Come now, the Defendants, United Virginia Mortgage Corporation, United Virginia Bank/National, Carleton P. Moffatt, Trustee, John H. Rust, Trustee, all by Counsel, and say the Amended Bill of Complaint filed by the Complainant, Haines Paving Co., Inc., is insufficient in law for the following reasons:

1. That Title 43 of the 1950 Code of Virginia, as amended, is unconstitutional insofar as it violates due process and equal protection of law guaranteed by the Constitutions of the United States of America and Commonwealth of Virginia, by authorizing the filing of a Mechanic's Lien against the subject property without prior notice and an opportunity for a hearing prior to the filing of such lien.

2. That the Memorandum for Mechanic's Lien Claimed by Sub-Contractor recorded by Haines Paving Co., Inc., is invalid and unenforceable insofar as the same is not filed against the owners of record as required by law.

3. That the Complainant failed in its Memorandum for Mechanic's Lien Claimed by Sub-Contractor recorded in Deed Book No. 758, page 252 and in its Amended Bill of Complaint to apportion the claim with respect to each lot as required by law.

4. That the Amended Bill of Complaint and Memorandum for Mechanic's Lien Claimed by Sub-Contractor show on their face that no work performed or labor furnished was done on the individual lots in Section 3 Occoquan Forest Subdivision against which Complainant seeks enforcement of its alleged lien.

5. That the construction and work done by the Complainant in the excavation for and the construction of roads and streets in Section 3 Occoquan Forest Subdivision is not lienable under Title 43 of the 1950 Code of Virginia, as amended.

6. That attorneys' fees claimed are not lienable under Title 43 of the 1950 Code of Virginia, as amended.

7. That the Defendants, United Virginia Bank/National and John H. Rust, Trustee, have no legal or equitable interest in Section 3 Occoquan Forest Subdivision, nor is one alleged by the Complainant.

WHEREFORE, these Defendants pray to be dismissed with their costs in this behalf expended.

United Virginia Mortgage Corporation

By: Stephen M. Pratt
Of Counsel

United Virginia Bank/National

By: Stephen M. Pratt
Of Counsel

Carleton P. Moffatt, Trustee
Carleton P. Moffatt, Trustee,
by Counsel

John H. Rust, Trustee
John H. Rust, Trustee, by Counsel

RUST, RUST & PRATT
4009 Chain Bridge Road
P. O. Box 537
Fairfax, Virginia 22030

By: Stephen M. Pratt
Of Counsel for the Defendants,
United Virginia Mortgage Corpora-
tion, United Virginia Bank/National,
Carleton P. Moffatt, Trustee, and
John H. Rust, Trustee

I hereby certify that on the 5th day of May, 1976, I mailed
postage prepaid, a true copy of the foregoing Demurrer to
Amended Bill of Complaint to:

Robert E. Sevila, Esquire
Kuykendall, Whiting & Costello
Attorneys at Law
P. O. Box 678
Leesburg, Virginia 22075

- Counsel for Complainant,
Haines Paving Co., Inc.

Growth Land, Incorporated
Research Homes of Virginia, Inc.
c/o Morris D. Musig,
Registered Agent
7777 Leesburg Pike, Room 307
Falls Church, Virginia 22043

Stephen M. Pratt
Stephen M. Pratt

HAINES PAVING CO., INC.,)

Complainant,)

v.)

GROWTH LAND, INCORPORATED,)
et al.,)

Defendants.)

IN CHANCERY No. 8391

REQUEST FOR ADMISSIONS

Come, now the Defendants, United Virginia Mortgage Corpora-
tion, United Virginia Bank/National, Carleton P. Moffatt, Jr., Trustee,
and John H. Rust, Trustee, all by Counsel, pursuant to
Rule 4:11 of the Rules of the Supreme Court of Virginia, as amended,
and file this their Request for Admissions, and request that the
Complainant, Haines Paving Co., Inc., admit within 21 days of
service hereof:

1. That the document attached hereto as Exhibit "A" is a
true copy of an instrument recorded in Deed Book No. 705, page 500
of the land records of Prince William County, Virginia, which
purports to convey Lot 56 of Section 3, Occoquan Forest Subdivision
from Growth Land, Inc. to John William Terwillinger and Gloria
Helen Terwillinger.

2. That at the time of the recording of the Memorandum for
Mechanic's Lien Claimed by Sub-Contractor by the Complainant, Haines
Paving Co., Inc., against Section 3, Occoquan Forest, in Deed
Book No. 758, page 252, of the land records of Prince William
County, Virginia, Lot 56 of Section 3, Occoquan Forest was not
owned by Growth Land, Inc.

3. That the document attached hereto as Exhibit "B" is a
true copy of a Deed of Dedication and plat relative to Section 3,
Occoquan Forest which is recorded in Deed Book No. 697, page 363
of the land records of Prince William County, Virginia.

4. That none of the labor and materials allegedly furnished by Haines Paving Company, Inc., to "Section 3, Occoquan Forest" was furnished within the physical boundaries of Lots 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65 or 66 of Section 3, Occoquan Forest.

5. That all of the labor and materials allegedly furnished by Haines Paving Company, Inc. to "Section 3, Occoquan Forest" was furnished within the physical boundaries of the streets and roads of said Section 3, Occoquan Forest.

6. That the Memorandum for Mechanic's Lien claimed by Sub-Contractor filed by Haines Paving Company, Inc. fails to name as owners Carleton P. Moffatt, Jr., Trustee, and Robert L. Tolson, Trustee, who at the time of filing of said Memorandum, were the holders of legal title to Lots 51 through 55 and 57 through 66, Section 3, Occoquan Forest, by virtue of a deed of trust recorded in Deed Book No. 698, page 102 of the land records of Prince William County, Virginia.

UNITED VIRGINIA MORTGAGE CORPORATION,
UNITED VIRGINIA BANK/NATIONAL,
CARLETON P. MOFFATT, JR., Trustee and
JOHN H. RUST, Trustee

By: 

Of Counsel

RUST, RUST & PRATT
4009 Chain Bridge Road
P. O. Box 537
Fairfax, Virginia 22030

By: 

Of Counsel for the Defendants,
United Virginia Mortgage Corporation,
United Virginia Bank/National, Carleton
P. Moffatt, Jr., Trustee, and John H.
Rust, Trustee

I hereby certify that on the 21st day of October, 1977,
true copies of the foregoing Request for Admissions were mailed,
postage prepaid, to:

Robert E. Sevilla, Esquire
Kuykendall, Whiting & Costello
P. O. Box 678
Leesburg, Virginia 22075

Growth Land, Incorporated
Research Homes of Virginia, Inc.
c/o Morris D. Musig
Registered Agent
7777 Leesburg Pike, Room 307
Falls Church, Virginia 22043

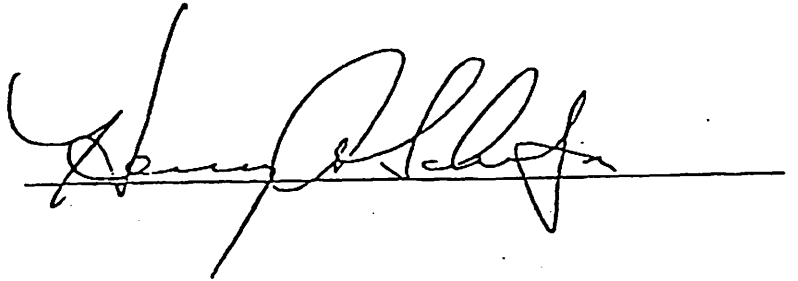
A handwritten signature in dark ink, appearing to read "Morris D. Musig", is written over a horizontal line.

Exhibit "A"

530A 705 PAI 500

12663

THIS DEED made this 16th day of August, 1973, by and between GROWTH LAND, INC., a Virginia corporation, party of the first part, and JOHN WILLIAM TERWILLIGER and GLORIA HELEN TERWILLIGER, his wife, parties of the second part,

WITNESSETH:

That for and in consideration of the sum of Ten Dollars (\$10.00) and other valuable considerations, the party of the first part does hereby grant, bargain, sell and convey unto the parties of the second part, as tenants by the entirety with the full common law rights of survivorship, in fee simple and with General Warranty of Title, and with the usual English Covenants of Title, the following described land with its improvements in the County of Prince William, State of Virginia:

Lot numbered FIFTY-SIX (56), SECTION THREE (3), OCCOQUAN FOREST SUBDIVISION, as the same appears duly dedicated, platted and recorded in Deed Book 697 at Page 363 among the land records of Prince William County, Virginia.

AND BEING the same property conveyed to the party of the first part by Deeds dated October 18, 1969, January 1, 1970 and September 6, 1972, and recorded in Deed Book 545 at Page 330; Deed Book 539 at Page 606 and Deed Book 653 at Page 285, among the said land records.

This conveyance is made subject to easements, rights of way and restrictions of record.

WITNESS the following signatures and seals:

[Signature] (SEAL)
Secretary
STATE OF VIRGINIA
COUNTY OF _____, to-wit:

GROWTH LAND, INC.
By: *[Signature]* President

I, the undersigned Notary Public in and for the State and County aforesaid, whose commission expires on the 11th day of October, 1976, do hereby certify that John F. Quirk and Maria D. Quirk, President and Secretary respectively of GROWTH LAND, INC., whose names are signed to the foregoing Deed bearing date on the 16th day of August, 1973, have acknowledged the same before me in my County aforesaid.

GIVEN under my hand this 16th day of August, 1973.

[Signature]
Notary Public
RAYMOND F. P. NOTARY PUBLIC
VIRGINIA AT LARGE

Recorded with certificate entered Sept 6 1973
at 3:20 P.M. Prince William County, Va.
County Clerk

Teste: *[Signature]*

COPY - TESTE:
C. E. GNADT, Clerk
[Signature] Deputy Clerk

United's Address 5903 (Circular) Square, Huntrest, Maryland 20770

This is to certify that the fee imposed by Section 17-500 has been paid.
County of Prince William
Tax 1150

Return to:
COUNTY CLERK
PRINCE WILLIAM COUNTY
10000 WOODBURN ROAD
FARMERSVILLE, VIRGINIA 22192

IP-5469

Exhibit "B"

59A 697 REC 365

16056

DEED OF DEDICATION

THIS DEED OF DEDICATION made and entered into this 10 day of July, 1973, by GROWTH-LAND, INC., a Virginia corporation,

W I T N E S S E T H :

WHEREAS, Growth-Land, Inc., is the sole owner and proprietor of the hereinafter described tract of land, having acquired its interest therein by two certain deeds namely, one from Occoquan Land Investments, a limited partnership, dated October 18, 1969, and recorded May 22, 1970 in Deed Book 545, at Page 330, among the land records of Prince William County, Virginia, and the other from the Trustees of the Faith Lutheran Church of Arlington County, Virginia, dated September 6, 1972, and recorded October 5, 1972, in Deed 653, at Page 285, among said County's land records; and

WHEREAS, it is the desire of Growth-Land, Inc., that the hereinafter described property be subdivided into lots and that easements and uses be created and streets, roads, and ways be dedicated to public use in accordance with and all as shown on the plat prepared by Edward W. Dove, C.L.S., dated March 28, 1972, a copy of which plat is attached hereto and made a part hereof.

NOW, THEREFORE, Growth-Land, Inc., does hereby subdivide into lots and streets to be known as SECTION 3, OCCOQUAN FOREST, all in the manner shown on that certain plat prepared by Edward W. Dove, C.L.S., dated March 28, 1972, and entitled "Section Three, Occoquan Forest", a copy of which is attached hereto and made a part hereof, that certain tract or parcel of land situate, lying and being in Prince William County, Virginia, and more particularly described as follows:

Beginning at a point on the northerly end of a curve at the northwest corner of lot 67 Occoquan Forest Section 2, said point being on the easterly right-of-way of Occoquan Forest Drive; departing lot 67 and crossing said Occoquan Forest Drive and continuing with the northerly line of lot 50, Section 2, the following courses and distances: S 81° 55' 14" W 75.18 ft. to a point; thence 181.28 ft. along the arc of a curve to the left having a radius of 425 ft., a chord bearing S 69° 42' 05" W 179.90 ft. to a point; thence with the rear lines of lots 50 through 44, the following courses

COTT. BLACKBURN,
A CLAY
ATTORNEY AT LAW
AND
PRINCIPAL
OF
WILLIAMSBURG, VIRGINIA



SEE MAP DRAHER #28 PG. 4

697 112 364

and distances: S 32° 31' 04" E 132.02 ft.; S 30° 00' 18" W 745.96 ft. to a point; thence S 84° 30' 48" W 386.85 ft. to a point in the easterly line of Occoquan Reservoir; thence with Occoquan Reservoir the following courses and distances: N 34° 29' 00" E 193.45 ft.; N 19° 40' 30" E 285.48 ft.; N 42° 32' 00" E 115.49 ft.; N 63° 11' 36" E 102.53 ft.; N 80° 17' 00" E 157.22 ft.; N 64° 47' 00" E 278.37 ft.; S 82° 54' 00" E 128.69 ft.; N 65° 51' 00" E 145.97 ft.; S 75° 00' 00" E 144.43 ft.; S 34° 55' 50" E 336.81 ft. to a point in the northerly corner of Parcel C, Section 2; thence departing Occoquan Reservoir and running with the northerly line of said parcel C S 52° 29' 33" W 212.84 ft.; thence S 59° 55' 53" W 219.55 ft. to a point in the easterly line of lot 66 Section 2; thence departing Parcel C and running with the rear lines of lot 66 and 67, the following courses and distances: N 46° 09' 03" W 131.00 ft.; N 08° 04' 46" W 159.17 ft. to a point; thence with the northerly line of lot 67 Section 2, S 81° 55' 34" W 114.10 ft. to the point of beginning and containing 10.5710 acres more or less.

Growth-Land, Inc., does hereby dedicate to public use the streets, roads and highways and does hereby create and establish the rights, ways and easements, all as shown on the said plat prepared by Edward W. Dove, C.L.S., dated March 28, 1972, a copy of which is attached hereto and made a part hereof.

Growth-Land, Inc., does hereby further declare that the property in Section 3, Occoquan Forest shall hereafter be held, sold and conveyed subject to the provisions of that certain Declaration of Covenants, Conditions and Restrictions, dated November 16, 1970, and recorded January 15, 1971, in Deed book 571, at Page 680, among the land records of Prince William County, Virginia, for Section Two, Occoquan Forest as if said Declaration had been set out in hac verba herein, provided, however, that "Declarant" as defined in Article 1, Section 7 of said Declaration shall mean and refer only to Growth-Land, Inc., its successors and assigns acquiring more than one undeveloped lot from Declarant for the purpose of development. All of such easements, covenants, restrictions and conditions are for the purpose of enhancing and protecting the value, desirability and attractiveness of said property and shall run with the land and shall be binding on, and inure to the benefit of, all parties having or acquiring any right, title or interest in the said property or any party thereof.

This subdivision and dedication is made with the free consent and in accordance with the desires of Growth-Land, Inc.

NOTED, PLAT FOR RECORD
A CLERK
ATTESTED AND
RECORDED BY THE
PROTESTANT
AND
METHODIST CHURCH

556A 697 m 365

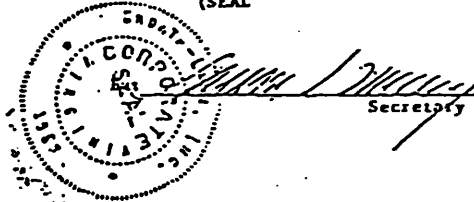
WITNESS the following signatures and seals:

GROWTH-LAND, INC.

ATTEST:

(SEAL

By Robert C. Boudreau
Vice President



STATE OF VIRGINIA

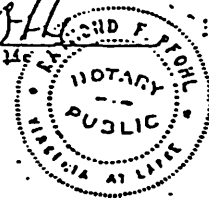
COUNTY OF _____, to-wit:

I, the undersigned, a Notary Public in and for the State and County
aforesaid, do hereby certify that Robert C. Boudreau and
Yvonne D. Young Vice, President and Secretary, respectively,
of Growth-Land, Inc., whose names as such are signed to the foregoing Deed of
Dedication, appeared before me in my State and County aforesaid and
acknowledged the same to be the act and deed of Growth-Land, Inc., and made
oath that their signatures were affixed with due authority.

GIVEN under my hand and seal this 16th day of July, 1973.

Ramond J. O'Hara
Notary Public

My commission expires: Oct. 11, 1976



Recorded with certificate entered July 19, 1973
at 2:46 P.M. Bl., Prince William County, Virginia
Tale: J. E. A. P. County Clerk

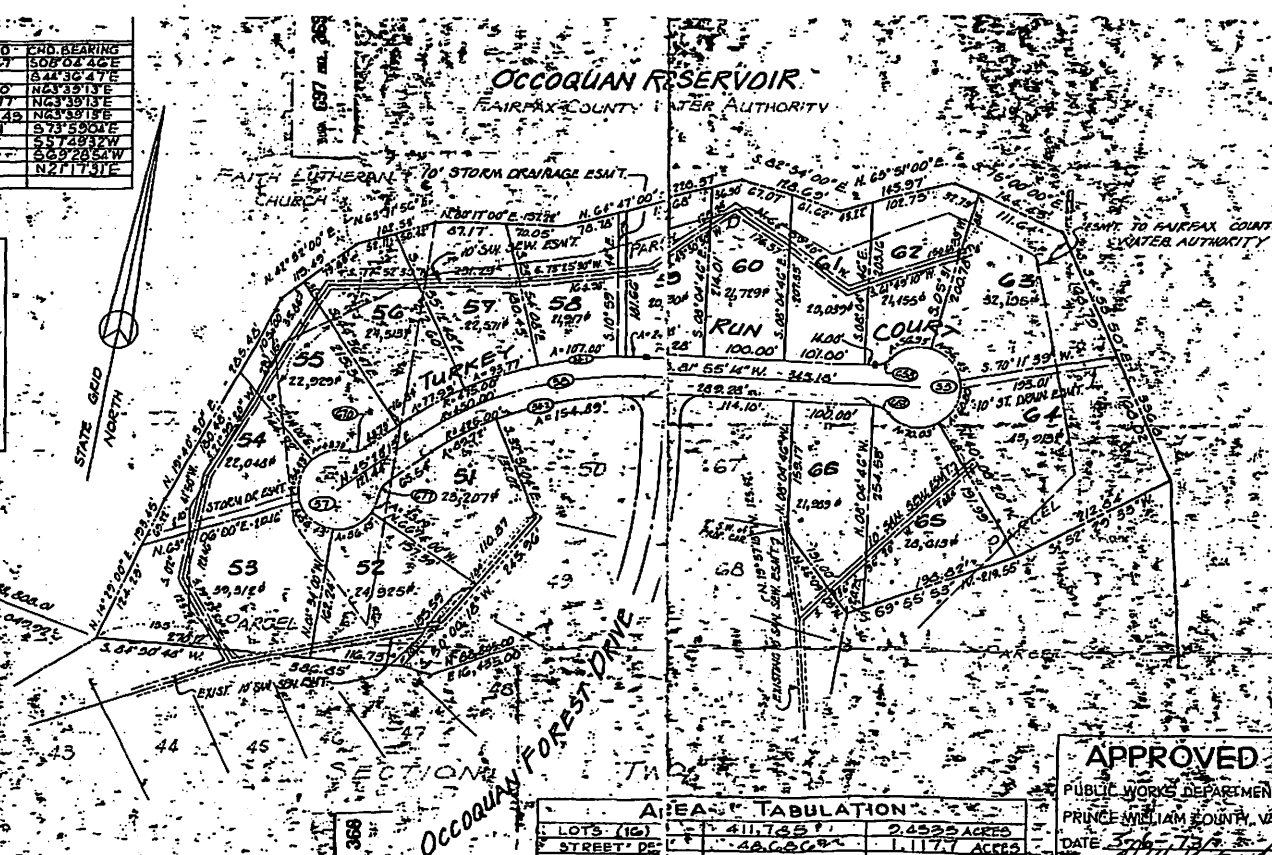
SCOTT, BLACKBURN,
& CLARK
ATTORNEYS AND
COUNSELLORS AT LAW
SPRINGFIELD
AND
WOODBRIDGE, VIRGINIA

NO.	RADIUS	DELTA	ARC	TANGENT	CHORD	END BEARING
1	50.00	29° 22' 40"	241.19	66.67	508.0246E	
2	50.00				844.3647E	
3	450.00	32° 32' 01"	286.94	148.53	222.10	N63° 35' 13"E
4	450.00		307.68	158.78	287.77	N63° 35' 13"E
5	450.00	32° 32' 01"	286.94	148.53	222.10	N63° 35' 13"E
6	25.00	48° 11' 23"	21.03	11.78	20.41	S73° 50' 04"E
7	25.00					S73° 50' 04"E
8	25.00	48° 11' 23"	21.03	11.78	20.41	S73° 50' 04"E
9	25.00					S73° 50' 04"E
10	25.00	48° 11' 23"	21.03	11.78	20.41	S73° 50' 04"E
11	25.00					S73° 50' 04"E
12	25.00	48° 11' 23"	21.03	11.78	20.41	S73° 50' 04"E
13	25.00					S73° 50' 04"E
14	25.00	48° 11' 23"	21.03	11.78	20.41	S73° 50' 04"E
15	25.00					S73° 50' 04"E
16	25.00	48° 11' 23"	21.03	11.78	20.41	S73° 50' 04"E
17	25.00					S73° 50' 04"E
18	25.00	48° 11' 23"	21.03	11.78	20.41	S73° 50' 04"E
19	25.00					S73° 50' 04"E
20	25.00	48° 11' 23"	21.03	11.78	20.41	S73° 50' 04"E
21	25.00					S73° 50' 04"E
22	25.00	48° 11' 23"	21.03	11.78	20.41	S73° 50' 04"E
23	25.00					S73° 50' 04"E
24	25.00	48° 11' 23"	21.03	11.78	20.41	S73° 50' 04"E
25	25.00					S73° 50' 04"E
26	25.00	48° 11' 23"	21.03	11.78	20.41	S73° 50' 04"E
27	25.00					S73° 50' 04"E
28	25.00	48° 11' 23"	21.03	11.78	20.41	S73° 50' 04"E
29	25.00					S73° 50' 04"E
30	25.00	48° 11' 23"	21.03	11.78	20.41	S73° 50' 04"E
31	25.00					S73° 50' 04"E
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33	25.00					S73° 50' 04"E
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35	25.00					S73° 50' 04"E
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41	25.00					S73° 50' 04"E
42	25.00	48° 11' 23"	21.03	11.78	20.41	S73° 50' 04"E
43	25.00					S73° 50' 04"E
44	25.00	48° 11' 23"	21.03	11.78	20.41	S73° 50' 04"E
45	25.00					S73° 50' 04"E
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47	25.00					S73° 50' 04"E
48	25.00	48° 11' 23"	21.03	11.78	20.41	S73° 50' 04"E
49	25.00					S73° 50' 04"E
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61	25.00					S73° 50' 04"E
62	25.00	48° 11' 23"	21.03	11.78	20.41	S73° 50' 04"E
63	25.00					S73° 50' 04"E
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65	25.00					S73° 50' 04"E
66	25.00	48° 11' 23"	21.03	11.78	20.41	S73° 50' 04"E
67	25.00					S73° 50' 04"E
68	25.00	48° 11' 23"	21.03	11.78	20.41	S73° 50' 04"E
69	25.00					S73° 50' 04"E
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71	25.00					S73° 50' 04"E
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77	25.00					S73° 50' 04"E
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81	25.00					S73° 50' 04"E
82	25.00	48° 11' 23"	21.03	11.78	20.41	S73° 50' 04"E
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85	25.00					S73° 50' 04"E
86	25.00	48° 11' 23"	21.03	11.78	20.41	S73° 50' 04"E
87	25.00					S73° 50' 04"E
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89	25.00					S73° 50' 04"E
90	25.00	48° 11' 23"	21.03	11.78	20.41	S73° 50' 04"E
91	25.00					S73° 50' 04"E
92	25.00	48° 11' 23"	21.03	11.78	20.41	S73° 50' 04"E
93	25.00					S73° 50' 04"E
94	25.00	48° 11' 23"	21.03	11.78	20.41	S73° 50' 04"E
95	25.00					S73° 50' 04"E
96	25.00	48° 11' 23"	21.03	11.78	20.41	S73° 50' 04"E
97	25.00					S73° 50' 04"E
98	25.00	48° 11' 23"	21.03	11.78	20.41	S73° 50' 04"E
99	25.00					S73° 50' 04"E
100	25.00	48° 11' 23"	21.03	11.78	20.41	S73° 50' 04"E

APPROVED BY RESOLUTION 73-33-9
DATED 27 Feb 73 BY THE
BOARD OF SUPERVISORS OF
PRINCE WILLIAM COUNTY, VIRGINIA

W. North Winfield
CHAIRMAN

J. J. Johnson
COUNTY EXECUTIVE



NOTARY'S CERTIFICATE

I, the undersigned, a Notary Public in and for the State of Virginia, do hereby certify that the subdivision of this land lies entirely within the boundaries shown on the map and the courses are referenced to the Virginia State Grid North and this plat represents a true and accurate survey of the same.

EDWARD W. DOVE
CERTIFIED LAND SURVEYOR

NOTARY PUBLIC IN AND FOR THE STATE OF VIRGINIA
COMMISSION EXPIRES MAY 22, 1979



OWNER'S CERTIFICATE

WE THE UNDERSIGNED OWNERS DO HEREBY CERTIFY THAT THE SUBDIVISION SHOWN HEREON IS WITH OUR FREE CONSENT AND IN ACCORDANCE WITH OUR DESIRES.

W. North Winfield
5-28-73

STATE OF VIRGINIA
COUNTY OF FAIRFAX

I, *W. North Winfield*, A NOTARY PUBLIC IN AND FOR VIRGINIA, *W. North Winfield*, WHOSE COMMISSION EXPIRES *5-22-79*, DO HEREBY CERTIFY THAT *W. N. WINFIELD*, WHOSE NAMES ARE SIGNED TO THE FC CERTIFICATE DATED *5-21-73*, HAVE ACKNOWLEDGED THE SAID MY STATE AND COUNTY AFORESAID, GIVEN UNDER MY HAND THIS *28* DAY OF *MAY*, 1973.

AREA TABULATION	
LOTS (10)	411,735.7
STREET DE	48,666.4
TOTAL	460,402.1
	10.5710 ACRES

APPROVED
PUBLIC WORKS DEPARTMENT
PRINCE WILLIAM COUNTY, VA.
DATE *3-28-73*
BY *W. North Winfield*

PLAT
SECTION THREE
OCCOQUAN FOREST
OCCOQUAN • MAGISTERIAL DISTRICT
PRINCE WILLIAM COUNTY • VIRGINIA
SCALE 1"=100' MARCH 28, 1973

Prepared by
TRICO ASSOCIATES, INC.
ENGINEERS PLANNERS SURVEYORS
FALLS CHURCH, VIRGINIA

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

HAINES PAVING COMPANY, INC.,)

Complainant,)

Vs.)

GROWTH-LAND, INCORPORATED, et al,)

Defendants.)

IN CHANCERY NO. 8391

ANSWER TO REQUEST FOR ADMISSIONS

COMES NOW the Complainant, by counsel, and states its answer to the Request for Admissions served on it pursuant to Rule 4:11 of the Rules of the Supreme Court of Virginia, as amended, as follows:

1. That the document attached to the Defendant's Request for Admissions, and marked "Exhibit A" appears to be an accurate copy; however, the Complainant, not having had the opportunity to compare the "Exhibit A" with the instrument recorded in Deed Book 705, Page 500, of the land records of Prince William County, Virginia, and being unaware of the conveyance in question, is without means to state that "Exhibit A" is a true copy of said recorded instrument.

2. Having not had the opportunity to compare "Exhibit A" with the instrument recorded in Deed Book 705, Page 500, of the land records of Prince William County, Virginia, and being unaware of the conveyance in question, the Complainant is without means to state that Lot 56, Section 3, Occoquan Forrest, was not owned by GROWTH-LAND, INC., at the time of the recording of the Memorandum for Mechanics Lien in question.

3. That the document attached to the Defendant's Request for Admissions, and marked "Exhibit B" appears to be

an accurate copy; however, the Complainant, not having had the opportunity to compare "Exhibit B" with the instrument recorded in Deed Book 697, Page 363, of the land records of Prince William County, Virginia, and being unaware of the transaction in question is without means to state that "Exhibit B" is a true copy of said recorded instrument.

4. Admitted.

5. Admitted.

6. Complainant admits that the Memorandum for Mechanics Lien filed by HAINES PAVING COMPANY, INC., fails to name as owners Carleton P. Moffatt, Jr., Trustee, and Robert L. Tolson, Trustee, but is without knowledge to admit or deny the remainder of Statement 6.

HAINES PAVING COMPANY, INC.

By _____
Counsel

KUYKENDALL, WHITING, COSTELLO & HANES

By
William B. Hanes
Post Office Box 678
30 North King Street
Leesburg, Virginia
Counsel for Complainant

CERTIFICATE OF SERVICE

I certify that true copies of the foregoing Answer to Request for Admissions was mailed this 9th day of November, 1977, to Henry Schultz, Esquire, Rust, Rust & Pratt, Post Office Box 537, Fairfax, Virginia 22030, and to Growth-Land, Inc., Research Homes of Virginia, c/o Morris D. Musig, Registered Agent, 7777 Leesburg Pike, Room 307, Falls Church, Virginia 22043.

William D. Hanes

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

HAINES PAVING COMPANY, INC.)

Complainant,)

Vs.)

GROWTH-LAND, INCORPORATED, et al,)

Defendants.)

IN CHANCERY NO. 8391

AMENDED ANSWERS TO REQUEST FOR ADMISSIONS

COMES NOW, the Complainant, by counsel, and files this its Amended Answers to Request for Admissions served on it pursuant to Rule 4:11 of the Rules of the Supreme Court of Virginia, as amended, and states as follows:

1. Paragraphs 1, 2, 3 and 6 of the Defendant's Request for Admissions are admitted.

HAINES PAVING COMPANY, INC.

By _____
Counsel

KUYKENDALL, WHITING, COSTELLO & HANES

By _____
Richard R. Saunders, Jr.
Post Office Box 678
Leesburg, Virginia 22075CERTIFICATE OF SERVICE

I certify that true copies of the foregoing Amended Answers to Request for Admissions were mailed this _____ day of February, 1978, to Henry Schultz, Esquire, Rust, Rust & Pratt, Post Office Box 537, Fairfax, Virginia 22030, and to Growth-Land, Inc., Research Homes of Virginia, c/o Morris D. Musig, Registered Agent, 777 Leesburg Pike, Room 307, Falls Church, Virginia 22043.

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY, VIRGINIA

HAINES PAVING CO., INC.,)	
)	
Complainant,)	IN CHANCERY No. 8391
)	
v.)	PETITION TO HOLD HEARING TO
)	DETERMINE INVALIDITY OF
GROWTH LAND, INCORPORATED,)	MECHANIC'S LIEN
et al.,)	
)	
Defendants.)	

Come now the Defendants, United Virginia Mortgage Corporation, United Virginia Bank/National, Carleton P. Moffatt, Jr., - Trustee, and John H. Rust, Trustee, all by Counsel, and pursuant to Section 43-17.1 of the 1950 Code of Virginia, as amended, file this their Petition to Hold Hearing to Determine Invalidity of Mechanic's Lien and in support thereof state as follows: That for the reasons set forth in paragraphs 1 through 7 of the Demurrer to Amended Bill of Complaint previously filed herein by the undersigned Defendants, the Memorandum for Mechanic's Lien Claimed by Sub-Contractor, recorded by the Complainant, Haines Paving Company, Inc., in Deed Book No. 758, page 252 among the land records of Prince William County, Virginia, is invalid and unenforceable and ought to be removed from said County land records.

WHEREFORE, the undersigned Defendants respectfully move this Court, pursuant to Section 43-17.1 of the 1950 Code of Virginia, as amended, to hold a hearing and to enter a decree determining that the Memorandum for Mechanic's Lien Claimed by Sub-Contractor recorded by the Complainant, Haines Paving Company, Inc.; at Deed

Book No. 758, page 252 among said County land records, is invalid and unenforceable, and directing the Clerk of this Court to note on the margin of said memorandum of lien that the same stands released.

UNITED VIRGINIA MORTGAGE CORPORATION,
UNITED VIRGINIA BANK/NATIONAL,
CARLETON P. MOFFATT, JR., Trustee
and JOHN H. RUST, Trustee

By: 

Of Counsel

RUST, RUST & PRATT
4009 Chain Bridge Road
P. O. Box 537
Fairfax, Virginia 22030

By: 

Of Counsel for the Defendants,
United Virginia Mortgage Corpora-
tion, United Virginia Bank/National,
Carleton P. Moffatt, Jr., Trustee,
and John H. Rust, Trustee



THIRTY-FIRST JUDICIAL CIRCUIT OF VIRGINIA
PRINCE WILLIAM COUNTY
CITIES OF MANASSAS AND MANASSAS PARK

May 24, 1978

ARTHUR W. SINCLAIR
PERCY THORNTON, JR.
JUDGES

CIRCUIT COURT CHAMBERS
9302 PEABODY STREET
MANASSAS, VIRGINIA 22110

JOHN H. RUST, JR., Esquire
Attorney at Law
4009 Chain Bridge Road
Fairfax, Virginia 22030

RICHARD R. SAUNDERS, JR., Esquire
Attorney at Law
P. O. Box 678
Leesburg, Virginia 22075

RE: Haines Paving Co., Inc. vs.
Growth Land, Incorporated
Chancery No. 8391

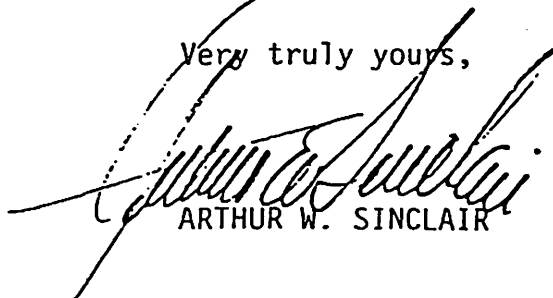
Gentlemen:

This will advise you of my opinion to overrule the demurrer interposed by the defendants in the above captioned cause. It is my belief that a mechanic performing work and labor on, or furnishing materials necessary for the construction of, streets adjacent to subdivision lots is entitled to a mechanic's lien on the adjoining lots inasmuch as the completion of the streets was essential to the ultimate completion, use and enjoyment of the dwellings on the lots.

In this case, the failure of the lienor to obtain a lien against one of the subdivision lots would not invalidate his right to a lien because the amount sought can be apportioned between each property equally and thus an unequal burden will not result to the lots on which the lien is claimed.

The remaining grounds of demurrer are likewise overruled.

Very truly yours,



ARTHUR W. SINCLAIR

AWS:dra

HAINES PAVING CO., INC.,)	
)	
Complainant,)	IN CHANCERY No. 8391
)	
v.)	MOTION FOR RECONSIDERATION
)	
GROWTH LAND, INCORPORATED,)	
et al.,)	
)	
Defendants.)	

Come now the Defendants, United Virginia Mortgage Corporation, United Virginia Bank/National, Carleton P. Moffatt, Jr., Trustee, and John H. Rust, Trustee, all by Counsel, and respectfully request the Honorable Arthur W. Sinclair, Judge of the Circuit Court of Prince William County, Virginia, to reconsider his ruling as set forth in a letter opinion dated May 24, 1978, wherein the Court overruled defendants' Demurrer to Amended Bill of Complaint, and in support thereof say as follows:

1. That under general authority and Virginia case law, the release of one lot from the effect of an unapportioned blanket mechanic's lien invalidates that mechanic's lien with respect to the remaining lots.

2. That counsel for complainant conceded at oral argument that complainant's unapportioned blanket mechanic's lien was never filed against the owner of Lot 56, and that the lien thereby was of no effect against that lot.

3. That this failure to obtain a valid lien against Lot 56 is the equivalent of releasing that lot from the effect of the mechanic's lien which invalidates that mechanic's lien with respect to the remaining lots.

WHEREFORE, it is respectfully requested that this Court amend its ruling of May 24, 1978, to grant defendants' Demurrer to Amended Bill of Complaint.

Respectfully submitted,

UNITED VIRGINIA MORTGAGE CORPORATION,

By: 

Of Counsel

UNITED VIRGINIA BANK/NATIONAL,

By: 

Of Counsel

CARLETON P. MOFFATT, JR., TRUSTEE,

By: 

Of Counsel

JOHN H. RUST, TRUSTEE,

By: 

Of Counsel

RUST, RUST & PRATT
4009 Chain Bridge Road
P.O. Box 537
Fairfax, Virginia 22030

By: 

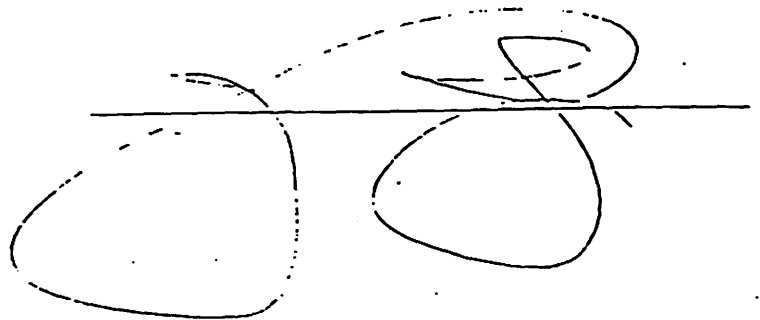
Of Counsel for the above-named
defendants

RUST, RUST & PRATT, 4009 CHAIN BRIDGE ROAD, P.O. BOX 537, FAIRFAX, VIRGINIA 22030

I hereby certify that on the 29th day of August, 1978, true
copies of the foregoing Motion for Reconsideration were mailed,
postage prepaid, to:

Richard R. Saunders, Jr., Esquire
Kuykendall, Whiting, Costello & Hanes
Attorneys at Law
P.O. Box 678
30 North King Street
Leesburg, Virginia 22075

Growth Land, Incorporated
Research Homes of Virginia, Inc.
c/o Morris D. Musig
Registered Agent
7777 Leesburg Pike, Room 307
Falls Church, Virginia 22043

A handwritten signature, possibly reading "D. Musig", is written over a horizontal line. The signature is enclosed in a large, loopy oval shape.

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY, VIRGINIA

HAINES PAVING CO., INC.,)	
)	
Complainant,)	IN CHANCERY No. 8391
)	
v.)	DECREE
)	
GROWTH LAND, INCORPORATED,)	
et al.,)	
)	
Defendants.)	

This cause came on to be heard the 8th day of September, 1978, pursuant to notice, upon the papers formerly filed herein, upon the Amended Bill of Complaint filed by the complainant, the demurrer filed by the defendants, United Virginia Mortgage Corporation, United Virginia Bank/National, Carleton P. Moffatt, Jr., Trustee, and John H. Rust, Trustee, the admissions of the complainant, the defendants' Petition to Hold a Hearing to Determine the Invalidity of the Mechanic's Lien, the letter opinion of the Court, the defendant's Motion for Reconsideration, memoranda of law, and argument of counsel.

And it appearing to the Court with respect to the second grounds of demurrer that the owners of Lot 56, Section 3, Occoquan Forest Subdivision, were not properly named in the subject mechanic's lien and that said lot should therefore not be encumbered by said lien.

And it further appearing to the Court with respect to the third grounds of demurrer that the failure of the lienor to obtain a lien against one of the subdivision lots would not invalidate his right to a lien because the amount sought can be apportioned between each property equally and thus an unequal burden will not result to the lots on which the lien is claimed, to which ruling

the defendants, by counsel, note their exception on the grounds that the same is contrary to law.

And it further appearing to the Court with respect to the fourth and fifth grounds of demurrer that a mechanic performing work and labor on, or furnishing materials necessary for the construction of, streets adjacent to subdivision lots is entitled to a mechanic's lien on the adjoining lots inasmuch as the completion of the streets was essential to the ultimate completion, use and enjoyment of the dwellings on the lots, to which ruling the defendants, by counsel, note their exception on the grounds that the same is contrary to law.

And it further appearing to the Court with respect to the seventh grounds of demurrer that the defendants, United Virginia Bank/National and John H. Rust, Trustee, have no legal or equitable interest in Section 3, Occoquan Forest Subdivision, and should be dismissed.

And it further appearing to the Court that the remaining grounds of demurrer should be overruled.

And it further appearing to the Court that the Petition to Hold a Hearing to Determine the Invalidity of the Mechanic's Lien should be denied on the same grounds as the ruling on the demurrer.

And it further appearing to the Court that the defendant's Motion for Reconsideration should be denied.

And it further appearing to the Court that the defendants, by counsel, have evidenced an intent to petition for an appeal of the rulings herein.

UPON CONSIDERATION WHEREOF, it is, therefore, ADJUDGED, ORDERED and DECREED that the Memorandum For Mechanic's Lien Claimed by Sub-Contractor, filed by Haines Paving Co., Inc. in

Deed Book No. 758, page 252 of the land records of this County is unenforceable against Lot 56, Section 3, Occoquan Forest Subdivision, and said Lot 56, Section 3, Occoquan Forest Subdivision hereby stands released from the said Memorandum for Mechanic's Lien Claimed by Sub-Contractor by virtue of this Decree.

It is further ADJUDGED, ORDERED and DECREED that the defendants, United Virginia Bank/National and John H. Rust, Trustee, be, and they hereby are, dismissed from this cause.

It is further ADJUDGED, ORDERED and DECREED that the demurrer and the Petition to Hold a Hearing to Determine the Invalidity of the Mechanic's Lien previously filed herein by the said defendants be, and the same hereby are, overruled as to grounds one, three, four, five and six, to which ruling the defendants, by counsel, except.

It is further ADJUDGED, ORDERED and DECREED that the defendants, hereinabove named, which have not been dismissed, are directed to file their Answer and Grounds of Defense to the complainant's Amended Bill of Complaint within twenty-one (21) days from the date of this Decree.

It is further ADJUDGED, ORDERED and DECREED that the requirement that the said defendants file their Answer and Grounds of Defense, together with any further proceedings in this cause be, and the same hereby is, stayed for a period of twenty-one (21) days from the entry hereof, and further stayed in the event that an appeal from this Decree is perfected within such period during the pendency of any such appeal; provided, however, that such stay shall not be effective unless and until the said defendants post a supersedeas bond with security in the amount of \$1000.00.

It is further ADJUDGED, ORDERED and DECREED that the Clerk

of this Court be, and he hereby is, directed to issue forthwith
a certified copy of this Decree to all counsel of record.

AND THIS CAUSE IS CONTINUED.

ENTER:

Date: October 16, 1978

/s/ Arthur W. Sinclair
Judge

WE ASK FOR THIS:

KUYKENDALL, WHITING, COSTELLO & HANES

By: Richard L. Saunders, Jr.
Richard R. Saunders, Jr.
Post Office Box 678
Leesburg, Virginia 22075
Counsel for Complainant

SEEN AND EXCEPTIONS NOTED:

RUST, RUST & PRATT
4009 Chain Bridge Road
P. O. Box 537
Fairfax, Virginia 22030

By: [Signature]
Of Counsel for the above-named
defendants

A COPY-TESTE:

C. E. GRADT, CLERK

By: [Signature]

Deputy Clerk

HAINES PAVING CO., INC.

Complainant,

v.

GROWTH LAND, INCORPORATED, et al.,

Defendants.

)
)
)
) IN CHANCERY No. 8391
)
)

) STATEMENT OF FACTS, TESTIMONY
) AND OTHER INCIDENTS OF THE
) CASE

Pursuant to Rule 5:9(c) of the Rules of the Supreme Court of Virginia, as amended, the following written statement of facts, testimony and other incidents of the case is hereby designated as a part of the record on appeal in the above-styled matter:

Immediately prior to July 19, 1973, Growth Land, Incorporated was the sole owner of that certain parcel of land the improvements to which are the subject of this cause. The said parcel contains 10.5710 acres more or less, and is located in Prince William County, Virginia. On July 19, 1973, Growth Land, Incorporated caused a Deed of Dedication subdividing the property to be recorded in Deed Book 697, at page 363 among the land records of Prince William County, Virginia. A copy of said Deed of Dedication is attached hereto marked Exhibit "A".

In the said Deed of Dedication, Growth Land subdivided the said land

into lots and streets to be known as Section 3, OCCOQUAN FOREST, all in the manner shown on that certain plat prepared by Edward W. Dove, C.L.S., dated March 28, 1972, and entitled "Section Three, Occoquan Forest", a copy of which is attached hereto and made a part hereof Growth Land, Inc., does hereby dedicate to public use the streets, roads and highways and does hereby create and establish the rights, ways and easements, all as shown on the said plat....

The plat attached to the Deed of Dedication shows sixteen lots, numbered 51 through 66, and streets designated as "Turkey Run Court" and "Occoquan Forest Drive." The lots in the subdivision contain 9.4533 acres of land; the remaining 1.1177 acres is dedicated to public street purposes.

Growth Land, Incorporated subsequently conveyed Lot 56, Section 3, Occoquan Forest, to John William Terwilliger and Gloria Helen Terwilliger, his wife, by deed dated August 16, 1973, and recorded September 6, 1973, in Deed Book 705, page 500 of the land records of Prince William County, Virginia. A copy of said deed is attached hereto, marked Exhibit "B".

Haines Paving Co., Inc., entered into a contract with Research Homes of Virginia, Incorporated, as general contractor, pursuant to which Haines Paving Co., Inc., undertook to construct and pave the streets and roads in Section 3, Occoquan Forest Subdivision, which construction began April 8, 1974. All construction was performed on, and all materials were furnished to, the streets and roads themselves; no work was performed within the boundaries of any of the lots themselves. The streets and roads on which the work was performed serve as the only means of ingress and egress to the lots listed in the Memorandum of Mechanic's Lien.

On October 8, 1974, Haines Paving Co., Inc., filed its memorandum of lien in the office of the Clerk of the Circuit Court of Prince William County. Growth Land, Incorporated was named in that lien as the owner of all the property sought to be encumbered. The lien is in the amount of \$9,111.22, with interest at the rate of 18% from September 14, 1974, together with 10% attorney's fees and is claimed against "all lots, common grounds, streets and parking lots" in Section 3, Occoquan Forest. The work performed is described as "streets in housing subdivision." No apportionment of the lien among the lots and streets sought to be encumbered was made in the memorandum, a copy of which is attached hereto, marked Exhibit "C".

On or about April 8, 1975, Haines Paving Co., Inc., commenced the

instant proceeding by filing its Bill of Complaint to enforce the said lien. By decree entered October 16, 1978, the Circuit Court of Prince William County overruled, in part, the demurrer to the Amended Bill of Complaint as to United Virginia Mortgage Corporation and Carleton P. Moffatt, Jr., Trustee, and denied the Petition to Hold a Hearing to Determine the Invalidity of the Mechanic's Lien.

Date: November 21, 1978

/s/ Arthur W. Sinclair
Arthur W. Sinclair, Judge

I ASK FOR THIS:

RUST, RUST & PRATT
4009 Chain Bridge Road
P.O. Box 537
Fairfax, Virginia 22030

By: 

Of Counsel for the Defendants
United Virginia Mortgage Corporation
and Carleton P. Moffatt, Jr.,
Trustee

KUYKENDALL, WHITING, COSTELLO & HANES

By: 

Richard R. Saunders, Jr.
Post Office Box 678
Leesburg, Virginia 22075
Counsel for Complainant

Exhibit "A"

555A .697 P.1 363

16456

DEED OF DEDICATION

THIS DEED OF DEDICATION made and entered into this 16 day of July, 1973, by GROWTH-LAND, INC., a Virginia corporation,

WITNESSETH:

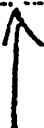
WHEREAS, Growth-Land, Inc., is the sole owner and proprietor of the hereinafter described tract of land, having acquired its interest therein by two certain deeds namely, one from Occoquan Land Investments, a limited partnership, dated October 18, 1969, and recorded May 22, 1970 in Deed Book 545, at Page 330, among the land records of Prince William County, Virginia, and the other from the Trustees of the Faith Lutheran Church of Arlington County, Virginia, dated September 6, 1972, and recorded October 5, 1972, in Deed 653, at Page 285, among said County's land records; and

WHEREAS, it is the desire of Growth-Land, Inc., that the hereinafter described property be subdivided into lots and that easements and uses be created and streets, roads, and ways be dedicated to public use in accordance with and all as shown on the plat prepared by Edward W. Dove, C.L.S., dated March 28, 1972, a copy of which plat is attached hereto and made a part hereof.

NOW, THEREFORE, Growth-Land, Inc., does hereby subdivide into lots and streets to be known as SECTION 3, OCCOQUAN FOREST, all in the manner shown on that certain plat prepared by Edward W. Dove, C.L.S., dated March 28, 1972, and entitled "Section Three, Occoquan Forest", a copy of which is attached hereto and made a part hereof, that certain tract or parcel of land situate, lying and being in Prince William County, Virginia, and more particularly described as follows:

Beginning at a point on the northerly end of a curve at the northwest corner of lot 67 Occoquan Forest Section 2, said point being on the easterly right-of-way of Occoquan Forest Drive; departing lot 67 and crossing said Occoquan Forest Drive and continuing with the northerly line of lot 50, Section 2, the following courses and distances: S 81° 55' 14" W 75.16 ft. to a point; thence 181.28 ft. along the arc of a curve to the left having a radius of 425 ft., a chord bearing S 69° 42' 05" W 175.90 ft. to a point; thence with the rear lines of lots 50 through 44, the following courses

EDWARD W. DOVE
CLERK
ATTORNEY AND
SOLICITOR AT LAW
PRINCE WILLIAM
COUNTY, VIRGINIA



SEE MAP DRAWER #20 P.4

and distances: S 32° 31' 04" E 132.02 ft.; S 30° 00' 18" W 245.96 ft. to a point; thence S 84° 30' 48" W 386.85 ft. to a point in the easterly line of Occoquan Reservoir; thence with Occoquan Reservoir the following courses and distances: N 14° 29' 00" E 193.45 ft.; N 19° 40' 30" E 285.48 ft.; N 42° 32' 00" E 115.49 ft.; N 63° 11' 56" E 102.53 ft.; N 80° 17' 00" E 157.22 ft.; N 64° 47' 00" E 278.37 ft.; S 82° 54' 00" E 128.69 ft.; N 65° 51' 00" E 145.97 ft.; S 75° 00' 00" E 144.43 ft.; S 34° 55' 50" E 336.81 ft. to a point in the northerly corner of Parcel C, Section 2; thence departing Occoquan Reservoir and running with the northerly line of said parcel C S 52° 29' 33" W 212.84 ft.; thence S 59° 55' 53" W 219.55 ft. to a point in the easterly line of lot 68 Section 2; thence departing Parcel C and running with the rear lines of lot 68 and 67, the following courses and distances: N 46° 09' 03" W 131.00 ft.; N 08° 04' 46" W 159.17 ft. to a point; thence with the northerly line of lot 67 Section 2, S 81° 55' 14" W 114.10 ft. to the point of beginning and containing 10.5710 acres more or less.

Growth-Land, Inc., does hereby dedicate to public use the streets, roads and highways and does hereby create and establish the rights, ways and easements, all as shown on the said plat prepared by Edward W. Dove, C.L.S., dated March 28, 1972, a copy of which is attached hereto and made a part hereof.

Growth-Land, Inc., does hereby further declare that the property in Section 3, Occoquan Forest shall hereafter be held, sold and conveyed subject to the provisions of that certain Declaration of Covenants, Conditions and Restrictions, dated November 16, 1970, and recorded January 15, 1971, in Deed Book 571, at Page 680, among the land records of Prince William County, Virginia, for Section Two, Occoquan Forest as if said Declaration had been set out in haec verba herein, provided, however, that "Declarant" as defined in Article 1, Section 7 of said Declaration shall mean and refer only to Growth-Land, Inc., its successors and assigns acquiring more than one undeveloped lot from Declarant for the purpose of development. All of such easements, covenants, restrictions and conditions are for the purpose of enhancing and protecting the value, desirability and attractiveness of said property and shall run with the land and shall be binding on, and inure to the benefit of, all parties having or acquiring any right, title or interest in the said property or any party thereof.

This subdivision and dedication is made with the free consent and in accordance with the desires of Growth-Land, Inc.

W. L. BLACKBURN,
A CLAY
ATTORNEY AND
COUNSELLOR AT LAW
SPRINGFIELD
VIRGINIA

556 697 22 365

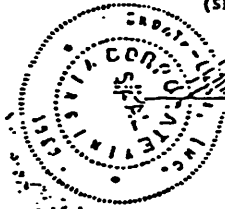
WITNESS the following signatures and seals:

GROWTH-LAND, INC.

ATTEST:

(SEAL

By Robert C. Burdette
Vice President



Secretary

STATE OF VIRGINIA

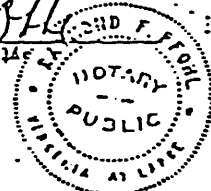
COUNTY OF _____, to-wit:

I, the undersigned, a Notary Public in and for the State and County aforesaid, do hereby certify that Robert C. Burdette and Unidentified Person Vice, President and Secretary, respectively, of Growth-Land, Inc., whose names as such are signed to the foregoing Deed of Dedication, appeared before me in my State and County aforesaid and acknowledged the same to be the act and deed of Growth-Land, Inc., and made oath that their signatures were affixed with due authority.

GIVEN under my hand and seal this 10th day of July, 1973.

Raymond J. O'Hara
Notary Public

My commission expires: Oct. 11, 1976



Recorded with certificate numbered July 19 1973
at 2:46 P.M. in Prince William County, Virginia.
Teste: J. E. A. P. County Clerk

NOTARY PUBLIC
NOTARY
ATTORNEY AT LAW
AND
SOLICITOR AT LAW
AND
SOLICITOR AT LAW

NO.	RADIUS	CHORD	ARC	TANGENT	CHORD	END BEARING
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APPROVED BY RESOLUTION 73-33-9
DATED 27 Feb 73 BY THE
BOARD OF SUPERVISORS OF
PRINCE WILLIAM COUNTY, VIRGINIA

North Winfield
CHAIRMAN
J. S. Sullivan
COUNTY EXECUTIVE

NOTARIAL CERTIFICATE

I, EDWARD W. DOVE, a Notary Public in and for the State of Virginia, do hereby certify that the subdivision of this land lies entirely within the boundaries shown on the map and the courses are referenced to the Virginia State Grid North and this plat represents a true and accurate survey of the same.

EDWARD W. DOVE
CERTIFIED LAND SURVEYOR

NOTARY PUBLIC IN AND FOR THE STATE OF VIRGINIA
COMMISSION EXPIRES MAY 22, 1979
PRINCE WILLIAM COUNTY

OWNER'S CERTIFICATE

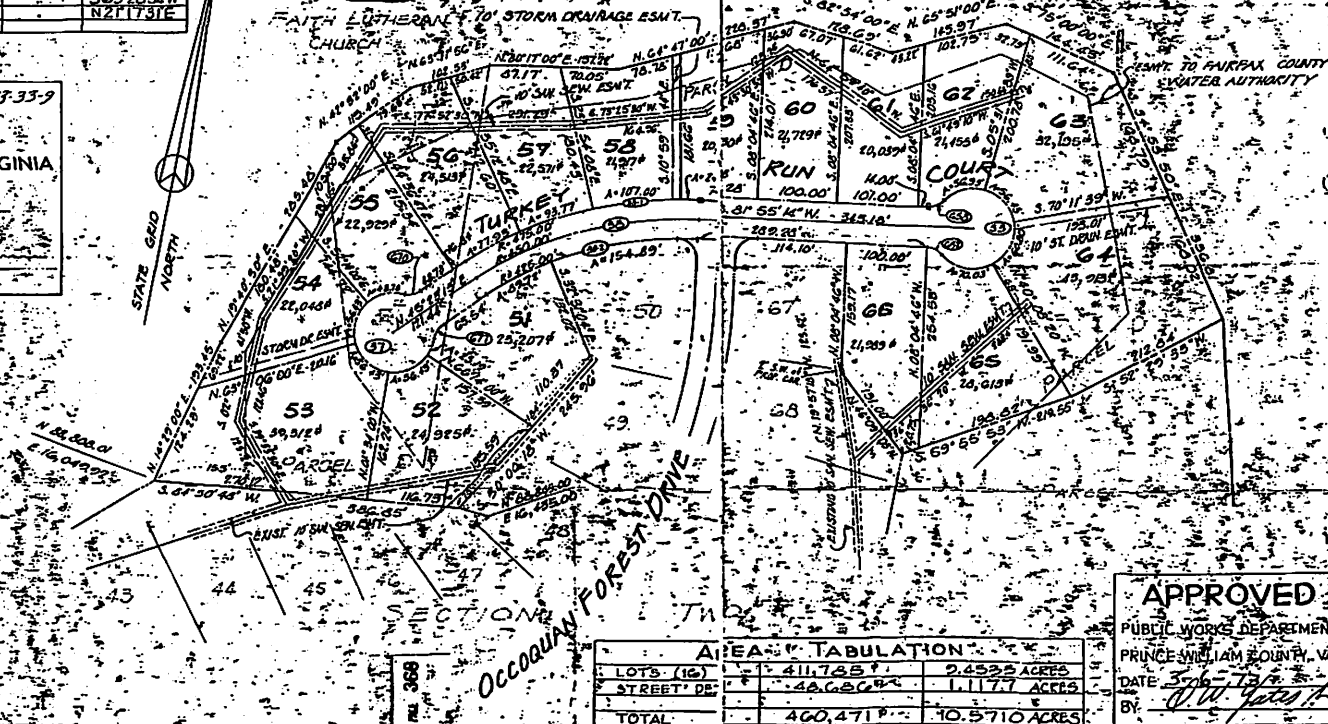
WE THE UNDERSIGNED OWNERS DO HEREBY CERTIFY THAT THE SUBDIVISION SHOWN HEREON IS WITH OUR FREE CONSENT AND IN ACCORDANCE WITH OUR DESIRES.

STATE OF VIRGINIA
COUNTY OF FAIRFAX

I, *John R. K. K. K.*, A NOTARY PUBLIC IN AND FOR THE STATE OF VIRGINIA, WHOSE COMMISSION EXPIRES *2-22-79*, DO HEREBY CERTIFY THAT *2-22-79* WHOSE NAMES ARE SIGNED TO THE FOREGOING OWNERS CERTIFICATE DATED *2-22-73* HAVE ACKNOWLEDGED THE SAME BEFORE ME IN MY STATE AND COUNTY AFORESAID, GIVEN UNDER MY HAND THIS *2-22-73*.

OCCOQUAN RESERVOIR

FAIRFAX COUNTY WATER AUTHORITY



AREA TABULATION			
LOTS (16)	411.785	2.4535 ACRES	
STREET DE	42.620	1.1171 ACRES	
TOTAL	460.471	40.5710 ACRES	

APPROVED
PUBLIC WORKS DEPARTMENT
PRINCE WILLIAM COUNTY, VA.
DATE 3-26-73
BY *J. W. Jones*

SECTION THREE
OCCOQUAN FOREST
OCCOQUAN • MAGISTERIAL DISTRICT
PRINCE WILLIAM COUNTY, VIRGINIA
SCALE 1" = 100' MARCH 28, 1973
Prepared By
TRICO ASSOCIATES, INC.
ENGINEERS PLANNERS SURVEYORS
FALLS CHURCH, VIRGINIA

705 500

12663

THIS DEED made this 16th day of August, 1973, by and between GROWTH LAND, INC., a Virginia corporation, party of the first part, and JOHN WILLIAM TERVILLIGER and CLORIA EILEN TERVILLIGER, his wife, parties of the second part,

WITNESSETH:

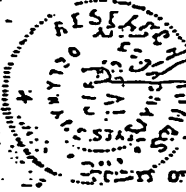
That for and in consideration of the sum of Ten Dollars (\$10.00) and other valuable considerations, the party of the first part does hereby grant, bargain, sell and convey unto the parties of the second part, as tenants by the entirety with the full common law rights of survivorship, in fee simple and with General Warranty of Title, and with the usual English Covenants of Title, the following described land with its improvements in the County of Prince William, State of Virginia:

Lot numbered FIFTY-SIX (56), SECTION THREE (3), OCCOCHAN FOREST SUBDIVISION, as the same appears duly dedicated, platted and recorded in Deed Book 697 at Page 363 among the land records of Prince William County, Virginia.

AND BEING the same property conveyed to the party of the first part by Deeds dated October 18, 1969, January 1, 1970 and September 6, 1972, and recorded in Deed Book 545 at Page 330; Deed Book 539 at Page 606 and Deed Book 653 at Page 285, among the said land records.

This conveyance is made subject to easements, rights of way and restrictions of record.

WITNESS the following signatures and seals:



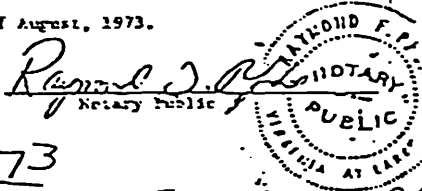
[Signature] (SEAL)
Secretary

GROWTH LAND, INC.

By: [Signature] President

I, the undersigned Notary Public in and for the State and County aforesaid, whose commission expires on the 11th day of October, 1976, do hereby certify that James F. Quirk and Robert D. Roney, President and Secretary respectively of GROWTH LAND, INC., whose names are signed to the foregoing Deed bearing date on the 16th day of August, 1973, have acknowledged the same before me in my County aforesaid.

GIVEN under my hand this 16th day of August, 1973.



Recorded with certificate as: Sept 6, 73
at 3:20 P.M. Prince William County, Virginia
Filed: X.E. Gnad

COPY - TESTE
C. E. GNADT, CLERK
Deputy Clerk

Deed's Address 5803, 11th Street, N.W., Washington, D.C. 20011

This is to certify that this deed has been filed by Deed Book 1/500

T-5469

MEMORANDUM FOR MECHANIC'S LIEN
CLAIMED BY SUB-CONTRACTOR

NAME OF OWNER: Growth-Land Inc.

ADDRESS OF OWNER: 7777 Leesburg Pike, Falls Church, Va.

NAME OF GENERAL
CONTRACTOR:

Research Homes of Virginia, Inc.

NAME OF CLAIMANT:

Haines Paving Company, Inc.

ADDRESS OF CLAIMANT:

56 Quincy Street, Herndon, Va.

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1. TYPE OF MATERIALS OR SERVICES FURNISHED:

Labor, materials, equipment and supervisory personnel necessary to construct base and pave streets in housing subdivision.

2. AMOUNT OF CLAIM: \$9,111.22, together with 10%

attorney's fees.

3. TYPE OF STRUCTURE ON WHICH WORK DONE OR

MATERIALS FURNISHED: Streets in housing subdivision.

4. DESCRIPTION OF REAL PROPERTY: All lots, common

grounds, streets and parking lots located in and which constitute the development known as OCCOQUAN FOREST SUBDIVISION, located on Davis Ford Road, Prince William County, Virginia, more particularly described as: "Section 3, OCCOQUAN FOREST as shown on a certain plat prepared by Edward W. Dove, CLS., dated March 28, 1972, entitled "Section Three, Occoquan Forest", a copy of which is attached to the Deed of Dedication dated July 10, 1973 which Deed is platted and recorded among the land records of Prince William County in Deed Book 697, Page 363."

5. DATE FROM WHICH INTEREST ON THE ABOVE
AMOUNT IS CLAIMED: Interest is claimed at the rate of 18% from
September 14, 1974.

DATE: October 8, 1974

James Haines President
HAINES PAVING COMPANY, INC.

Robert E. Sevilla
Robert E. Sevilla
Its Attorney and Agent

ASSIGNMENTS OF ERROR

Appellants' assignments of error upon which they rely on appeal may be summarized as follows:

1. That the holding of the Trial Court that the failure of a mechanic's lien claimant to perfect its unapportioned mechanic's lien against one of the lots sought to be encumbered would not invalidate its lien was plainly wrong and is contrary to the law applicable to this cause.

2. That the holding of the Trial Court that a mechanic performing labor or furnishing materials necessary for the construction of dedicated, public streets is entitled to a mechanic's lien upon adjacent lots was plainly wrong and is contrary to the law applicable to this cause.