

FULL AND FINAL RELEASE AND SETTLEMENT AGREEMENT

This Release and Settlement Agreement (the "Release") is entered into and executed in triplicate originals on the dates set forth below by the following parties:

PARTIES:

PLAINTIFF: **John T. Lambert, Jr.**

DEFENDANT (ALSO REFERRED AS RELEASED PARTY OR PARTIES): **St. Charles Parish**

A. SUMMARIZED ALLEGATIONS AND FACTS OF MARY VIAL, ET AL., VERSUS ST. CHARLES PARISH, #69251 OF THE 29TH JUDICIAL DISTRICT COURT, PARISH OF ST. CHARLES, STATE OF LOUISIANA LITIGATION:

This Release arises the allegations asserted in the Original Petition for Just Compensation (suit) filed by John T. Lambert, Jr. against St. Charles Parish.

On April 20, 2009 John T. Lambert filed suit against the Parish of St. Charles in Action # 69251 of the 29 Judicial District Court, Parish of St. Charles, State of Louisiana captioned *Mary Vial, et al versus St. Charles Parish* which involved various alleged claims as pertaining to the below property.

Plaintiff, John T. Lambert, Jr., owns 2/3 interest of that certain immovable property that was made part of this litigation in St. Charles Parish more fully described as follows:

A certain tract or parcel of land, situated in the Parish of St. Charles, State of Louisiana on the east bank of the Mississippi River, at about 21 miles above the City of New Orleans, measuring one hundred and twenty-one (121 ') feet, more or less, front on the said river by eighty (80) arpents in depth, opening in the rear; bounded above by Tract No. Three hereinafter described, together with all rights, ways, servitudes, privileges and advantages thereunto belonging; including all buildings hereon.

As per plan of W. A. Blalock, Civil Engineer, dated April 23,1924, and as more fully surveyed and shown by blue print of plan made by Henry E. Landry, Civil Engineer, under date of August 22,1946, both of said plans being hereto annexed and made part hereof, and shown thereon as Tract No. Four of Nine Tracts comprising the property formerly known as the "John Lambert Tract", located in Section 41, 43, and 47, Township 12 South, Range 9 East, east of the Mississippi River, in St. Charles Parish, Louisiana. Acquired by William A. Lambert per Act of Partition dated December 22, 1951 and recorded in COB XXX, Folios 126 et seq.

John T. Lambert, Jr. is further the owner of an undivided 1 /4 interest in the following property:

A certain tract of land, together with all the buildings and improvements thereon and all the rights, ways, privileges and servitudes thereunto belonging or in anywise appertaining, situated in the Parish of St. Charles, State of Louisiana, on the left bank of the Mississippi River, about twenty-five miles above the City of New Orleans, measuring two and one-half (2 Yi) arpents front on the Mississippi River, by a depth of sixty (60) arpents between parallel lines, together with alluvion and batture and all riparian rights attached to the ownership of said property, bounded above by the property now or formerly belonging to Vincent Barbara, below by the property now or formerly belonging to Mrs. F. O. Weaver and on the rear by the property formerly belonging to A. Lasseigne, and sold by him to John Dresser, together with all the buildings thereon; less that part of the property heretofore sold to Vincent Barbara and Henry Barbara by Olide Cambre, by act before Henry J. Forcele, Jr., Notary Public for the Parish of Orleans, on June 18,, 1917, registered in Conveyance Office Book T, Folio 163, Parish of St. Charles, which said part is to be taken off of the above described property and which said property so sold by Olide Cambre, the vendor now declares consists of One (1) arpent front taken from the upper side by sixty (60) arpents in depth between parallel lines, excepting an off-set of ground to include oak trees which was not sold.

And which said portion of land is more fully depicted by a survey thereof made by Frank T. Payne, Civil Engineer and Surveyor, dated Gretna, Louisiana, April 25, 1924, a blue print copy of which is hereto annexed, and by which the said tract or portion of land is more fully described as:

a Certain piece or portion of land fronting on the Mississippi River and including all alluvial batture, with a front measurement on the public road on an angle of three hundred and sixteen and four tenths feet, from the point "H" to the point "I"; thence it has a first depth from the point "I" north twenty-four degrees, fifty-six minutes west five hundred and minutes east, sixty-six and 91/100 feet to the point "B"; thence it has a fourth depth on a line north thirty feet to the point "A"; thence it widens to a second depth on a line north thirty-two degrees forty-four minutes west, four hundred and fifty-seven and four tenths feet to the point "C" thence it narrows to a third depth on a line north forty-three degrees, thirty-three twenty-four degrees, fifty-six minutes west, four thousand five hundred and nine feet to the point "D"; thence it has a fifth depth on line north twenty-five degrees twelve minutes west, five thousand nine hundred and seventy-one feet to a point "E"; where it joins the sixty arpent line; thence has its rear line on a north forty-one degrees, thirty minutes east, three hundred and fourteen and three-tenths feet to the point "F"; thence back along its lower side on a line south twenty-five degrees, twelve minutes west, sixty-one hundred feet on the point "G"; thence on a line south twenty-four degrees, fifty-six minutes west, five thousand three hundred and eighty-eight feet to the point "H", the point of beginning.

And which said tract of land as depicted contains seventy-four and seventy-one hundredths (74.71) acres.

According to the map of Frank H. Waddill, C.E., dated February 17, 1904, said tract of land lies in part in Township 13 S., R. 9 E., and in part in Township 12, S. R. 9 E.

Among the many allegations Plaintiff asserted in his Original Petition for Just Compensation are summarized below.

He alleges that:

“At some point in 2006, Warren Treme was in the process of developing a subdivision (hereafter the "Subdivision") in St. Charles Parish.

The Subdivision was located in a flood plain, and Mr. Treme thus had to secure drainage for the Subdivision before it could be fully developed. Treme thus swapped two (2) lots in the Subdivision for ten (10) acres of land then owned by the St. Charles Parish School Board. As part of the deal struck with the School Board, Mr. Treme required a guarantee by St. Charles Parish (hereinafter the "Parish") that it would provide drainage for the Subdivision.

The Parish did not have ownership of or access to the property necessary to provide this drainage. Required was the property owned by Plaintiffs.

Commencing late 2006, the Parish trespassed onto Plaintiff's property, dug a canal through Plaintiff's property, and built a road accessing the canal through a portion of Plaintiff Mary Vial's land. The canal continues to fill with water and overflow onto Plaintiff's land.

At no time did Plaintiff give the Parish permission to trespass onto his land or to dig a canal on his property; nor did Plaintiff Mary Vial give permission to the Parish to utilize her property to build the road that provides access to the canal.

At no time did the Parish ever commence expropriation proceedings to take Plaintiff's land, nor did the Parish ever tender just compensation or damages. Plaintiff, John T. Lambert, owned all rights in and to the property that is now part of this litigation.

The Parish took the property in that it has now placed a canal on the property.

As a result, Plaintiff has been divested of his ability to enjoy all rights in and to his property.

The Parish took the property for a public purpose in that the canal is utilized to provide drainage for the Subdivision. The canal divides, severs and damages Plaintiff's property and diminishes the value the remainder of Plaintiff's property.

Pursuant to the Fifth Amendment to the United States Constitution, Louisiana Constitution Article I, §4 and La. R.S. 13:5111, Plaintiff would have been entitled to just compensation to the full extent of his loss resulting from Defendants' taking of his property, including, but not limited to; (1) damages equivalent to the market value of the property actually taken to build the canal and road; (2) damages to the remainder of Plaintiff's property as a result

of the taking; (3) damages caused by Defendant's creation of a flowage easement across Plaintiff's property-both inside and outside the banks of the canal dug by Defendant; (4) costs to cure; and (5) all attorneys' fees, expert fees and costs incurred in connection with this proceeding."

Plaintiff, John T. Lambert, filed an **1st Supplement, Amended and Superceding (sic) Petition for Just Compensation** against Defendant on June 22, 2009.

In the Petition, he asserted the following summary of allegations and facts: In the fourth quarter of 2005 and the first quarter of 2006, Warren Treme was in the process of developing a subdivision in St. Charles Parish. The Subdivision was located in a flood plain, with the Subdivision abutting the South and Southwest boundaries of Plaintiff's property, and Mr. Treme thus had to secure drainage for the Subdivision before it could fully be developed. Treme thus swapped two (2) lots in the Subdivision for ten (10) acres of land then owned by the St. Charles Parish School Board. As part of the deal struck with the School Board, Mr. Treme required a guarantee by St. Charles Parish (hereinafter the "Parish") that it would provide drainage for the Subdivision.

The Parish did not have ownership of or access to the property necessary to provide this drainage. Required was the property owned by Plaintiff. Furthermore, the existing drainage system for the Parish would not permit adequate drainage for the subdivision.

At a time unknown to Plaintiff because of the secrecy with which the project occurred, but commencing at some point in the fourth quarter of 2006, the Parish entered onto Plaintiff's property without permission, dug a canal through Plaintiff's property, and built a road accessing the canal through a portion of Plaintiff's land. The canal continues to fill with water and overflow onto Plaintiff's land.

A Kansas City Railway Line (hereafter "KC Line") runs through the subject property. Running perpendicular to the line is Beltway Drive, which also bisects the subject property. Commencing approximately fifty (50) yards from the intersection between Beltway and the KC Line, and running in a westerly direction from that point, is the primary canal dug by St. Charles Parish (hereafter the "East-West Canal"). The East-West Canal traverses all of the subject property, running parallel with the KC Line. The East-West Canal widens to a breadth of no less than thirty (30) feet at its widest point, with the spoil bank further encroaching on Plaintiff's property.

As a result of the dredging and other operations necessary to dig this canal, the Parish recklessly deposited substantial dredging debris, trees, vegetation and other spoil along the banks of the primary canal. Not only does the spoil itself cause significant contamination and harm to Plaintiffs' property, but it further has eroded the banks of the canal and caused its breach in areas, resulting in further flooding of Plaintiff's property.

On the Lambert property, the second canal cut-in using a North-South direction (hereafter the "North-South Canal"), caused an oxbow effect and extended the spoil bank along the North-South Canal. This spoil bank includes debris, tress, vegetation and other spoil along the banks.

In constructing and maintaining these two (2) canals, the Parish constructed an access road parallel to the North-South. The Parish cut a road parallel to the North-South Canal and destroyed trees and vegetation in connection with that work. This road and other access areas on Plaintiffs' property have created public access routes which subject Plaintiffs to trespassing by the general public. The Parish's construction of this road littered the property with debris and substantially damaged both the area utilized for the road and the adjacent property.

The Parish additionally engaged in additional unauthorized construction activities, including, but not limited to: (1) an additional V-shaped drainage structure (hereafter the "V Drainage Structure") on the property North of the adjacent subdivisions abutting the property; (2) an additional drainage ditch and jack-and-bore culvert allowing water to pass underneath the KC Line; (3) a vehicular route through the Vial property that adjoins the N-S Canal; and (4) an offshoot canal running parallel to the KC Line.

Over and above the damage done directly to his property as a result of the creation of these canals, ditches, roads and paths, Plaintiff has further suffered damage as a result of the Parish's use of his property as the primary drainage for the adjacent developments.

He has experienced substantial flooding due to the fact the development plan approved by the Parish permitted that property to drain directly onto his property. The fill from the adjacent development further encroaches his property.

As the canal waters move north, the waters intersect with the railroad track running East-West across the subject property. Due to the elevation of the railroad track, the water leaches backwards and floods the property, thus creating a "puddling" effect. Lots abutting the his property are allowed to drain onto his property because the Parish failed to require adequate safeguards-such as a drainage receptacle or retaining wall-along the boundary of the subdivisions.

Plaintiff never authorized or gave permission to the Parish to enter upon or engage in any type of construction activities upon his property.

The Parish neither commenced expropriation proceedings nor tendered just compensation or damages.

Plaintiff owned all rights in and to the property that is now covered by the canals, ditches, paths and roads.

The Parish took the property in that it has now placed canals, ditches, paths, roads and drainage ponds on the property. As a result, Plaintiff has been divested of his ability to enjoy all rights in and to said property, because said property is now fully overrun with water and/or has been cleared for paths and roads such that the property is no longer fit for the purposes to which Plaintiff had previously put the property to use.

The Parish took the property for a public purpose in that they purportedly constructed the canals, ditches, paths, roads and drainage ponds so as to provide drainage to the adjacent property, albeit in a manner that has by-passed the existing drainage plan of the Parish and caused extensive flooding and puddling on Plaintiff's property. The property rose to the level of a taking in that it permanently deprived Plaintiff of his rights to free and unfettered enjoyment of his property by converting the property to uses Plaintiff never contemplated and depriving Plaintiff of the ability to put the property to its highest and best use.

The canals, ditches, paths and roads divide, sever and damage Plaintiff's property and diminish the value of the remainder of Plaintiff's property. The property suffered diminished value where the canal rests because the overrun of the water makes the property unmarketable nor could the property be put to its highest and best use. He claims that the Parish further diminished the value of the surrounding property in that they subjected it to overflow, erosion, spoliation and puddling of water that prevent the utilization of the property for its highest and best use. The Parish has essentially rendered the property economically useless.

Pursuant to the Fifth Amendment to the United States Constitution, Louisiana Constitution Article I, §4 and La. R.S. 13:5111, Plaintiff is entitled to just compensation to expert fees and costs incurred in connection with this proceeding, the full extent of his loss resulting from Defendant's taking of his property, including, but not limited to: (1) damages equivalent to the market value of the property actually taken to build the canals, ditches, paths, roads and drainage ponds; (2) damages to the remainder of Plaintiff's property as a result of the taking; (3) damages caused by Defendant's creation of a flowage easement across Plaintiff's property-both inside and outside the banks of the canals dug by Defendant; (4) costs to cure; and (5) all attorneys' fees,

B. CONSIDERATION:

In consideration of this Settlement and Release, the Defendant hereby pays Ten Thousand Dollars and 00/100 cents (\$10,000.00) to John T. Lambert, Jr., and he hereby acknowledges receipt of this payment.

C. GENERAL RELEASE AND DISCHARGE

In consideration of the payments stipulated herein, Plaintiff, his heirs, agents or assigns completely release, acquit and forever discharge the Defendant, St. Charles Parish, its predecessors, successors, parents, affiliates, subsidiaries, divisions, agents, assigns and anyone else acting or purporting to act on its behalf, as well as any and all others for whose acts or omissions any of the said parties might be responsible (collectively referred to as the "Released Parties") from any and all rights, claims, demands, damages, liabilities, responsibilities or actions of any kind or nature whatsoever which Plaintiff now has, or may have in the future, in whole or in part arising out of, related to, resulting from, or contributed to by Plaintiff's allegations, whether asserted or not asserted. As part of this Release, Plaintiff hereby authorizes and directs his attorney to dismiss his lawsuit in the District Court with full prejudice against Defendant or the Released Parties forever barring any action in the future involving the claims as asserted and summarized above.

This Release shall be a full, binding final and complete settlement and release of all existing claims and of all claims which may arise in the future between the parties regarding Plaintiff's claims involving his property. This Release shall serve as the only evidence necessary to prove complete compromise of all claims regarding the claims stated above involving the above property, and to support and prove any obligation thereunder, and may be offered in evidence and pled in support thereof without objection.

Plaintiff further agrees that he does hereby release the Defendant from his claims as summarized above forever and more specifically found in Action # 69251, of the 29th Judicial District Court, Parish of St. Charles, State of Louisiana captioned Mary Vial, et al versus St. Charles Parish.

Plaintiff hereby agree that this Release is a general release, and that he assumes the risk of any and all claims for damage, loss or injury that exist as of this date, whether through ignorance, oversight, error, negligence, or otherwise, and that if known would materially affect Plaintiff's decision to enter this Release and Settlement Agreement. It is, nonetheless, Plaintiff's intention and agreement that any claims he may have against the Released Parties for any such injury, are the subject of this Release and are hereby completely released, acquitted and forever discharged.

Plaintiff further agrees to accept payment of the sum specified in Section B of this Release in complete compromise of any rights, claims, demands or actions of any kind or nature whatsoever that may arise in the future including, but not limited to claims that he may have at any time in the future that in any way arise out of his ownership of his Property and the claims asserted in Section A above more particularly found in *Mary Vial, et al. versus St. Charles Parish*, #69251 of the 29th Judicial District Court, Parish of St. Charles, State of Louisiana. Plaintiff intends and desires that this Release be as broad and comprehensive as possible so that the Released Parties are never to be liable, directly or indirectly, to Plaintiff or his successors, or assigns or any person or entity claiming by, through, under or on behalf of them for any claims, demands, actions or causes of action of whatsoever nature or character regarding Plaintiff's claims against Defendant involving his property as summarized in the allegations above and more fully found in Action #69251 of the 29th Judicial District Court, Parish of St. Charles, State of Louisiana captioned *Mary Vial et al versus St. Charles Parish*. It is understood and agreed by and among the parties that this settlement is a compromise of disputed claims and disputed issues of law and fact, and the payments made in connection herewith are not to be construed as an admission of liability or fault on the part of the Released Parties, all of whom expressly deny any liability in connection therewith.

D. ATTORNEY'S FEES

Plaintiff shall bear all attorneys' fees arising from the action of his own counsel in connection with the Lawsuit, this Release, and the matters and documents referred to therein.

E. WARRANTY OF CAPACITY TO EXECUTE AGREEMENT

Plaintiff warrants that no other person or entities have any interest in the claims referred to in this Release, and that he has not sold, assigned, transferred, conveyed or otherwise disposed of any of the claims, demands, obligations, or actions referred to in this Release.

F. ENTIRE AGREEMENT AND SUCCESSORS IN INTEREST

This Release contains the entire agreement between Plaintiff and the Released Parties with regard to the matter set forth herein, and shall be binding upon and inure to the benefit of the executors, administrators, personal representatives, heirs, successors and assigns of each. Plaintiff hereby agrees that this Release shall be construed in the broadest possible sense of favor of the Released Parties.

It is also the intention of the parties entering into this Release that the various provisions of this Release be considered as separate and distinct. Further, if any portion or portions of this Release are deemed invalid or ineffective, the otherwise valid portion or portions of the Release shall remain valid and in full effect and, further, that any invalid portion or portions of the Release be severed without invalidation of the Release as a whole.

G. REPRESENTATION OF UNDERSTANDING OF RELEASE:

In entering into this Release, Plaintiff represents that the terms of this Release have been completely explained to him by his attorney, and that those terms are fully understood and accepted by him.

This Release is the product of arm's length negotiations between parties represented by counsel. No party shall be deemed to be the drafter of this Release or any provision. No presumption shall be deemed to exist in favor for or against any party as a result of the preparation or negotiation of this Release.

H. CONFIDENTIALITY:

The terms of this Release and Settlement agreement shall remain confidential upon the execution of the agreement except should there be a FOIA or Public Records Request under State Law, then the terms and conditions of the agreement may be released as required by law. Further, nothing in this agreement shall prevent the parties from disclosure to those parties that may be require to have the information such as any taxing authority and nothing shall prevent the Released Party from recording any servitude agreement in the public records. The Parties recognize that certain public officials will be privy to the terms and conditions of this Release and Settlement Agreement and will make every effort to assure the Plaintiff that the terms and conditions are not released after the execution of this agreement. Nothing in this provision shall create a separate and distinct cause of action for damages.

I. GOVERNING LAW:

This Release shall be construed and interpreted in accordance with the substantive law of the State of Louisiana, excluding its choice of law rules.

J. ADDITIONAL DOCUMENTS

All parties agree to cooperate fully and execute any and all supplemental documents and to take all additional action that may be necessary or appropriate to give full force and effect to the basic terms and intent of the collective agreements and this Release.

PLAINTIFF:

JOHN T. LAMBERT, JR.

RANDY SMITH
MARY NELL BENNETT
ATTORNEYS FOR JOHN T. LAMBERT

EXECUTED AS OF THIS _____ DAY OF _____, 2016.

DEFENDANT, ST. CHARLES PARISH

LARRY COCHRAN IN HIS CAPACITY AS PRESIDENT OF ST. CHARLES PARISH

CHARLES M. RAYMOND
ATTORNEY FOR ST. CHARLES PARISH

EXECUTED AS OF THIS _____ DAY OF _____, 2016.

ACKNOWLEDGEMENT

STATE OF LOUISIANA

PARISH OF _____

BEFORE ME, the undersigned and in the presence of the undersigned witnesses and Notary Public, personally came and appeared JOHN T. LAMBERT, JR., a person of full age and majority and a resident of the Parish of ST. CHARLES, State of Louisiana, , who, being by me first duly sworn, did depose and state:

That he has read and fully understand the above and foregoing Full and Final Release and Settlement Agreement, and that he has executed this instrument in multiple counterparts of his own free will and accord, for the purposes herein set forth, and in the presence of the witnesses set forth below.

JOHN T. LAMBERT, JR.

WITNESSES:

PRINT NAME: _____
ADDRESS: _____

PRINT NAME: _____
ADDRESS: _____

SWORN TO AND SUBSCRIBED before me,
this _____ day of _____,
2016.

NOTARY PUBLIC
PRINTED NAME: _____
ADDRESS: _____
COMMISSION NUMBER: _____
COMMISSION EXPIRATION: _____

SEAL