

## **SUMMARY OF BRANDT V. JOHNSON-REILAND CONSTRUCTION, INC.**

Unreported, (Minn.App. 2001)

by

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Note: The principles discussed may not apply to all states. The reader is encouraged to research the law in their own state.

In early 1994, Johnson-Reiland Construction, Inc. hired Brandt, a surveyor and civil engineer, as a project engineer for a multi-family housing development. Brandt was responsible for surveying and platting the lots as well as engineering design work. Johnson-Reiland gave Brandt various floor plans for the housing development. Johnson-Reiland asserts that Brandt received all floor plans prior to platting. Brandt claims he did not receive the largest floor plan until after he finished platting. As a consequence, part of the development had to be replatted. Johnson-Reiland asserted the replatting was required because Brandt did not use the correct building setback requirements.

By mid-1998 the dispute had spoiled the working relationship. Subsequently, Johnson-Reiland hired James R. Hill, Inc. to continue with the platting. James R. Hill replatted more of the original plats for the stated reason that Brandt did not correctly establish the ordinary high water mark for the lake next to the development and the plats were improperly drawn.

Johnson-Reiland refused to pay Brandt for replatting. As a consequence, in early 1999, Brandt foreclosed his mechanic's lien against the development seeking \$3,368.24. Johnson-Reiland counterclaimed that Brandt negligently performed engineering and surveying work. In early 2000, a bench trial was conducted. At its conclusion, the court awarded Brandt \$3,368.24 (his fee), \$369.58 in interest, \$522.98 in costs and disbursements, and \$5,317.55 in attorney fees. The court dismissed Johnson-Reiland's counterclaim. The decision was upheld on appeal.

Several important points can be drawn from this case.

**Litigation Costs Exceed Damages Sought:** As is so often the case with litigation, the costs incurred as part of the litigation exceeded the amount sought. In this case, the attorney fees were \$5,317.55. The amount of damages were \$3,368.24. The attorney fees exceeded the amount that was sought. (As a result, Johnson-Reiland probably paid in excess of \$10,000 in order to avoid paying \$3,368.24.) Furthermore, experience suggests that the court awarded Brandt far less than the actual attorney fees. No fees were awarded for appeal. As a result, both sides found that justice is often obscured by the weight of the money used to obtain it. Also, it took over six years to obtain payment for the services completed.

**Mechanics Lien:** This case shows the power and usefulness of a mechanics lien in forcing payment. The mechanic's lien made the surveyor a secured creditor. The security was the property. Many developers do not have assets in their corporate names other than the property that is being developed. Without the ability to secure the property, the surveyor would be without recourse to obtain the money owed from a developer.

**Time Sheets** - The trial court was impressed with the detailed time sheets that Brandt kept and presented as evidence to support the fee he sought. Johnson-Reiland attempted to show that \$1,250 was a more appropriate and reasonable fee. This was rejected with the court finding that \$85 per hour to be reasonable. This case illustrates the usefulness of keeping detailed and complete records of the time and cost required for the services rendered.