

# Lawyer Fix

## Qualified or not qualified as Trustee?

June 20, 1986 - Court certificate says Anthony M. O'Connell **qualified** as Trustee. Qualified or not qualified?

April 21, 1988 - Deed prepared by anonymous says " . . Anthony M. O'Connell, Trustee, **could not qualify** and Herbert A. Higham, Trustee, was appointed to **act in his place and stead.**"

May 16, 1988 - Court certificate says Anthony M. O'Connell **still qualified** as Trustee.

Comment -

The Establishment's refusal to take an accountable position or whether I did or did not qualify as Trustee under the Will of Harold A. O'Connell is one of the obstacles that paralyzed me, as Trustee for Accotink, from selling Accotink because a Grantor in the Trust Documents is "Anthony Miner O'Connell, Trustee Under the last Will and Testament of Harold A. O'Connell".

# 1985 Fix

Whatever was fixed remains unknown

Insert my best guess words



Bond fee - Lawyer fee as  
bond pd when sold.  
nominal amt now.

Clerk 691-2224

710 d

691-4193 - give

fiduciary no: 21840

Procedure

(Come in - surety bond -)

(to reschedule with)

Fatty Meato.

# 1986 Surprise

Whatever is behind this remains unknown

EDWARD J. WHITE  
ATTORNEY AT LAW  
118 SOUTH ROYAL STREET  
ALEXANDRIA, VIRGINIA 22314

TELEPHONE 836-5444

April 25, 1986

Henry C. Mackall, Esquire  
4031 Chain Bridge Road  
Fairfax, VA 22030

Re: Estate of Harold M. O'Connell

Dear Mr. Mackall:

Enclosed is the draft by Ms. Barnes of the Final Account-  
ing.

I have taken the liberty of correcting a typographical error  
on the distributions to reflect 53.9006% vice 3.9006%.

I would appreciate it if you would forward this to  
Mr. O'Connell and clarify with him his intention to qualify on  
May 1st.

If he does not agree or requests further delaying tactics, I  
feel that I have no other recourse in serving my client than to  
seek to have him removed as a Trustee. This matter is costing  
Mrs. O'Connell dearly with the delay.

Sincerely,

  
Edward J. White

EJW/mc

Enclosure

cc: Mrs. Jean O'Connell ✓

C  
O  
P  
Y

LAW OFFICES

MACKALL, MACKALL, WALKER & SILVER

A PROFESSIONAL CORPORATION

4031 CHAIN BRIDGE ROAD

FAIRFAX, VIRGINIA

22030

HENRY C. MACKALL  
DOUGLASS S. MACKALL, III  
DOUGLAS D. WALKER  
GLENN H. SILVER  
NANCY E. GIBB  
—  
AMY E. BLANCHARD

TELEPHONES  
(703) 273-0320  
(703) 273-0321

May 8, 1986

Mr. Anthony M. O'Connell  
2337 South 13th Street  
St. Louis, Missouri 63104

Herbert A. Higham, Esquire  
6208 Higham Drive  
Alexandria, Virginia 22310

Dear Mr. O'Connell and Mr. Higham:

Enclosed please find a copy of my letter to Mr. White together with copy of a proposed Petition and Order in connection with the bond problem we ran into when you attempted to qualify. I have discussed this with Mr. White and expect no problem getting it entered. If either of you have any objections to anything in either of these documents please let me know.

Sincerely,



Henry C. Mackall

HCM/jkw  
Enclosures

# 1988 Surprise

Whatever is behind this remains unknown.



PURCHASE AGREEMENT

THIS AGREEMENT is made and entered into this 24<sup>th</sup> day of December 1987, by and between JEAN MINER O'CONNELL, ANTHONY M. O'CONNELL, TRUSTEE and HERBERT A. HIGHAM, TRUSTEE ("Seller") and LYNCH PROPERTIES LIMITED PARTNERSHIP, a Virginia limited partnership, or assigns ("Purchaser"). The Seller and the Purchaser are sometimes hereinafter referred to as the "parties".

RECITALS:

R-1 Seller is the owner of a certain parcel of unimproved real property in Fairfax County, Virginia, bearing Fairfax County Tax Map Number 90-2-((1))-0085 and outlined in red on Exhibit "A" attached hereto, and which parcel of real property contains approximately 155,500 square feet of land. Seller also owns an adjacent abandoned right-of-way, the size of which is unknown. Both Parcel 85 and the abandoned right-of-way are hereinafter referred to as the "Subject Property."

R-2 Purchaser desires to acquire the Subject Property, and Seller desires to sell the Subject Property to the Purchaser upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, THIS AGREEMENT

W I T N E S S E T H :

That for and in consideration of the mutual premises hereinafter set forth in this Agreement, and in consideration of

of Purchaser's representation and warranty contained in this Section 10.

Section 11. Notices.

All notices or communications required or permitted under this Agreement shall be in writing and shall be deemed duly given if in writing and delivered personally, or sent by registered or certified United States mail, return receipt requested, first class, postage prepaid, to the following addresses, (or such other addresses as may be designated in writing ):

(a) if to the Seller:

Anthony M. O'Connell, Trustee  
2337 S. 13th Street  
St. Louis, Mo. 63104

and (b) with a copy to:

Jean Miner O'Connell  
6541 Franconia Road  
Springfield, Va. 22150

and (c) if to Purchaser:

Lynch Properties Limited Partnership  
P. O. Box 607  
Springfield, Virginia 22150

and (d) with a copy to:

Allan B. Goldstein  
McGuire, Woods, Battle & Boothe  
8280 Greensboro Drive, Suite 900  
McLean, Virginia 22102

Section 12. Miscellaneous.

12.1 Modifications and Waivers. No modification, waiver, amendment, discharge or change of this Agreement, except

DEED OF BARGAIN AND SALE

THIS DEED, made this 21<sup>ST</sup> day of April, 1988, by and between JEAN MINER/O'CONNELL, unmarried; and ANTHONY M./O'CONNELL and HERBERT A./HIGHAM, Trustees of the Trust established by the Will of the late Harold A./O'Connell, hereinafter called Grantors; and LYNCH PROPERTIES LIMITED PARTNERSHIP, a Virginia limited partnership, hereinafter called Grantee, provides:

That for \$10.00 and other valuable consideration, the receipt of which is hereby acknowledged, the aforementioned Trustees hereby grant, bargain, sell and convey with Special Warranty, and the aforementioned Jean Miner O'Connell hereby grants, bargains, sells and conveys with General Warranty of title unto the Grantee, the following real estate, located in Fairfax County, Virginia, containing 3.23987 acres:

Beginning at a point marking the intersection of the Easterly right-of-way line of Frontier Drive (Route #2677) and the Southerly right-of-way line of Franconia Road (Route #644), thence with the Southerly right-of-way line of Franconia Road S 86° 51' 59" E, 369.48 feet, to a point marking a Northwesterly corner of the property of the County School Board of Fairfax County; thence with the boundary of said School Board S 00° 49' 33" W, 374.84 feet to a concrete monument; and N 89° 10' 27" W, 369.18 feet, to a point on the aforementioned right-of-way line of Frontier Drive; thence with said right-of-way line of Frontier Drive N 00° 49' 33" E, 389.72 feet to the point of beginning, containing 3.23987 acres of land.

AND BEING the same property conveyed to Harold A./O'Connell and Jean M. O'Connell, his wife, as joint tenants with the common law right of survivorship by deed recorded in Deed Book A-13 at Page 37. Whereas by Deed of Partition recorded in Deed Book 4026 at Page 454, the property was reconveyed to Harold A. O'Connell as to an undivided one-half interest and to Jean M. O'Connell, as to an undivided one-half interest, whereas, Harold A. O'Connell died testate May 26, 1975, and by his Last Will and Testament recorded in Will Book 201 at Page 96, devised his interest to his executor Anthony M.

O'Connell, Trustee; whereas Anthony M. O'Connell, Trustee, could not qualify and Herbert A. Higham, Trustee, was appointed to act in his place and stead.

BK7005 0634

PC Box 607  
Springfield, VA 22150

1000000000

COLUMBIA BANNER SETTLEMENT & TITLE SERVICES, INC.  
6251 GREENBROOK DR. SUITE 600  
MCLEAN, VA 22102

1, 111, 257, 37

0000000000

April 21, 1988  
Deed prepared by Edward White or by anonymous says  
" . . . Anthony M. O'Connell, Trustee, could not qualify and Herbert A. Higham, Trustee, was appointed to act in his place and stead."

This conveyance is made subject to all recorded conditions, restrictions and easements affecting the property hereby conveyed.

The Trustee Grantors covenant that they have the right to convey such lands to the Grantee; that they have done no act to encumber such lands. Jean Miner O'Connell covenants that she has the right to convey such lands to the Grantee; that she has done no act to encumber such lands; that the Grantee shall have quiet possession of such lands free from all encumbrances; and that she will execute such further assurances of such lands as may be requisite.

WITNESS the following signatures and seals:

Jean Miner O'Connell (SEAL)  
JEAN MINER O'CONNELL

Anthony M. O'Connell (SEAL)  
ANTHONY M. O'CONNELL, TRUSTEE

Herbert A. Higham (SEAL)  
HERBERT A. HIGHAM, TRUSTEE

COMMONWEALTH OF VIRGINIA  
COUNTY OF FAIRFAX, to-wit:

I, the undersigned Notary Public, for the jurisdiction aforesaid, do hereby certify that Jean Miner O'Connell, whose name is signed to the foregoing instrument bearing date of April 21, 1988, has acknowledged the same before me in my jurisdiction aforesaid.

Given under my hand this 21st day of April, 1988.

Lisa H. Overton  
Notary Public

My Commission Expires: 10 15 91

Lisa Overton of Stewart Title

COMMONWEALTH OF VIRGINIA  
COUNTY OF FAIRFAX, to-wit:

I, the undersigned Notary Public, for the jurisdiction aforesaid, do hereby certify that Herbert A. Higham, Trustee, whose name is signed to the foregoing instrument bearing date of April 21, 1988, has acknowledged the same before me in my jurisdiction aforesaid.

Given under my hand this 21st day of April, 1988.

Lisa A. Overton  
Notary Public

My Commission Expires: 10-15-91

Lisa Overton of Stewart Title

STATE OF VIRGINIA  
CITY/COUNTY OF Fairfax, to-wit:

I, the undersigned Notary Public, for the jurisdiction aforesaid, do hereby certify that Anthony M. O'Connell, Trustee, whose name is signed to the foregoing instrument bearing date of April 21, 1988, has acknowledged the same before me in my jurisdiction aforesaid.

Lisa A. Overton  
Notary Public

My Commission Expires: 10-15-91

Lisa Overton of Stewart Title

RECORDED W/CERTIFICATE ANNEXED

APR 22 1988

FAIRFAX COUNTY, VA.

TESTE: [Signature]  
CLERK

A COPY TESTE:  
JOHN T. FREY, CLERK

By: [Signature]  
Deputy Clerk

EDWARD J. WHITE  
ATTORNEY AT LAW  
118 SOUTH ROYAL STREET  
ALEXANDRIA, VIRGINIA 22314

TELEPHONE 836-5444

March 15, 1991

Mr. Anthony M. O'Connell  
6541 Franconia Rd.  
Springfield, Va. 22150



Dear Mr. O'Connell,

Subsequent to our telephone conversation this morning, I reviewed my files in the cases involving Mrs. O'Connell.

I find that I did indeed mail you a copy of the Limited Power of Attorney along with my letter to you of September 12, 1988. I am enclosing another copy of the Limited Power of Attorney and a copy of the letter I sent you. You may not have received it; however, it was not returned to me by the Post Office.

In regard to your inquiry as to why, in 1988, there came a time when I refused to deal with you on the sale, as I said, I recalled that a conceivably adverse relationship had developed between you and your mother concerning the sale. I call your attention to the sixth paragraph in your letter to her of December 8, 1987, a copy of which is enclosed.

As to your complaint that I did not share the sale documents with you, I call your attention to my letter to you of April 16, 1988 in which the deed, note and trust were sent to you. A copy of that letter is enclosed.

On April 19, 1988 you appeared in my office and stated that you refused to settle on the next day. We did not have a happy discourse. We did discuss the sale and I asked you if you had any other questions.

I am somewhat puzzled as to why all of this is re-surfacing and after reviewing my file and my notes, am not at all comfortable with continuing the dialogue.

Sincerely,

A handwritten signature in black ink, appearing to read "EJW", written over the typed name "Edward J. White".

Edward J. White

EJW/e

Encl.

Copy to: Mrs. O'Connell

# 1992 Deed

Qualified or not qualified as Trustee?

June 20, 1986 - Court certificate says Anthony M. O'Connell **qualified** as Trustee. Qualified or not qualified?

April 21, 1988 - Deed prepared by anonymous says " . . . Anthony M. O'Connell, Trustee, **could not qualify** and Herbert A. Higham, Trustee, was appointed to **act in his place and stead.**"

May 16, 1988 - Court certificate says Anthony M. O'Connell **still qualified** as Trustee.

Comment -

The Establishment's refusal to take an accountable position or whether I did or did not qualify as Trustee under the Will of Harold A. O'Connell is one of the obstacles that paralyzed me, as Trustee for Accotink, from selling Accotink because a Grantor in the Trust Documents is "Anthony Miner O'Connell, Trustee Under the last Will and Testament of Harold A. O'Connell".

DEED IN TRUST UNDER  
LAND TRUST AGREEMENT

THIS DEED IN TRUST UNDER LAND TRUST AGREEMENT, made this 16<sup>JH</sup> day of OCTOBER, 1992 by and between JEAN MARY O'CONNELL/NADER and HOWARD/NADER, husband and wife, SHEILA ANN/O'CONNELL and PIERRE/SHEVENELL, husband and wife, ANTHONY MINER/O'CONNELL, divorced and not remarried, and ANTHONY MINER/O'CONNELL, Trustee Under the Last Will and Testament of Harold A. O'Connell (collectively, "Grantors"); and ANTHONY MINER/O'CONNELL, Trustee, of Fairfax County, Virginia (hereinafter sometimes collectively referred to as "Trustees" or "Grantees"):

W I T N E S S E T H:

That Grantors for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, do hereby grant and convey to the Grantees as trustees the hereinafter described parcel of real estate, situate and being in Fairfax County, Virginia, and being more particularly described on the attached and incorporated EXHIBIT A ("Property").

TO HAVE AND TO HOLD the Property in fee simple, with the appurtenances thereunto belonging, upon the trusts and for the uses and purposes set forth herein and in that certain Land Trust Agreement dated as of 16<sup>TH</sup> day of OCTOBER 1992, which is incorporated herein by this reference.

Full power and authority is hereby granted to the Trustee and their successors and assigns to protect and conserve the property; to sell, contract to sell and grant options to purchase the Property and any right, title or interest therein on any terms; to exchange the Property or any part thereof for any other real or personal property upon any terms; to convey the Property by deed or other conveyance to any grantee, with or without consideration; to mortgage, pledge or otherwise encumber the Property or any part thereof; to lease, contract to lease, grant options to lease and renew, extend, amend and otherwise modify leases on the Property or any part thereof from time to time, for any period of time, for and rental and upon any other terms and conditions; and to release, convey or assign any other right, title or interest whatsoever in the Property or any part thereof.

No party dealing with the Trustee in relation to the Property in any manner whatsoever, and (without limiting the foregoing) no party to whom the Property or any part thereof or any interest therein shall be conveyed, contracted to be sold, leased or mortgaged by the Trustee, shall be obliged (a) to see to the application of any purchase money, rent or money borrowed or otherwise advanced on the Property, (b) to see that the terms of this trust have been complied with, (c) to inquire into the authority, necessity of expediency of any act of any Trustee, or (d) be privileged to inquire into any of the terms of the Trust Agreement. Every deed, mortgage, lease or other instrument executed by the Trustee in relation to the Property shall be conclusive evidence in favor of every person claiming and right, title or interest thereunder; (a) that at the time of the delivery thereof this trust was in full force and effect, (b) that such instrument

TAX MAP 90-4-001-17  
CODE OF VIRGINIA 55-17.1  
ANTHONY O'CONNELL  
6541 FRANCONIA ROAD  
SPRINGFIELD, VIRGINIA 22150

BK8307 1446



was executed in accordance with the trusts, terms and conditions hereof and of the Trust Agreement and is binding upon all beneficiaries thereunder, (c) that the Trustee was duly authorized and empowered to execute and deliver every such instrument, and (d) if a conveyance has been made to a successor or successors in trust, that such successor or successors have been properly appointed and are fully vested with all the title, estate, rights, powers, duties and obligations of his, its or their predecessor in trust.

The Trustee shall have no individual liability or obligation whatsoever arising from his ownership, as trustee, of the legal title to said property, or with respect to any act done or contract entered into or indebtedness incurred by him in dealing with said property, or in otherwise acting as such trustee, except only so far as said Trust Property and any trust funds in the actual possession of the Trustee shall be applicable to the payment and discharge thereof.

The interest of every beneficiary hereunder and under the Trust Agreement and of all persons claiming under any of them shall be only in the earnings, avails and proceeds arising from the rental, sale or other disposition of the Property. Such interest is hereby declared to be personal property, and no beneficiary hereunder shall have any right, title or interest, legal or equitable, in or to the Property, as such, but only in the earnings, avails and proceeds thereof as provided in the Trust Agreement.

This deed is governed by and is to be read and construed with reference to Section 55-17.1, Code of Virginia (1950 as amended) and now in force.

Except as hereinafter noted, the Grantors covenant that they have the right to convey the Property to the Trustee, that Grantors have done no act to encumber the Property, that the Trustees shall have quiet possession of the Property, free from all encumbrances, and that Grantors will execute such further assurances of the Property as may be requisite.

Howard Nader and Pierre Shevenell join in this Deed in Trust Under Land Trust Agreement for the sole purpose of consenting to the conveyance of the Property, and hereby forever convey, release and waive any marital rights or right to claim an elective share in such Property as part of their spouses' augmented estate pursuant to Code of Virginia, Section 64.1-13, et seq., as amended, and give no covenant or warranty of title to the property hereby conveyed.

WITNESS the following signatures and seals:

Jean Mary O'Connell Nader (SEAL)  
Jean Mary O'Connell Nader

Howard Nader (SEAL)  
Howard Nader

Sheila O'Connell (SEAL)  
Sheila Ann O'Connell

Pierre Shevanel (SEAL)  
Pierre Shevanel

Anthony Miner O'Connell (SEAL)  
~~Anthony Miner O'Connell~~

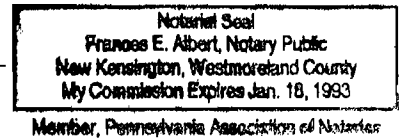
Anthony Miner O'Connell, Trustee (SEAL)  
Anthony Miner O'Connell, Trustee  
Under the Last Will and Testament of  
Harold A. O'Connell

STATE OF Pennsylvania  
COUNTY OF Westmoreland, to wit:

The foregoing instrument was acknowledged before me this  
13<sup>th</sup> day of August, 1992, by Jean Mary O'Connell  
Nader.

Francis E. Albert  
Notary Public

My Commission expires: \_\_\_\_\_

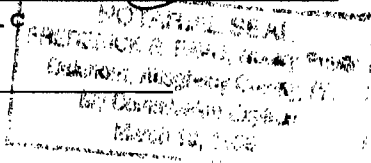


STATE OF Pennsylvania  
COUNTY OF Washington, to wit:

The foregoing instrument was acknowledged before me this  
14 day of August, 1992, by Howard Nader.

Francis E. Albert  
Notary Public

My Commission expires: 3-10-95



Lisa Overton of Stewart Title

From: "Lisa Overton" <LOVERTON@stewart.com>  
Subject: **RE: Where does it say I could not qualify as Trustee?**  
Date: June 14, 2007 10:21:09 AM MST  
To: elynchjr@i95businessparks.com, "Anthony OConnell" <aoconnell@cableone.net>, "Steve Blizzard" <SBLIZZAR@steward.com>, "Lisa Overton" <LOVERTON@steward.com>  
Cc: "Andy Somerville" <andy@smcconcrete.com>

Hi Bill and Mr. O'Connell:

Yes, that is me from 1988 – can't believe how old you are making me feel, and I can honestly tell you that I do not remember that specific 1988 case. Having said that however, when I look at the documents you attach, you did in fact sign the deed as a Trustee, the qualification simply required that a Co-trustee also sign since you were not a resident of Virginia. I do not recall which firm we were using in 1988 to prepare our deeds, we have used quite a few different firms in the past, but it looks as though in the derivation of title paragraph that you underline they simply tried to consolidate the statement of facts. Perhaps they should have been more clear and said that Mr. Higham was appointed WITH you as co-trustee and not in your place.

There is no requirement for a Trustee under a land trust to be a Virginia resident; therefore it is a non issue in this case.

*Lisa Overton  
Stewart Title and Escrow Inc.  
10505 Judicial Drive, #300  
Fairfax, Virginia 22030  
Ph: 703-352-2924  
Fax: 703-991-2449  
Cell: 703-447-9348  
email: loverton@stewart.com*

**From:** Bill Lynch [mailto:elynychjr@i95businessparks.com]  
**Sent:** Tuesday, June 12, 2007 4:31 PM  
**To:** 'Anthony OConnell'; 'Steve Blizzard'; 'Lisa Overton'  
**Cc:** 'Andy Somerville'  
**Subject:** RE: Where does it say I could not qualify as Trustee?

Tony –

I think the short answer is that was then, this is now.

Lisa has handled title work for the Lynch family and me since about 1980 so I am pretty sure she worked on the sale of the home in 1988. I have never had a problem at settlement when she has been involved. She is very thorough and I trust her judgment.

The operative trust agreement is dated in 1992. I don't recall what the documentation was in 1986, but all the documentation that you require to act as Trustee is of record with the 1992 Trust and the Power of Attorney.

Are there any other documents that you are aware of that are not of record?

Bill

Bill Lynch does not mention  
the 1992 Trust Deed

-----Original Message-----  
From: Anthony OConnell [mailto:aoconnell@cableone.net]  
Sent: Tuesday, June 12, 2007 2:46 PM  
To: Steve Blizzard; Lisa Overton  
Cc: Edwin W. Lynch, Jr.; Andy Somerville  
Subject: Where does it say I could not qualify as Trustee?