Filed in Douglas District Court
*** EFILED ***
Case Number: D01CI140009471
Transaction ID: 0001844558
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IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

NEALE FARMS, INC., a Nebraska Corporation, Plaintiff, v. TRIBEDO, LLC, a Nebraska Limited Liability Company, GEORGE TAYLOR D/B/A TAYLOR GRADING, and JV5 Solutions, LLC an Iowa Limited Liability Company, Defendants.	))))))))))))	Case No. CI 14-_____ COMPLAINT AND PETITION TO FORECLOSE

Comes Now, the Plaintiff for its Complaint and Petition to Foreclose, and alleges the following:

FACTS COMMON TO ALL CLAIMS FOR RELIEF

1. The Plaintiff, Neale Farms, Inc., is a Nebraska Corporation doing business in the State of Nebraska ("Neale Farms").

2. The Defendant, Tribedo, LLC, is a Nebraska Limited Liability Company doing business in the State of Nebraska ("Tribedo").

3. George Taylor, d/b/a Taylor Grading, is an individual who is a resident of Washington County, Nebraska, doing business with offices in Douglas County, Nebraska ("Taylor").

4. JV5 Solutions, LLC, is an Iowa Limited Liability Company, doing business in Nebraska, without a Certificate of Authority from the Nebraska Secretary of State ("JV5 Solutions").

5. Venue is proper in Douglas County, Nebraska because the cause of action arose in Douglas County, Nebraska and because the real estate sought to be foreclosed is located in Douglas County Nebraska.

6. Tribedo was the owner of certain commercial real estate located in Douglas County, Nebraska, which is particularly described as: Lots 1, 2, 3, 6, 7, and 8, and Outlot B, West Dodge Pointe, City of Omaha, Douglas County, Nebraska ("the Property")

7. In the spring of 2014, Tribedo entered into a prime contract as a contracting owner with Taylor to perform improvements to the property, including excavation and grading work to the Property ("the Prime Contract").

8. In the spring of 2014, Taylor subcontracted some or all of the work required in the Prime Contract to JV5 Solutions.

9. In the spring of 2014, JV5 Solutions entered into a subcontract with Neale Farms to provide excavation and grading work under its subcontract with Taylor.

10. On June 27, 2014, Neale Farms sent a partial invoice to JV5 Solutions in the amount of $77,750.00 for 311 hours of operations for work performed up to June 23, 2014.

11. The June 27, 2014 invoice was not paid by JV5 Solutions and upon inquiry Neale Farms was informed by JV5 Solutions that JV5 Solutions was not going to pay the invoice and was abandoning its subcontract with Taylor.

12. On July 31, 2014, Neale Farms filed a Construction Lien on the Property in the Douglas County Register of Deeds, which is attached hereto as Exhibit A and is incorporated by this reference, for work performed on the site pursuant to its agreement with JV5 Solutions.

13. Upon knowledge and belief, JV5 Solutions presented the Neale Farms June 27, 2014 pay request to Taylor and received payment; however, this payment was never forwarded to Neale Farms.

14. In approximately July of 2014, Taylor and Neale Farms entered into a verbal agreement where Taylor agreed to pay Neale Farms for all work performed by Neale Farms, both up to June 23, 2014 and after June 23, 2014 at the same rate as was agreed to with JV5 Solutions, in exchange for Neale Farms remaining on the jobsite and completing the excavating and grading work on the property.

15. Neale Farms completed the excavating and grading work on the jobsite, pursuant to its agreement with Taylor on August 14, 2014.

16. Neale Farms has performed all conditions precedent regarding both its contract with JV5 Solutions and Taylor.

17. On August 14, 2014, Neale Farms sent an invoice in the amount of $174,167.63 to Taylor grading for work performed both up to June 23, 2014 and after June 23, 2014, pursuant to its agreement with Taylor. Taylor has not made payment on this invoice.

18. On September 23, 2014, Neale Farms filed an Amended Construction Lien on the property in the Douglas County Register of Deeds, which is attached hereto as Exhibit B and incorporated herein by this reference.. Pursuant to a request by Tribedo to correct a good faith legal description mistake, Neale Farms filed a partial lien release releasing two lots from the Amended Construction Lien.

19. On November 21, 2014, Neale Farms filed a Construction Lien on the Property in the Douglas County Register of Deeds with the correct legal descriptions and the final amount due, which is attached hereto as Exhibit C, and is incorporated herein by this reference.

FIRST CLAIM FOR RELIEF

BREACH OF CONTRACT VS. JV5 SOLUTIONS

20. The foregoing allegations are incorporated herein by this reference.

21. JV5 Solutions breached the contract with Neale Farms by failing to pay the sum of $77,750.00 to Neale Farms for grading and excavating work performed pursuant to the contract.

22. Neale Farms performed all conditions precedent to recovery on its contract with JV5 Solutions.

23. Neale Farms has suffered damages in the amount of $77,750.00 as the direct result of JV5 Solutions breaching of its contract with Neale Farms.

WHEREFORE, Neale Farms prays for relief as set forth more fully below.

SECOND CLAIM FOR RELIEF

BREACH OF CONTRACT VS. TAYLOR

24. The foregoing allegations are incorporated herein by this reference.

25. Taylor has breached the contract with Neale Farms by failing to pay the sum of $174,167.33 to Neale Farms for grading and excavating work performed pursuant to the contract.

26. Neale Farms performed all conditions precedent to recovery on its contract with Taylor.

27. Neale Farms has suffered damages in the amount of $174,167.33 as the direct result of Taylor breaching its contract with Neale Farms.

WHEREFORE, Neale Farms prays for relief as set forth more fully below.

THIRD CLAIM FOR RELIEF

FORECLOSURE OF CONSTRUCTION LIEN

28. The foregoing allegations are incorporated herein by this reference.

29. Neale Farms provided services or materials pursuant to a real estate improvement contract.

30. The last day services were provided is August 14, 2014.

31. Neale Farms has a construction lien against the Property pursuant to Neb. Rev. Stat. § 52-131 to secure payment of its contract price.

32. Tribedo is a contracting owner under the Nebraska Construction Lien Act.

33. Tribedo is not a protected party under the Nebraska Construction Lien Act.

34. Pursuant to Neb. Rev. Stat. § 52-136(1)(b), the amount of Neale Farm's construction lien is the amount unpaid under Neale Farms' contract, totaling $174,167.33.

35. Neale Farms' construction lien has attached to the property and may be foreclosed because it timely recorded each of the construction liens attached hereto as Exhibits A, B, and C.

36. Neale Farms has complied with all statutory requirements for the foreclosure of each of the construction liens attached hereto as Exhibits A, B, and C.

37. No proceedings have been had at law for the recovery of the debt due, and no part of the debt has been collected or paid.

FOURTH CLAIM FOR RELIEF

QUANTUM MERUIT

38. The foregoing allegations are incorporated herein by this reference.

39. Tribedo has received and retained the benefit of Neale Farms grading and excavating the Property.

40. It would be inequitable and unconscionable to allow Tribedo to retain the benefit of Neale Farms' grading and excavating without paying for this service.

41. Tribedo should be required to pay the reasonable value of the real estate improvement provided by Neale Farms.

42. Tribedo has been unjustly enriched in an amount to be determined at trial.

WHEREFORE, Neale Farms prays for the following relief:

1. Judgment against JV5 Solutions in favor of Neale Farms in the amount of $77,750.00, plus prejudgment and post judgment interest, fees and costs of pursuing this action, and for such other relief as the Court deems just and equitable.

2. Judgment against Taylor in favor of Neale Farms in the amount of $174,167.33, plus prejudgment and post judgment interest, fees and costs of pursuing this action, and for such other relief as the Court deems just and equitable.

3. That Tribedo be foreclosed of all equity of redemption or other interest in said Property, that said Property be sold according to law, and out of the proceeds thereof Neale Farms may be paid the amount adjudged to be due it on said construction lien together with interest and costs of suit and for a deficiency judgment against Tribedo for any amount which may remain unpaid after applying the proceeds thereof to the payment of the liens according to their priority and for such other and further relief as equity may require.

4. Judgment against Tribedo in an amount to be determined at trial, plus prejudgment and post judgment interest, fees and costs of pursuing this action, and for such other relief as the Court deems just and equitable.

Dated: November 24, 2014.

NEALE FARMS, INC., Plaintiff:

By: _____

David V. Drew (#23153)
Drew Law Firm
P.O. Box 462 – 1555 Washington St.
Blair, NE 68008
(402) 426-2636
Attorney for the Plaintiff

C/LIEN 2014058791

JUL 31 2014 11:38 P 1

C/lien 1/9
FEE 10.00 TB OC-42382
BKP ___ C/O ___ COMP AA
DEL ___ SCAN ___ FV CP

B CAN

Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
7/31/2014 11:38:19.61
2014058791

EXHIBIT
tabbies
A

CONSTRUCTION LIEN

Neale Farms Inc.

Return to: 225 N 7th St. Ft. Calhoun, NE 68023

1. The real estate subject to this lien is:
   Lots 1-8 & out Lot B West Dodge Point
2. The person against whose interest in the real estate the lien is claimed is:
   Tribeda LLC 105 N 31st Ave No. 101 Omaha 68131
3. The name and address of the claimant is:
   Neale Farms Inc
   225 N 7th St.
   Ft. Calhoun, NE 68023
4. The name and address of the person with whom the claimant contracted is:
   JUS Solutions LLC John Urenick
   217 Greenhaven Rd.
   Council Bluffs, IA 51503
5. A general description of the claimant's services performed or to be performed or materials furnished or to be furnished for the improvement: Excavation & Grading

   The total contract price is: $ 350,000
6. The amount unpaid, whether due or not, to the claimant for services or materials is:
   $ 350,000
7. The date the last services or materials were furnished was On Going As of 7-31-14

Claimant: Neale Farms, Inc

By: Jeff A. Shaner, President

State of Nebraska

County of ___

The foregoing instrument was acknowledged before me this ___ day of ___ 20___ by ___

NOTARY PUBLIC

My Commission Expires: ___

State of Nebraska

County of Douglas

The foregoing instrument was acknowledged before me this 31 day of July 2014 by Jeff A Shaner, President of Neale Farms Inc, a Nebraska corporation, on behalf of said corporation.

Denise R Licke

NOTARY PUBLIC

402-468-4221 My Commission Expires: ___

GENERAL NOTARY - State of Nebraska
DENISE R. LICKEI
My Comm. Exp. March 24, 2018

C/LIEN 2014074601

SEP 23 2014 10:55 P 2

Fee amount: 16.00
FB: 0C-42382
COMP: BW

Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
09/23/2014 10:55:25.00

2014074601

EXHIBIT
B

AMENDED CONSTRUCTION LIEN

1. The name and address of the claimant is:

   Neale Farms, Inc.
   225 N 7th St.
   Ft. Calhoun, NE 68023

2. The name and address of the person with whom the claimant is contracted is:

   Taylor Grading
   6950 N. 94th St. Plaza
   Omaha, NE 68122

   And

   JV5 Solutions, LLC
   217 Greenhaven Rd.
   Council Bluffs, IA 51503

3. The person against whose interest in the real estate the lien is claimed is:

   Tribedo LLC
   105 N 31st Ave, No. 101
   Omaha, NE 68131

4. A description of the services or materials provided or to be provided by the claimant and contract price is:

   Grading and Excavation. The contract price is $125.00 per hour for equipment, plus fuel and labor.

5. The legal description of the real estate subject to this lien is:

   Lots 1-8 and Outlot B, West Dodge Pointe, City of Omaha, Douglas County, Nebraska

6. The amount unpaid to the claimant for the services and/or materials, whether or not presently due, is $174, 167.63.

7. The date upon which services and/or materials were last furnished is: August 12, 2014

DATED this 22 day of September, 2014.

Neale Farms, Inc.:

Jeff Shaner, President

STATE OF NEBRASKA)
) :ss:
COUNTY OF Washington)

The foregoing instrument was acknowledged before me on the 22 day of September, 2014, by Jeff Shaner, President of Neale Farms, Inc..

Notary Public

GENERAL NOTARY - State of Nebraska
DAVID V. DREW
My Comm. Exp. Sept. 3, 2016

* Amending Construction Lien 2014058791 filed July 31, 2014

C/LIEN 2014091245

NOV 21 2014 16:05 P 2

Fee amount: 16.00
FB: 0C-42382
COMP: LC

Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
11/21/2014 16:05:46.00

2014091245

EXHIBIT
C

CONSTRUCTION LIEN

1. The name and address of the claimant is:

   Neale Farms, Inc.
   225 N 7th St.
   Ft. Calhoun, NE 68023

2. The name and address of the person with whom the claimant is contracted is:

   Taylor Grading
   6950 N. 94th St. Plaza
   Omaha, NE 68122

   And

   JV5 Solutions, LLC
   217 Greenhaven Rd.
   Council Bluffs, IA 51503

3. The person against whose interest in the real estate the lien is claimed is:

   Tribedo, LLC
   Suite 200
   105 N 31st Ave, No. 101
   Omaha, NE 68131

4. A description of the services or materials provided or to be provided by the claimant and contract price is:

   Grading and Excavation. The contract price is $125.00 per hour for equipment, plus fuel and labor.

5. The legal description of the real estate subject to this lien is:

Lots 1, 2, 3, 6, 7, and 8, and Outlot B, West Dodge Pointe, City of Omaha, Douglas County, Nebraska.

6. The amount unpaid to the claimant for the services and/or materials, whether or not presently due, is $174,167.63.

7. The date upon which services and/or materials were last furnished is: August 12, 2014.

DATED this 21st day of November, 2014.

Neale Farms, Inc.:

Jeff Shaner, President

STATE OF NEBRASKA)
) :ss:
COUNTY OF WASHINGTON)

The foregoing instrument was acknowledged before me on the 21 day of November, 2014, by Jeff Shaner, President of Neale Farms, Inc.

Sheri C Bateman
Notary Public

GENERAL NOTARY - State of Nebraska
SHERI C. BATEMAN
My Comm. Exp. April 9, 2015