

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

THIS SETTLEMENT AGREEMENT AND MUTUAL RELEASE (the "Agreement") is hereby entered into this ___ day of February, 2016, by and among Edward P. Balbat and Danielle Balbat (collectively, the "Balbats"), domiciled residents and inhabitants of the Town of Westerly, County of Washington, State of Rhode Island; Steven Dubois and Cheryl Dubois (collectively, the "Dubois"), domiciled residents and inhabitants of the Town of Westerly, County of Washington, State of Rhode Island; Westerly Granite Co., Inc. ("WGC"), a duly organized and existing corporations pursuant to the laws of the State of Rhode Island, having a principal place of business located at 4 Chase Hill Road, Westerly, Rhode Island; and the Town of Westerly, by and through John P. Carson, Sr., Philip M. Overton, Jean L. Gagnier, James V. Silvestri, Mario P. Celico, Christopher A. Duhamel and Louis P. Sposato, Jr., in their official capacities as Members of the Westerly Town Council, and not in their individual capacities (the "Town"), a body politic created by charter located in the Town of Westerly, County of Washington, State of Rhode Island (collectively, the "Parties").

RECITALS

WHEREAS, at all times relevant hereto, the Balbats and the fee simple title owners of the real property located at 34 Quarry Road, Westerly, Rhode Island, having acquired the same in or about March, 2006.

WHEREAS, at all times relevant hereto, the Dubois are the fee simple title owners of the real property located at 181 Church Street, Westerly, Rhode Island, having acquired the same in or about April, 1992.

WHEREAS, at all times relevant hereto, WGC is the fee simple title ownership of that certain quarry property located in the Town, which said premises is more commonly known, and identified, as Assessor's Plat 55, Lot 1, with an address of Quarry Road (the "Quarry Property"), with WGC having acquired the same in or about 1997.

WHEREAS, at all times relevant hereto, including during the period of WGC's ownership of the Quarry Property, the Quarry Property has been utilized for certain purposes, including quarrying, blasting the storing and processing of rock, sand and gravel operations, and related undertakings, including those activities with regard to the extraction industry, as defined by R.I. Gen. Law §45-24-31(25) (the "Quarrying Operations").

WHEREAS, The Quarry Property has a long history of being used for Quarrying Operations, dating back to the early 1800's, and, as such, the Quarry Property was previously deemed by the Town, including its planning and zoning offices, pursuant to that certain Zoning Certificate issued by the Town to WGC, dated August 20, 2007, to be a pre-existing use for Quarrying Operations.

WHEREAS, pursuant to the current Town's zoning district use tables, stone mining, crushed and broken stone mining, and sand and gravel removal are specially permitted uses in Light Industrial Zones.

WHEREAS, the Quarry Property is zoned Light Industrial; however, given that the Quarrying Operations at the Quarry Property pre-date the Town's Code of Ordinances, the Quarrying Operations constitute a legally permitted, pre-existing use.

WHEREAS, in or about January, 2012, the Balbats and Dubois (collectively, the "Neighbors"), and each of them, among others, commenced that certain legal action in the Rhode

Island Superior Court, Washington County, as against WGC, the Town, and WGC's then tenant engaging in Quarrying Operations on the Quarry Property, to wit, Copar Quarries of Westerly, LLC ("Copar"), and each of them, alleging, among other things, public and private nuisance relative to the then ongoing Quarrying Operations (the "Nuisance Action").

WHEREAS, WGC appealed certain Notices of Violation and Cease & Desist Orders issued by the Town as against WGC, including without limitation that certain Notice of Violation and Cease & Desist Order, dated November 27, 2013, issued by the Town that included the Town filing a Counterclaim against WGC seeking to enjoin Quarrying Operations on the Quarry Property, which action was entitled *Westerly Granite Company, Inc., et al v. The Zoning Board of Review for the Town of Westerly, et al*, C.A. No.: WB13-0136 (the "Zoning Action").

WHEREAS, the Neighbors moved the Superior Court to intervene as a matter of right in the Zoning Action

WHEREAS, the Neighbors sought intervention alleging that the Quarrying Operations constituted a nuisance, and, as such, intended to assert that claim in the Zoning Action despite already maintaining a wholly separate and distinct action, as against the Town, WGC, and Copar, and each of them, on that very same basis in the Nuisance Action.

WHEREAS, in or about January, 2014, the Washington County Superior Court only permitted the Neighbors' involvement in the Zoning Action for the limited purposes of discovery, and, in so doing, restricted their participation to merely seeking discovery through the Town's counsel.

WHEREAS, immediately prior to commencing the scheduled trial in the Superior Court Action in February, 2014, the Town, WGC and Copar, respectively, settled the dispute in the

Zoning Action, which resulted in the Town withdrawing each of the NOV's issued as against WGC, the parties dismissing, with prejudice, their respective claims, and a Consent Order being entered into intended to fully and finally resolve the Superior Court Action, which was entered by the Washington County Superior Court on February 25, 2014 (the "2014 Consent Order"), over the Neighbors' objection, which, among other things, declared Quarry Operations on the entirety of the Quarry Property a legally permitted, pre-existing use.

WHEREAS, as a result of the Washington County Superior Court having entered the Consent Order on February 25, 2014, the Neighbors filed certain appeals with the Rhode Island Supreme Court relative to the 2014 Consent Order, and certain other issues involving the Superior Court Action, to wit, Appeal Nos.: SU-14-0142 and SU-14-0143 (the "Supreme Court Appeals"), respectively.

NOW, THEREFORE, insofar as the Parties desire, and intend to settle and conclude the Supreme Court Appeals, as well as the Zoning Action once and for all, including any and all claims, causes, causes of action, demands, controversies, disputes, and the like, by and among the Neighbors, WGC and the Town, and each of them, the Parties hereto agree, consent and stipulate as follows:

1. Quarry Operations, including without limitation any and all quarrying activities, operations and/or processing shall be permitted as a legally permitted, pre-existing use on the whole of the Quarry Property, with the exception of those certain two (2) areas of the Quarry Property delineated on Exhibit A hereto where Quarry Operations shall be prohibited. WGC shall maintain a ten foot (10') buffer zone between Quarry Operations on the Quarry Property, and the property bounding line(s) abutting Assessor's Plat 65, Lot 2.

2. The Supreme Court Appeals, and all other pending litigation by and among the Parties, including the Zoning Action shall be dismissed, with prejudice.

3. The 2014 Consent Order shall be vacated in its entirety by agreement of the parties, except as may otherwise be provided for herein.

4. WGC has the ability to recover and/or remove from the Quarry Property, regardless of location on said premises, any previously harvested or quarried large stone that may have been previously stockpiled solely for monument purposes on a special or custom order basis. That said, there would be no Quarrying Operations, including any splitting or cutting of any harvested or quarried large rock in any of the areas delineated on Exhibit A hereto where Quarry Operations shall be prohibited. As to those areas delineated on Exhibit A, this provision shall expire on the seventh (7th) anniversary of the execution of this Agreement.

5. WGC, and any quarry operator, will employ reasonable efforts and best management and industry practices to continue to move the so-called processing/crushing operations in a south/southwesterly direction; however, the to be installed wash plant shall continue to be located north of any such processing/crushing operations, as well as the settlement pond(s) insofar as water will need to be drawn from the same to "feed" the wash plant.

6. WGC, and any quarry operator on the Quarry Property, shall be required to employ best industry standards and management practices in the course of any Quarry Operations, and, further, shall be required to follow all applicable federal, state and local laws, regulations and/or ordinances.

7. WGC, and any quarry operator on the Quarry Property, shall be limited to no more than two (2) blasts per week. Further WGC (including its operator) will limit blast depths to

no more than forty feet (40') per blast hole, and will limit the use of explosives to no more than fifteen thousand pounds (15,000 lbs.) per blast. All abutting property owners relative to the Quarry Property shall receive twenty-four (24) hour advance notice with regard to any scheduled blasting activities. Best industry standards and management practices concerning blasting activities, and advance notice shall be followed. Pre-blast surveys shall be conducted prior to blasting activities. Any blast drilling equipment shall have, and utilize dust collection accessories.

8. WGC, and any quarry operator shall comply with the Town's noise and dust ordinances. Further, Quarrying Operations will not take place on the following holidays: Martin Luther King, Jr. Day; President's Day; Memorial Day; Independence Day; Labor Day; Columbus Day; Veteran's Day; Thanksgiving Day; Christmas Day and New Year's Day, respectively. Quarrying Operations may occur on the Quarry Property on all other days, excepting Sundays, and as otherwise may be prohibited herein.

9. Crushing, processing and/or blasting operations, per Town ordinance, may commence at 7:00 a.m., and conclude by 5:00p.m. on weekdays. No such activities shall occur on any Saturday; however, any non-crushing, non-processing and/or non-blasting operations may, in fact, be conducted on any Saturday as may otherwise be allowed per Town ordinance.

10. Any quarry operator on the Quarry Property will be required to water, on a regular basis, as otherwise required by applicable ordinance and/or federal or state statute or regulation, any unwashed stone dust located on the Quarry Property. Notwithstanding, any such watering protocol shall be weather dependent.

11. A wash plant is currently being installed on the Quarry Property. As such, any newly generated unwashed stone dust will be "washed" in the ordinary course and in the exercise

of reasonable diligence in the course of the Quarrying Operations, and in accordance with best industry and management practices.

12. WGC, and any quarry operator, shall limit the height of any piles of newly unwashed stone dust to not more than twenty feet (20').

13. WGC, and/or any quarry operator, shall use best efforts to market, sell and/or remove from the Quarry Property any unwashed stone dust, which was previously stockpiled by Copar. In so doing, WGC (including its quarry operator) shall undertake a commercially reasonable protocol to cause the removal of said unwashed stone dust from the Quarry Property, and, further, endeavor to achieve the same within eighteen (18) months of the date of this Agreement. Notwithstanding, upon request, and upon a showing of good reason, WGC (including its quarry operator) may be allowed a reasonable extension of time, which consent shall not be unreasonably withheld, to complete the foregoing, provided that WGC has substantially complied herewith, or otherwise endeavored in good faith to accomplish the intent of this paragraph. In furtherance hereof, WGC shall not permit any quarry operator to unnecessarily or unreasonably stockpile any unwashed stone dust on the Quarry Property.

14. The Town shall have the ability and preserves its right to enact future ordinances relative to Quarrying Operations, which said ordinances would be applied uniformly to any and all Quarrying Operations and/or contractors engaging in business operations or commercial activities within the Town, and, further, WGC and/or its quarry operator preserve their right to be heard in a public hearing prior to enactment of any such ordinance to address the reasonableness and/or rational basis for any such future ordinances.

15. WGC will agree to a seventy-five foot (75') buffer surrounding the so-called Balbat property with regard to any quarrying activities; however, WGC and/or its quarry operator shall have the ability to engage in any permissible business operations within said buffer so long as no Quarrying Operations are occurring therein.

16. WGC will replant the white pines that were previously planted by Copar, which have died. In so doing, WGC will apply top soil to the berm where the white pines will be replanted, and apply grass seed. WGC agrees to complete this process in the Spring, 2016. WGC will use reasonable and best efforts regarding the same.

17. WGC will permit reasonable inspection of the Quarry Property by the Town as provided under any local ordinance or inherent power of the Town's zoning and enforcement officer or designees. Notwithstanding, the Town agrees that prior to the issuance of any notices of violation, or the like, in the event it determines there to be some form of non-compliance, it will provide written notice of the same to WGC, as well as its quarry operator, and, further, afford said parties a fourteen (14) day period to resolve the same.

18. There shall be no travel restrictions with regard to the use of Route 216 by commercial vehicular traffic entering and/or exiting the Quarry Property. Insofar as Route 216 is a state highway, the same is within the purview of the State of Rhode Island. WGC agrees that, where practicable, the quarry operator and/or trucking company utilized by the quarry operator will employ the most direct route upon egress from the Quarry Property.

19. The Neighbors agree to withdraw, and dismiss, with prejudice, their Application for Appeal to the Westerly Zoning Board of Review concerning the Westerly Zoning Official's July

22, 2015 rescission of his May 18, 2015 Notice of Violation and Cease and Desist Order previously issued to WGC and Armetta, LLC.

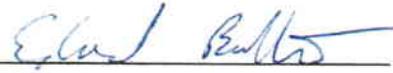
20. In consideration of the above-referenced conditions and mutual release of all claims and causes of action referenced in the paragraph below, the Town agrees to pay the Neighbors the sum of Forty Thousand and 00/100 Dollars (\$40,000.00) in settlement of all claims against the Town.

21. For and in consideration of the payments and other consideration set forth herein, the Parties hereby completely release and forever discharge, hold harmless and covenant not to sue each other and their predecessors, heirs, executors, administrators, personal representatives, agents, owners, successors, assigns, joint venturers, partners, parent companies, subsidiary companies, affiliates, and their respective current and former officers, directors, employees, servants, representatives, officials, attorneys, associates, and trustees of the foregoing persons and entities, from any and all actions, causes of action, suits, debts, dues, claims and demands of every kind and nature, both at law and in equity, including but not limited to the matters and causes of action set forth in the various Complaints previously filed by the Neighbors, WGC, and the Town, and each of them, now and/or formerly pending in the Washington County Superior Court concerning the operation of the Quarry Property and/or Quarrying Operations on the Quarry Property, against which the Parties ever had or now have of any nature, cause or thing, for or by reason of any matter whatsoever up to and including the date of this Agreement. Pursuant hereto, the Parties shall enter into, and execute an appropriate form of Mutual General Release.

22. The Parties shall enter into, and execute an appropriate form on Non-Disparagement Agreement as a condition of this Agreement.

Agreed, Consented & Stipulated To:

Westerly Granite Co., Inc.


Edward P. Balbat


Danielle Balbat


Steven Dubois


Cheryl Dubois

By: _____
Title: _____

Town of Westerly

By: JAMES V SILVESTRI
Title: PRESIDENT

Agreed, Consented & Stipulated To:

Westerly Granite Co., Inc.

Edward P. Balbat

Richard D. Comelli

By: RICHARD D Comelli

Title: president

Danielle Balbat

Town of Westerly

[Signature]

Steven Dubois

By: JAMES V SILVESTRI

Title: PRESIDENT

Cheryl Dubois

EXHIBIT A
