

Law of Contracts

11p

Contract

PURCHASE AGREEMENT

THIS AGREEMENT is made and entered into this 24th 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

Family

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

ANTHONY M. O'CONNELL
CONSERVATOR
2337 SOUTH THIRTEENTH STREET
ST. LOUIS, MISSOURI 63104

(314) 776-4926

December 8, 1987

Ms. Jean O'Connell
6541 Franconia Road
Springfield, Virginia 22150


Dear Mother:

Thank you for your phone call yesterday telling me about your plans to move. I know it is a heart wrenching experience for you to leave the home you have put so much of yourself into over the past fifty years. I congratulate you again on your decision.

On thinking further of our discussion about controlling the destiny of the house, I feel strongly that deed restrictions or soliciting public support to move the house will only result in obstructing a successful sale.

No one, especially the county, is going to spend \$300,000 to \$400,000 (?) to have it moved so you can make a better profit. If the county did any thing, they would preserve it in situ, perhaps acquiring the land by eminent domain, a logical extension of the Forestdale School playground. I feel when the county did take seven of your ten acres by eminent domain for Forestdale School, they would have taken the entire property if they knew you were not going to live in the house. They did not do you any favors then by compensating you at \$7,000/acre and they are not going to do you any favors now.

At the very least, publicly bringing up the historical significance of the house when you are trying to sell it will make a prospective buyer think very hard about the rezoning battle.

I feel any negotiations concerning the house itself should best be done in private between you and the interested buyer. You also have final control by not selling to a buyer whose plans you find unsuitable. If you cared enough, a successful sale may give you enough money to have the house moved at your expense. 

I am disappointed that you apparently do not want me involved in this transaction. As near as I can determine, you are concerned that I will block the sale. Please tell me of your specific concerns and maybe we will all have a more pleasant and successful experience.

If I had any alternative I would not say this- To get a successful sale and to minimize what I know is an incredibly painful experience for you-Walk away from the house and don't look back. Remember it as it was. It's the new owners responsibility and it is lifted from your shoulders.

With respect to your urgency in selling, I am driving to Virginia tomorrow. I can be reached at the home of

RoseMary Haly
220 Wildman 3NE
Leesburg, Virginia 22075
(703) 777-6371

Sincerely,


Copy to:

Mr. Edward White, Attorney
118 South Royal Street 22314
(703) 836-5444 (Alexandria, Virginia)

Mr. Herbert A. Higham
6208 Higham Drive
Franconia, Virginia 22310
(703) 971-5200/971-3129(Home)

Mrs Sheila Tierney-Sbedvenell
44 Carleton
Portland, Maine 04102
(207) 774-1914

Mrs. Jean Nader
350 4th Avenue
New Kensington, Pennsylvania 15068
(412) 337-7537



April 16, 1988

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

Re: O'Connell to Lynch Properties

Dear Mr. O'Connell,

Enclosed for your signature before a notary public is the original deed. Please date it on the first line and return it to me immediately by express mail.

Also enclosed for your review are copies of the note and deed of trust.

Sincerely,

Edward J. White

EJW/e
Encl.



Virginia State Bar

Eighth and Main Building
707 East Main Street, Suite 1500
Richmond, Virginia 23219-2803
Telephone: (804) 775-0500

Facsimile: (804) 775-0501 TDD: (804) 775-0502

November 1, 1993

PERSONAL AND CONFIDENTIAL

Mr. Anthony M. O'Connell
6541 Franconia Road
Springfield, Virginia 22150

RE: In the Matter of Edward J. White
VSB Docket #93-042-0976

Dear Mr. O'Connell:

This letter is in response to your certified letter dated September 20, 1993, which was received in this office on September 23, 1993. As you know, the basis for my dismissal of your complaint was the absence of an attorney-client relationship between you and the Respondent. Nothing you have submitted to me under cover letter dated September 20, 1993 changes my conclusion.

The copy of Mr. White's fee statement shows an entry: "4/20 OV A. O'CONNELL." The fact that you had an office visit with Mr. White does not create an attorney-client relationship.

I note that the fee statement dated April 16, 1988 is sent to Mrs. Jean M. O'Connell and I believe that your mother is the client in this particular matter, not you.

Your original complaint alleges that the Respondent handled your mother's estate incompetently. I do not believe you have standing to complain, because you are not a client of Mr. White. The second enclosure, a list of your unreturned telephone calls to Mr. White, also does not change my conclusion. Unless you can show that you are a client of Mr. White, Mr. White was under no ethical duty or mandate to return your telephone calls. This complaint also boils down to your word against Mr. White's as to whether he was representing you at the settlement on the real estate transaction. The Bar would have to prove your position by clear and convincing evidence, and I simply do not see any clear and convincing evidence that Mr. White had agreed to represent you, or that he represented you by his conduct.

Mr. Anthony M. O'Connell

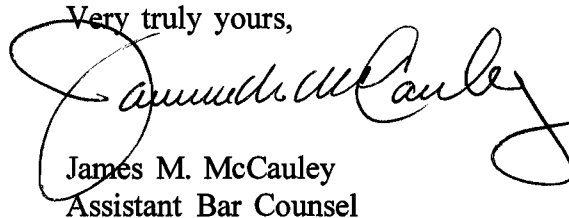
Page 2

November 1, 1993

Finally, you indicate that Mr. White, over a period of seven years, has made defamatory and divisive statements which you consider to be far more damaging than the issue regarding the real estate settlement. The Code of Professional Responsibility does not proscribe defamatory statements by an attorney, and our office is not the appropriate forum to investigate or prosecute your claim. If you feel that you have been defamed or libeled by the Respondent, then your remedy is to file a civil action, but a Bar complaint is not an appropriate vehicle to resolve that issue.

I am truly sorry that I cannot advance your claims or interest, however, I must stand on my original decision to dismiss your complaint. I trust that you will appreciate my explanation, although you disagree with it.

Very truly yours,



James M. McCauley
Assistant Bar Counsel

JMM/dls

Why not ask Edward White to take an accountable position;

- (1) Who did Edward White represent and when?
- (2) What is the name of the person who wrote the deed that Edward White sent Anthony O'Connell for signature?
- (3) Who named Edward White and someone I don't know as Trustees for the deed of trust?
- (4) Where does it say in the court records that Anthony O'Connell could not qualify as Trustee?
- (5) Did Anthony O'Connell qualify or not qualify as trustee u/w of Anthony O'Connell?
- (6) Why did Edward White not respond to Anthony O'Connell's letter of December 28, 1987, or his telephone calls, or not communicate at all until Edward White's letter of April 16, 1988, that said sign the deed and return it immediately by express mail? Why refuse to communicate for 3 1/2 months and then instruct the POC for the Seller to sign and return it immediately by express mail?