

PINE VILLAGE, INC.,
Plaintiff

H. GENE FEERRAR,
Defendant

: IN THE COURT OF COMMON PLEAS OF
: LYCOMING COUNTY, PENNSYLVANIA
: NO. 02-00,732
:
: CIVIL ACTION - LAW
:
: OPINION AND ORDER
: POST-TRIAL MOTIONS

Date: February 1, 2005

This Order is entered to place of record this Court's opinion that was prepared and presumably filed on July 7, 2004. That Opinion is attached hereto and is incorporated herein. The Opinion of July 7, 2004 disposed of the Motion for Reconsideration of the Order June 4, 2004 which was filed by Defendant, H. Gene Feerrar (hereafter "Feerrar" on June 14, 2004 as well as the motion by plaintiff for reconsideration or in the alternative motion by plaintiff for post-trial relief filed by Plaintiff, Pine Village, Inc., hereafter "Pine Village") filed on June 22, 2004. This Court was of the belief that the prior Opinion with an appreciable Order had been signed, filed, docketed, and distributed to the parties.

On January 18, 2005 this Court received a letter from Joseph R. Musto, Esquire counsel for Pine Village requesting that this Court proceed with deciding the motion filed by Pine Village on June 22, 2004. Upon conducting an investigation response to that letter this Court has ascertained that for some reason the Opinion and Order of July 27, 2004 although completed by this Court on that date does not appear of record.

The following Order modifies the intended Order of July 7, 2004 to reflect appropriate dates and therefore the Order attached dated July 7, 2004 is voided. The reasons for this Order of February 1, 2005 are set forth in the attached Opinion of July 7, 2004.

ORDER

The post-trial motion of Feerrar filed June 4, 2004 is granted and paragraph 5 of the Decree Nisi of June 4, 2004 is amended to read as follows:

Defendant, H. Gene Feerrar, shall remove the shed and its attachments from their present encroachment upon the Pine Village property to a location that is not in violation of any zoning ordinance or deed/subdivision restriction.

The post-trial motion of Pine Village filed June 22, 2004 is denied and the June 4, 2004 Decree Nisi provisions of paragraph #4 and paragraph #6 will not be modified; provided, however, that as to paragraph #4 counsel for the parties shall negotiate during the month of February 2005 in an attempt to fashion a manner of how notice to Feerrar by Pine Village of its use of its property between December 1st and March 31st of the following year should be given in terms that both parties can agree upon. If an argument is reached, a stipulated order should be submitted for approval not later than March 15, 2005. If such an order is not submitted to the Court by March 15, 2005, this Court will proceed with entering an order directing the manner and specifics as to procedures to be followed in the giving of that notice.

BY THE COURT,

William S. Kieser, Judge

cc: Joseph R. Musto, Esquire
Michael J. Casale, Jr., Esquire
Judges
Christian J. Kalas, Esquire
Gary L. Weber, Esquire (Lycoming Reporter)