

65929-4

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Court of Appeals Cause No. 65929-4-I

**COURT OF APPEALS, DIVISION I OF THE  
STATE OF WASHINGTON**

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VILLAGE FRAMERS CORP.,  
a Washington Corporation,  
*Appellant*

v.

PACIFIC CONTINENTAL BANK,  
an Oregon corporation, SOUNDVIEW 90, LLC, a Washington Limited  
Liability Company, and JOHN P. RADER, in his capacity as general  
receiver for Soundview 90, LLC,  
*Respondents*

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**APPELLANT'S REPLY BRIEF**

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## I. ARGUMENT

### A. Contrary to the Receiver's Argument, Receivers Have No Special Advisory Authority with the Courts Regarding Lien Priority.

Under the law of the state of Washington (and contrary to what the receiver implies when stating, “The receiver has an obligation to advise the court as to lien priority<sup>1</sup>),” the bare opinion of a receiver regarding lien priority is entitled to *no deference* from the courts. There is nothing in Washington’s statutes or common law stating that the opinion of a receiver regarding lien priority is akin, for instance, to the opinion of an administrative agency when interpreting its own regulations<sup>2</sup> or the findings of fact of a judge made after trial<sup>3</sup>. The receiver offers no citation to supporting statutory authority other than a statute that simply permits a receiver to schedule a hearing on contested claims before the court.<sup>4</sup> It cites to no *common law* authority for the inference it desires the court to draw other than a single federal decision that expressly concludes with the statement, “it is the court only, and not the Receiver, who has the authority to approve or disapprove claims.”

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<sup>1</sup> Respondent’s Opening Brief, p. 7, subtitle 4(a).

<sup>2</sup> *Credit Gen. Ins. Co. v. Zewdu*, 82 Wn. App. 620, 627, 919 P.2d 93 (1996).

<sup>3</sup> *State v. Rose*, 876 P.2d 925, 75 Wn.App. 28 (Div. 1, 1994).

<sup>4</sup> RCW 7.60.220.

In accepting and rejecting claims, the Receiver acts in many respects as a master, advising the court as to the validity of creditor claims; however, it is the court only, and not the Receiver, who has the authority to approve or disapprove claims.

*Morrison-Knudsen Co. v. CHG International, Inc.*, 811 F.2d 1209, 1219 (9th Cir. 1987), *cert. denied*, 109 S.Ct. 358, 102L.Ed.2d 349 (1987).<sup>5</sup>

Accordingly, the opinion of the Receiver regarding lien priority is entitled to no weight independent of the legal authorities it may cite to the court.

**B. RCW 60.04.900 Requires the Remedial Provisions of RCW 60.04.221 In Question Here to Be Liberally Construed in Favor of the Lien Claimant.**

There is no ambiguity under Washington law regarding which aspects of its lien laws are to be *strictly* construed and which are to be *liberally* construed. The courts have consistently held that only those requirements of RCW 60.04.221 that address *creation or establishment* of a lien are to be strictly construed.<sup>6</sup> However, our courts have also consistently upheld the legislature's mandate that the remedial provisions of RCW 60.04 are to be liberally construed to protect the interests of the parties intended to be protected.

Mechanic's and materialmen's liens are creatures of statute, in derogation of common law, and therefore must be strictly construed to determine whether a lien attaches. *Dean v. McFarland*, 81 Wash.2d 215, 219-20, 500 P.2d

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<sup>5</sup> Respondent's Opening Brief, p. 8 (emphasis added).

<sup>6</sup> *Trane Co. v. Brown-Johnston, Inc.*, 48 Wash.App. 511, 739 P.2d 737 (1987).

1244 (1972). But if it is determined a party's lien is covered by chapter 60.04 RCW, the statute is to be liberally construed to provide security for all parties intended to be protected by its provisions. RCW 60.04.900; *see Lumberman's of Wash., Inc. v. Barnhardt*, 89 Wash.App. 283, 286, 949 P.2d 382 (1997).<sup>7</sup>

The source of this requirement for a liberal construction is nothing less than the mandate of the legislature itself.

60.04.900. Liberal Construction. RCW 19.27.095, 60.04.230, and 60.04.011 through 60.04.226 and 60.04.261 are to be liberally construed to provide security for all parties intended to be protected by their provisions.<sup>8</sup>

The Stop Payment Notice provision, RCW 60.04.221, being within the range of 60.04.011 through 60.04.226 must, therefore, be “liberally construed to provide security for all parties intended to be protected.”

The “parties intended to be protected” under RCW 60.04.221 are the lien claimants (contractor’s, subcontractors and suppliers) notwithstanding the receiver’s argument that the Stop Payment Notice provision is intended for the protection of lenders.

The stop notice provision, RCW 60.04.210, was devised to provide additional security to those who furnish labor or materials in the erection or improvement of buildings.<sup>9</sup>

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<sup>7</sup> *Estate of Haselwood v. Bremerton Ice Arena, Inc.*, 166 Wn.2d 489, 210 P.3d 308, 312 (2009)(emphasis added).

<sup>8</sup> RCW 60.04.900 (1991)(emphasis added).

<sup>9</sup> *Town Concrete Pipe of Washington, Inc. v. Redford*, 43 Wash.App. 493, 496, 717 P.2d 1384 (1986).

The companion to RCW 60.04.221 (at the time each was enacted), RCW 60.04.226<sup>10</sup> was plainly the statute the legislature enacted to protect lenders. Therefore, the Receiver is incorrect in his denial that the remedial language of RCW 60.04.221 must be liberally construed by this court in favor of Appellant, the lien claimant here.

**C. There Is No Legal Support for the Receiver's Argument That RCW 60.04.221 Requires a Court to Partition a Lender's Deed of Trust Securing Exclusively Construction Financing and Then to Subordinate Only a Portion Equal to the Amount the Lender Wrongfully Disbursed.**

**1. Though the Receiver Identified One Situation Where a Partition of the Lender's Deed of Trust Is Required, That Situation Does Not Exist In the Present Case.**

Subsections [5] and [6] of RCW 60.04.221 obligate a construction lender that has received a Stop Payment Notice to "withhold from [its borrower's] next and subsequent draws the amount claimed to be due."<sup>11</sup>

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<sup>10</sup> Financial Encumbrances Priorities. Except as otherwise provided in RCW 60.04.061 or 60.04.221, any mortgage or deed of trust shall be prior to all liens, mortgages, deeds of trust, and other encumbrances which have not been recorded prior to the recording of the mortgage or deed of trust to the extent of all sums secured by the mortgage or deed of trust regardless of when the same are disbursed or whether the disbursements are obligatory." RCW 60.04.226 (1991)(emphasis added).

<sup>11</sup> RCW 60.04.221(5, 6)(1992)(emphasis added).

(5) After the receipt of the notice, the lender shall withhold from the next and subsequent draws the amount claimed to be due as stated in the notice. Alternatively, the lender may obtain from the prime contractor or borrower a payment bond for the benefit of the potential lien claimant in an amount sufficient to cover the amount stated in the potential lien claimant's notice. The lender shall be obligated to withhold amounts only to the extent that sufficient interim or construction financing funds remain undisbursed as of the date the lender receives the notice.

Subsection (7) then declares that, “In the event a lender fails to abide by the provisions of subsections [5] and [6] of this section, then the ... deed of trust ... securing the lender shall be subordinated to the lien ...”<sup>12</sup> The “deed of trust” is referred to as a *single* unitary item. RCW 60.04.221 does not refer to *partial* subordination of a deed of trust securing construction financing or subordination of *portions* of that deed of trust. The Receiver nevertheless urges the Court to adopt a construction of the statute requiring *partitioning* of a lender’s deed of trust securing “interim or construction financing” and then allocating differing priority levels to the resulting parts.

The springboard for the Receiver’s argument is its claim to have undermined, “VFC’s central argument that RCW 60.04.221(7) does not permit ‘partial subordination’ of the lender’s ‘single’ deed of trust, or that the court would need to ‘rewrite the statute’ by inserting the words ‘that

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(6) Sums so withheld shall not be disbursed by the lender, except by the written agreement of the potential lien claimant, owner, and prime contractor in such form as may be prescribed by the lender, or the order of a court of competent jurisdiction.

<sup>12</sup> RCW 60.04.221(7)(emphasis added).

(7) In the event a lender fails to abide by the provisions of subsections [5] and [6] of this section, then the ..., deed of trust, ... securing the lender shall be subordinated to the lien of the potential lien claimant to the extent of the interim or construction financing wrongfully disbursed, but in no event MORE than the amount stated in the notice plus costs as fixed by the court, including reasonable attorneys’ fees.

portion of into the statute.” The Receiver’s argument can be summarized as follows:

- RCW 60.04.221 (“Notice to lender–Withholding of funds”) only subordinates deeds of trust securing “interim or construction financing.”
- RCW 60.04.011 (“Definitions”) excludes from the definition of “interim or construction financing” “*that portion of a deed of trust securing the acquisition of real estate or non-lienable personal property*,”<sup>13</sup>
- Accordingly, in a situation where a single deed of trust secures both the *acquisition* and the *improvement* of real estate, RCW 60.04.221 would only permit subordination of “that portion of” the deed of trust that secured the “interim or construction financing.” This would necessitate partitioning of the deed of trust between “that portion” securing the “interim or construction financing” and “that portion” securing the acquisition of the real property.

In what is known in logic as a “hasty generalization,” the Receiver then urges this Court to conclude – as a *general* proposition – that deeds of

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<sup>13</sup> Items (a) – (d) of the definition refer to expenses associated with the acquisition of real estate (such as the purchase price, closing costs, and “impound” fees) while item (e) refers to non-lienable personal property.

(6) “Interim or construction financing” means that portion of money secured by a mortgage, deed of trust, or other encumbrance to finance improvement of, or to real property, but does not include:

- (a) Funds to acquire real property;
- (b) Funds to pay interest, insurance premiums, lease deposits, taxes, assessments, or prior encumbrances;
- (c) Funds to pay loan, commitment, title, legal, closing, recording, or appraisal fees;
- (d) Funds to pay other customary fees, which pursuant to agreement with the owner or borrower are to be paid by the lender from time to time;
- (e) Funds to acquire personal property for which the potential lien claimant may not claim a lien pursuant to this chapter.

RCWA 60.04.011(6)(1992).

trust may, therefore, be partitioned in *any* circumstance involving subordination. At this point, the Receiver goes too far.

The Receiver's argument does support the proposition that the legislature did intend that a lender's deed of trust be partitioned before subordination, but only when the deed of trust secured both the acquisition and the improvement of real property. There is nothing in the statute that would support the far broader conclusion advocated by the Receiver, that deeds of trust may be partitioned under *any* circumstances where a lender is exposed to subordination of its deed of trust.

To the contrary, the single exception identified by the Receiver supports Appellant's argument that, outside of circumstances involving deeds of trust securing *both* construction financing and the financing of real estate (or non-liable personal property), the "deed of trust" within RCW 60.04.221 is to be treated as a single unitary item for purposes of subordination to a lien claim.

While the legislature drafted language requiring partition of a lender's deed of trust in circumstances involving deeds of trust securing both the purchase of real property and the construction of improvements to that property, there is no evidence that this exception applies to the facts of the present case. There was no evidence presented below, nor is any offered here, indicating that Pacific Continental Bank (the lender on

whose behalf the Receiver is defending this appeal) provided financing for the *acquisition* of the real property in addition to financing the *improvements* to the real property in question. Accordingly, the exception identified by the Receiver has no application here.

By identifying this exception in the statutory scheme, the Receiver has demonstrated that the legislature (i) was aware of an option to partition a lender's deed of trust and (ii) was able to draft language calling for partition when that was its intention. However, after providing for a partition in order to separate "that portion" of a deed of trust securing real estate *acquisition* from "that portion" of a deed of trust securing real estate *improvement*, the legislature made no mention anywhere of segregating a deed of trust securing real estate improvements exclusively into "portions" before and "portions" after a lender's wrongful disbursements under RCW 60.04.221. Accordingly, the Receiver (despite identifying one inapplicable exception) has failed to undermine, "VFC's central argument."

To the contrary, the statute refers to "the deed of trust" as a single item. There are no ambiguous terms used to describe the deed of trust itself and the Receiver presents no argument to the contrary. There is no direct statement in RCW 60.04.221 that mentions *partitioning* the deed of trust. There is no language in RCW 60.04.011 ("Definitions") requiring

apportionment of a deed of trust securing exclusively “interim or construction financing.” Finally, there is no direct statement in RCW 60.04.221 that mentions subordination of *only a part* of the deed of trust equaling the amount wrongfully disbursed by the lender.

**2. The Phrase “To The Extent Of” In RCW 60.04.221(7) Refers To The Amount By Which The Entire Deed Of Trust Is To Be Subordinated, Not How Much of the Deed of Trust Is To Be Subordinated.**

When the phrase “deed of trust” securing “interim or construction financing” in RCW 60.04.221(7) is properly understood to refer to the lender’s deed of trust in a singular, undivided state, there is no arguable ambiguity in the phrase “to the extent of” used later in subsection (7) to describe *the amount* by which the unitary deed of trust is to be subordinated. The phrase “to the extent of” in the statute plainly refers to the amount by which the entire deed of trust is to be subordinated.

Subsection (7) of the statute identifies two limitations on the *amount* by which “the deed of trust” may be subordinated. Those two limitations are (a) “the amount stated in the notice plus costs as fixed by the court, including reasonable attorneys’ fees” and (b) “the extent of the interim or construction financing wrongfully disbursed” by the lender.

The first limitation, the amount stated in the notice plus court awarded costs, is established by the content of the Stop Payment Notice

and any later court-ordered cost award. The meaning of the second limitation, hinges on the interpretation of the words “*wrongfully disbursed*” in the noun phrase, “the interim or construction financing *wrongfully disbursed*.” The phrase “*wrongfully disbursed*” is a reflexive reference to the words beginning the very same sentence reading, “In the event a lender fails to abide by the provisions of subsections [5] and [6] of this section...” Subsections [5] and [6] include the duty of a lender that has been served with a Stop Payment Notice to “withhold from the next and subsequent draws the amount claimed to be due as stated in the notice.”<sup>14</sup> Therefore, “wrongfully disbursed” funds are those funds disbursed by a construction lender in response to a borrower’s construction draw request without withholding the amount stated in a Stop Payment Notice served on the lender (or seeing to it that the borrower posted a payment bond in lieu of withholding). By linking the two limitations with the phrase “but in no event more than,” the statute establishes that “the deed of trust” is to be subordinated by an amount equal to the lesser of the two express limitations.

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<sup>14</sup> This subsection of the statute obligates the lender to either withhold the amount stated in the Stop Payment Notice from its borrower’s subsequent draw requests or to obtain a payment bond in the same amount from its borrower: “After the receipt of the notice, the lender shall withhold from the next and subsequent draws the amount claimed to be due as stated in the notice. Alternatively, the lender may obtain from the prime contractor or borrower a payment bond for the benefit of the potential lien claimant in an amount sufficient to cover the amount stated in the potential lien claimant’s notice.” RCW 60.04.2211(5)(1992).

Some examples will help visualize how this works: If a subcontractor recorded a lien and served a stop payment notice on a lender in the amount of \$386,000 and then recovered after trial a judgment for an amount equal to what he claimed in his lien (\$386,000) plus \$10,000 in court-awarded costs, for a total award of \$396,000, the lender's deed of trust would be subordinated by \$394,000 under RCW 60.04.221 (provided the lender had wrongfully disbursed that amount or more in draws after receiving the Stop Payment Notice).

If, under the same facts as above, a subcontractor obtained a judgment on his claim in an amount exceeding the amount stated in his lien (which is legally permissible<sup>15</sup>) and Stop Payment Notice by \$50,000 plus received a cost award of \$10,000, for a total judgment of \$444,000, the lender's deed of trust would only be subordinated by \$394,000 (leaving the remaining \$50,000 of the judgment unsecured). This is because the amount of the subordination was limited to "the amount stated in the notice plus costs as fixed by the court, including reasonable attorneys' fees," irrespective of the amount of the judgment actually recovered.

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<sup>15</sup> RCW 60.04.091(2)(1992). "Where an action to foreclose the lien has been commenced such notice of claim of lien may be amended as pleadings may be by order of the court insofar as the interests of third parties are not adversely affected by such amendment."

Again, assume the same facts as above of a lien claim and Stop Payment Notice in the amount of \$384,000, but this time the lender only “wrongfully disburses” \$100,000 after receiving the Stop Payment Notice. Thereafter, the lender either (a) funds subsequent draw requests in an amount equaling only the amount of its borrower’s draw requests, reduced by the amount stated in the Stop Payment Notice (b) obtains a payment bond for the amount stated in the Notice. Assume once again that the lien claimant recovered after trial a judgment in the amount of \$444,000, including \$10,000 in costs. In this scenario, the lender’s deed of trust would only be subordinated by \$100,000 (leaving the remaining \$344,000 of the lien claimant’s judgment unsecured). This is because the amount of the subordination would be limited to the lesser amount, being “the extent of the interim or construction financing wrongfully disbursed.”

**3. The Receiver’s Revival of an Obsolete Type of Legal Analysis Does Not Support Its Argument That A Deed of Trust Securing Exclusively Construction Financing May Be Partitioned Before Being Subordinated**

Between the 1941 decision in *Elmendorf-Anthony Co. v. Dunn*<sup>16</sup> and the 1973 enactment of RCW 60.04.221 and RCW 60.04.226<sup>17</sup>, Washington trial courts in lien foreclosure cases were required to analyze construction loan documents to determine whether, under “future

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<sup>16</sup> *Elmendorf-Anthony Co. v. Dunn*, 10 Wash.2d 29, 36, 116 P.2d 253, 256 (1941).

<sup>17</sup> More correctly, their predecessors, RCW 60.04.220 and RCW 60.04.225.

advances clauses” in the documents, construction draws were "obligatory" or "optional" before lien priority between lenders and lien claimants could be determined.<sup>18</sup> If future advances were “obligatory,” all draw requests funded by the lender had priority over a construction lien, regardless of when the contractor had provided its services.<sup>19</sup> However, if the lender’s funding of construction draws was “optional,” then the lender’s deed of trust would be partitioned and those portions of the lender’s deed of trust securing disbursements that post-dated commencement of work by the lien claimant would be subordinated to its mechanic’s lien.

This type of analysis was rendered entirely obsolete in 1973 when the predecessors to RCW 60.04.221 and RCW 60.04.226 were enacted. With the enactment of RCW 60.04.226, the legislature granted lenders what (in the Receiver’s terminology<sup>20</sup>) could be referred to as a “super-priority” deed of trust. The statute guaranteed a lender whose deed of trust was recorded prior to the commencement of any improvements on the land priority over the liens of contractors who improved the property

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<sup>18</sup> 18 W. Stoebeck & J. Weaver, *Washington Practice Manual* §17.16, at 299-301 (2d ed. 2004)

<sup>19</sup> This also assumes that the construction lender had also recorded its deed of trust before the lien claimant commenced work.

<sup>20</sup> Respondent’s Opening Brief, p. 9.

irrespective of whether under the future advances clause the funding of construction draws was "obligatory" or "optional."

60.04.226. Financial encumbrances—Priorities. Except as otherwise provided in RCW 60.04.061 or 60.04.221, any mortgage or deed of trust shall be prior to all liens, mortgages, deeds of trust, and other encumbrances which have not been recorded prior to the recording of the mortgage or deed of trust to the extent of all sums secured by the mortgage or deed of trust regardless of when the same are disbursed or whether the disbursements are obligatory.

The consolation provided to construction contractors for the super-priority granted to lenders under RCW 60.04.226 was the Stop Payment Notice procedure within RCW 60.04.221. In order to retain the top priority they obtained through their "super-priority" deeds of trust under RCW 60.04.226, lenders who were served with Stop Payment Notices from lien claimants were required to do one of two things: either (1) withhold from the next and subsequent draws they funded the amount stated in the Stop Payment Notice or (2) obtain a payment bond in this amount from their borrowers.<sup>21</sup>

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<sup>21</sup> Even these duties could be entirely bypassed by the lenders while still retaining their super-priority status if at the outset of the project they had their borrowers post a payment bond equal to fifty percent of the value of the work: "60.04.221 Notice to lender-- Withholding of funds. Any lender providing interim or construction financing where there is not a payment bond of at least fifty percent of the amount of construction financing shall observe the following procedures and the rights and liabilities of the lender and potential lien claimant shall be affected as follows: ..." RCW 60.04.221 (1992)(emphasis added).

**D. The Bank's Action In Creating A \$386,000 "Reserve" From Available Loan Proceeds Was Not In Compliance With The Stop Notice Statute.**

Rather than comply with the statutory instruction to "withhold from *the next and subsequent draws* the amount claimed to be due as stated in the notice,"<sup>22</sup> the lender, PCB, chose instead to simply make a notation in its file reminding itself to withhold from the final draw the amount stated in Appellant's Stop Payment Notice. It then proceeded to fully fund the "next and subsequent draws" in direct violation of RCW 60.04.221. Predictably, the lender's substituted action did nothing to accomplish the purpose of RCW 60.04.221, which is "to provide security for [the party] intended to be protected by [the] provisions."<sup>23</sup> And, to this day, Appellant has never been paid.

On the other hand, the lender's compliance with its obligation to "withhold from *the next and subsequent draws* the amount claimed" would not have guaranteed payment to the Appellant, but it would have put pressure on PCB's borrower to either pay for the work it had received, post a payment bond as an alternate source of security for Appellant's payment, or go into its own pocket to fund the shortfall in the construction draw created by the lender's withholding of the amount stated in the Stop Payment Notice. Contrary to the Receiver's overwrought rhetoric, this does not amount to

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<sup>22</sup> RCW 60.04.221 (5) Notice to lender--Withholding of funds

<sup>23</sup> RCW 60.04.900 (1991)(emphasis added).

“extortion”<sup>24</sup> any more than a common mechanic’s lien or its own deed of trust constitutes extortion. By substituting a “reserve” and thereby waiting until the final draw request to withhold payment, the effect of the Stop Payment Notice would – at minimum – only be deferred to the end of the project at which time it would have the identical effect the receiver complains of as being improper at an earlier stage.

However, substituting the creation of a “reserve” and waiting until the final draw request to withhold payment would more likely result in completing obviating any benefit of the Stop Payment Notice. The security interest created by deeds of trust and liens are to protect creditors, such as lenders and contractors, when a borrower defaults. (Put another way, security would never be required absent a default by the borrower.) Therefore, the relevant question is: What would be the consequence to a construction lien claimant of allowing lenders to substitute “reserves” (i.e., permitting lender to defer the withholding of disbursement until the final draw), rather than requiring lenders to withhold disbursement of the amount in the Stop Payment Notice from the “next and subsequent draws” as the statute requires? The answer is that the lender is unlikely to declare a default after it has disbursed the entirety of its loan proceeds; instead, it is likely to do what was done here by PCB. It declares a default for its own benefit prior to disbursing

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<sup>24</sup> Respondent’s Opening Brief, p. 22., subtitle “(i) Stop Notice Statute is not a device to *extort* early payment from the borrower.”

all of its loan proceeds rendering the withholding of the amount of the Stop Payment Notice from the final draw request a moot issue. This would mean the stop payment notice statute would be rendered nugatory in the only situation where it would have been of any value, a situation where the borrower defaults before the project is completed. This alone, demonstrates that the Receiver's theory permitting the creation of a substitute reserve is nonsensical.

Likewise the Receiver's theory of "equitable garnishment"<sup>25</sup> makes no sense (notwithstanding the supporting musings of the author of the law review case note<sup>26</sup> cited by the Receiver in support of its theory). The Receiver never offers any explanation of how this "equitable garnishment" would work. Would Appellant be entitled to obtain a judgment on its "equitable garnishment" against the lender and recover its missing payment directly out of the lender's account? If so, what would prevent Appellant from doing so today? Where is the statutory authority for this? Where is the common law support?

In short, the only potential benefit of the Stop Payment Notice Statute would arise out of a lender's literal compliance with the legislature's

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<sup>25</sup> Respondent's Opening Brief, p. 20 and 22.

<sup>26</sup> Note, Mechanics' Liens: The "Stop Notice" Comes to Washington, 49 Wash.L.Rev. 685, 695, n. 61.

requirement that the amount stated in the Stop Payment notice be withheld from the next and subsequent draws until the borrower has bonded around it or settled with the lien claimant.

## II. CONCLUSION

For these reasons, Appellant respectfully requests that this court

(a) reverse the trial court's grant of the receiver's motion for summary judgment,

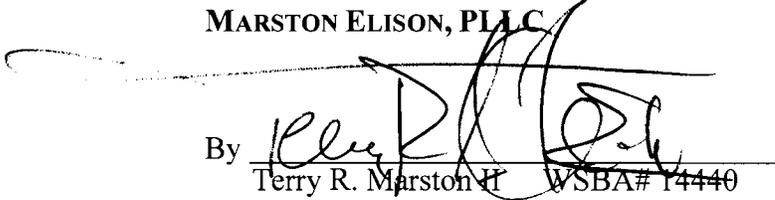
(b) impose a constructive trust on the \$400,000 escrow fund turned over to the Bank by the Receiver, and

(c) remand this matter to the trial court for a determination on the merits of whether

- Whether Soundview 90, LLC is indebted to Village Framers;
- Whether the amount of Soundview 90's indebtedness to Village Framers is in the amount of \$385,464.48;
- Whether Village Framers perfected its mechanic's lien on the property and, consequently, the \$400,000 escrow fund substituted for it following the property's sale; and
- Whether Village Framers had complied with all procedural requirements of the Stop Payment Notice Statute, RCW 60.04.221.

DATED this 21<sup>st</sup> day of March, 2011.

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By 

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Corp

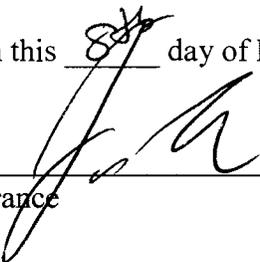
**PROOF OF SERVICE**

I certify under penalty of perjury that on the 8<sup>th</sup> day of March, 2011, I served a copy of Appellant's Reply Brief via email and personal service, ABC Legal Messenger on the following:

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Dated at Redmond Washington this 8<sup>th</sup> day of March, 2011.

  
\_\_\_\_\_  
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