

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

LINDE CORPORATION,	:	NO. 13 - 01,163
Plaintiff	:	
	:	CIVIL ACTION - LAW
vs.	:	
	:	
BLACK BEAR PROPERTY, LP, BLACK BEAR	:	
HOLDINGS, LLC, STEWART E. DIBBLE, and	:	
BLACK BEAR, LLC,	:	
Defendants	:	Post-Trial Motions

OPINION AND ORDER

Before the court are post-trial motions filed by both parties, following this court’s entry of judgment on a mechanic’s lien by Order dated January 12, 2015. Argument on the motions was heard March 17, 2015.

Judgment on a mechanic’s lien was entered in Plaintiff’s favor against three parcels of land determined to be owned by Black Bear Holdings, LLC (“BBH”) in connection with work done by Plaintiff to construct a water withdrawal facility on the property. In its motion, Plaintiff contends the court erred in concluding that a fourth parcel was not lienable, and in their motion, Defendants contend the court erred in determining that the properties at issue were owned by BBH and not Defendant Dibble.¹

The court concluded that only three of the four parcels were subject to the lien, as the water withdrawal facility had been constructed on only three of the parcels; on the fourth parcel, only electric lines had been run (from a pole to the facility). The court’s conclusion was based on the definitions of “improvement” and “construction” contained in Section 1201 of the Mechanic’s Lien Law. 49

¹ Defendants also object that improper service of the mechanic’s lien claim should have led to dismissal of the Complaint, but that objection has been waived for failure to raise it prior to trial on the merits.

P.S. Section 1201. “Improvement” means any improvement constructed on land and “constructed” includes installation of wires in order to provide service to the improvement “whether on the property improved or on other property.” The court believes the words “or on other property” would have no meaning if the installation of wires were determined to constitute an improvement, as such interpretation would render the land over which the wires pass “the property improved”. To give the words meaning, the court believes they must be interpreted as allowing for a lien for the *cost* of the installation of such but not *on* that particular “other property”.²

Plaintiff argues that the court should nevertheless find the property across which the wires run to constitute “curtilage appurtenant” to the improvement,³ citing Wirsing v. Pennsylvania Hotel & Sanitarium Company, 75 A. 259 (Pa. 1910), which involved pipes running from a spring on one lot to a hotel on another. There, the Court noted that under the Mechanic’s Lien Law of 1901, “curtilage, to be regarded as appurtenant to a building and bound by a mechanic’s lien filed against it, is ‘such as is reasonably needed for the general purpose’ for which the structure is erected”. Id. at 260. The Court imposed a lien on both lots, finding that the spring or well of water on one lot was “reasonably needed for the general purpose” of the hotel constructed on the other lot. Note, however, that it was the spring and *not* the pipes on which the Court focused:

It seems the hotel building was to be constructed for the use chiefly of those who came to receive benefit from the use of the medicinal

² The court also notes that Section 1301, which sets forth the right to a lien, says the lien is for the payment of all debts due “for labor and materials furnished in the erection or construction, or the alteration or repair of the improvement.” Including the wires in the definition of “erection, construction, alteration or repair” seems to imply that the focus is on the cost of their installation, that is, the *amount* of the lien, not the placement of the lien.

³ The definition of “property” is “the improvement, the land covered thereby and the lot or curtilage appurtenant thereto”. 49 P.S. Section 1201.

water of the spring, and the spring property and the hotel property were to be operated and managed by the same person. Without the spring the hotel property would be of comparatively little value, but operated together the patronage was expected to be quite large. . . . It was clearly the purpose of the owner of these parcels of land to use them in connection with each other; the hotel was for the accommodation of those who desired treatment and to enjoy the beneficial results derived from the use of the medicinal waters of the spring located on the spring property. Pipes were to be extended under ground from one to the other and both properties were to be operated, managed and controlled by one person, the defendant. No doubt the successful operation of the spring was greatly handicapped because of the lack of good hotel accommodations for those who desired treatment and to make use of the water, while a hotel of the proportions shown and described in the plans and specifications located in a small village like Pulaski would hardly be considered for a moment, unless it was to be operated in conjunction with the mineral springs which were located on the other property described in the lien filed. This was the general purpose for which the two parcels of land were to be used and they formed the parts of the single business plant."

Id. In the instant case, the electric wires are not analogous to the spring, and, putting aside any differences in the Acts of 1901 and 1963, the court cannot find the property over which the wires run to constitute "curtilage".

Defendants' assertions involve issues of credibility and the use of circumstantial versus direct evidence. The court believes it has set forth in the Opinion in support of the Verdict a sufficient explanation of its decision in that regard, and further review at this time has not led the court to re-consider its findings. Therefore, those matters will not be addressed further herein.

ORDER

AND NOW, this 19th day of March 2015, for the foregoing reasons, both post-trial motions are hereby DENIED. Judgment on the mechanic's lien is hereby entered in Plaintiff's favor in the amount of \$216,074.38, with interest at the legal rate, against and upon the property identified as Lycoming County Tax Parcel numbers 24-268-183.A, 24-268-152 and 24-268-149.

BY THE COURT,

Dudley N. Anderson, Judge

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Hon. Dudley Anderson