

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas
Honorable Larry B. Hyman, Circuit Court Judge

Case No. 2012-CP-26-6987

Appellate Case No. 2013-000971

RECEIVED

OCT 23 2013

SC Court of Appeals

Helicopter Solutions, Inc.
d/b/a Helicopter Adventures Respondent,

v.

Richard Hinde and Horry County Zoning Administrator, Defendants,

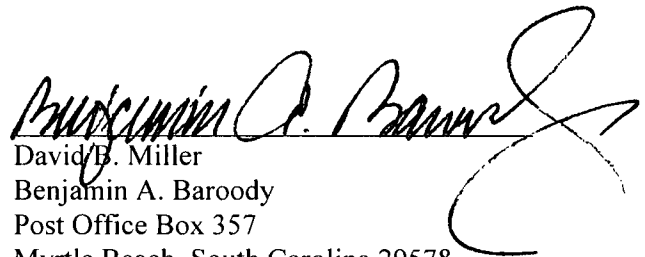
of whom Richard Hinde is Appellant.

**RESPONDENT'S RETURN TO APPELLANT'S REPLY TO
RESPONDENT'S RETURN TO APPELLANT'S REPLY
TO RESPONDENT'S RETURN ON MATTERS TO BE INCLUDED IN THE
RESPONDENT'S AMENDED DESIGNATION OF MATTER**

Respondent Helicopter Solutions, Inc. d/b/a Helicopter Adventures, by and through its undersigned counsel, files this response for the purpose of further supporting Respondent's statement that the transcript of the hearing before the Board of Zoning Appeals was part of the Certified Record filed with the Horry County Clerk of Court on October 18, 2012 and is, therefore, properly a part of the record to be designated by Respondent on appeal. In addition, Respondent seeks to file a Corrective Affidavit to correct certain

information learned by the undersigned since the filing of his previous Affidavit. In support of his Reply, Respondent encloses the Affidavit of Dedie Garren, Corrective Affidavit of Benjamin A. Baroody, and Affidavit of Alicia Shelley.

Respectfully submitted,


David B. Miller
Benjamin A. Baroody
Post Office Box 357
Myrtle Beach, South Carolina 29578
(843) 448-2400
bbaroody@bellamylaw.com
Attorneys for the Respondent

Myrtle Beach, South Carolina

October 21, 2013

**BELLAMY, RUTENBERG, COPELAND,
EPPS, GRAVELY & BOWERS, P. A.**

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JOHN K. RUTENBERG (1939-2012)
JOHN E. COPELAND
CLAUDE M. EPPS, JR.****
DAVID R. GRAVELY*
EDWARD B. BOWERS, JR.*****
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ASHLEY P. MORRISON
GEORGE W. REDMAN, III**
BENJAMIN A. BAROODY**
PHILLIP H. ALBERGOTTI** *****
HAYES K. STANTON**
JAMES E. HILL, III** *****
KIERSTEN M. GORDON*****

*FELLOW OF THE AMERICAN ACADEMY OF MATRIMONIAL LAWYERS
**ALSO MEMBER OF NORTH CAROLINA BAR
***CERTIFIED MEDIATOR
****RETIRED
*****LLM TAXATION
*****MEMBER OF NC BAR ONLY

Writer's Direct Line: 843-916-7167
E-Mail: Bbaroody@BellamyLaw.com

October 21, 2013

VIA CERTIFIED MAIL - 7012 1010 0001 0834 4240
RETURN RECEIPT REQUESTED

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29211

Re: Helicopter Solutions, Inc. d/b/a Helicopter Adventures v Richard Hinde and Horry
County Zoning Administrator
C/A No. 2012-CP-26-06987
Appellate Case No. 2013-000971
Our File No. 27271.86549.18

RECEIVED
OCT 23 2013

Dear Ms. Kitchings:

SC Court of Appeals

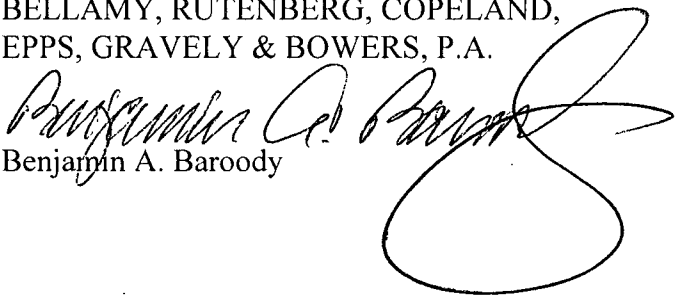
Enclosed for filing is one (1) unbound original and six (6) copies of *Respondent's Return to Appellant's Reply to Respondent's Return to Appellant's Reply to Respondent's Return on Matters to be Included in the Respondent's Amended Designation of Matter* in the above referenced appeal.

I have included an additional copy of the Proof of Service and would appreciate you returning a clocked copy to me in the enclosed self-addressed, stamped envelope I have provided for your convenience.

With kindest personal regards, I remain

Yours very truly,

BELLAMY, RUTENBERG, COPELAND,
EPPS, GRAVELY & BOWERS, P.A.


Benjamin A. Baroody

BAB/dg

Enclosures as stated

cc: Client
Kenneth R. Moss, Jr., Esquire
Emma Ruth Brittain, Esquire

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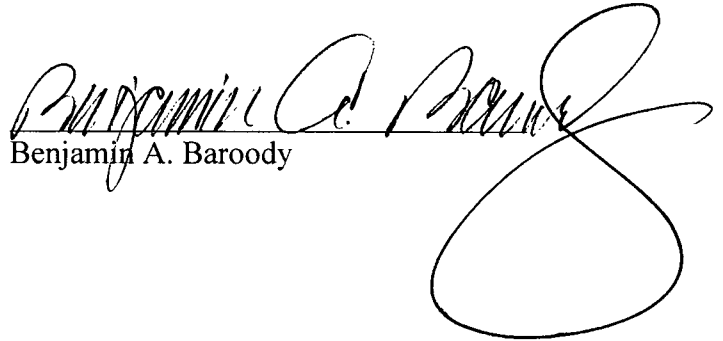
CORRECTIVE AFFIDAVIT OF BENJAMIN A. BAROODY, ESQ.

The undersigned does hereby swear and affirm as follows:

1. I am Benjamin A. Baroody, Esquire. I am a partner with the law firm of Bellamy, Rutenberg, Copeland, Epps, Gravely & Bowers, P.A. I am competent to offer testimony, and offer this testimony based upon personal knowledge.
2. I am the attorney for Helicopter Solutions, Inc. d/b/a Helicopter Adventures.
3. On October 22, 2012, the Horry County Board of Zoning Appeals provided me with a CD-Rom copy of the Transmittal of Certified Record on Appeal. The contents of that CD-Rom contains 1127 pages of Exhibits, and does not contain the Transcript


of Hearing as previously stated in my Affidavit of October 9, 2013. I was previously informed that the "Certified Record on Appeal" saved to my computer was a mirror match of the CD-Rom's contents. I learned today it was not and express my sincerest apologies to the Court for this error.

FURTHER AFFIANT SAITH NOT.


Benjamin A. Baroody

Sworn to and subscribed before

me this 18 day of October, 2013


Notary Public for South Carolina
My Commission Expires: 10.10.16

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Helicopter Solutions, Inc.
d/b/a Helicopter Adventures Respondent,

v.

Richard Hinde and Horry County Zoning Administrator, Defendants,

of whom Richard Hinde is Appellant.

AFFIDAVIT OF ALICIA SHELLEY

The undersigned does hereby swear and affirm as follows:

1. I am Alicia Shelley. I am competent to offer testimony and base the testimony herein on personal knowledge.
2. I serve as Secretary to the Horry County Board of Zoning Appeals.
3. On October 18, 2012 at 10:48 a.m., I filed with the Horry County Clerk of Court the Certified Record on Appeal for the above-captioned case from the Horry County Board of Zoning Appeals to the Horry County Circuit Court. A copy of my Affidavit of Transmittal of Certified Record on Appeal is attached hereto as Exhibit A and incorporated herein by reference.

4. The Certified Record on Appeal that I delivered to the Horry County Clerk of Court was contained within a box. The box contained a sealed package from Mabry Court Reporting as well as the Certified Record on Appeal, which consisted of 1127 pages of exhibits provided to the Horry County Board of Zoning Appeals on Monday, September 10, 2012.

The undersigned does hereby swear and affirm as follows:

FURTHER AFFIANT SAITH NOT.

Alicia Shelley
ALICIA SHELLEY

Sworn to and subscribed before

me this 21 day of October, 2013

Jenny Lewis
Notary Public for South Carolina
My Commission Expires: 07/28/18

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY) CIVIL ACTION NO.: 2012-CP-26-06987

Helicopter Adventures,)
Helicopter Solutions, Inc.,)
Plaintiffs,)
vs.)
Richard Hinde,)
Zoning Administrator Horry County,)
Defendants.)

TRANSMITTAL OF CERTIFIED
RECORD ON APPEAL

FILED
HORRY COUNTY
2012 OCT 18 AM 10:48
MELANIE HUGGINS-WARD
CLERK OF COURT

AFFIDAVIT OF ALICIA SHELLEY

PERSONALLY APPEARED BEFORE ME, Alicia Shelley, who being duly sworn deposes and states as follows:

I serve as Secretary to the Horry County Board of Zoning Appeals (Board). I keep and maintain all records of the Board. I hereby certify that the documents attached hereto constitute the complete record of the Board in the above captioned case. I further certify that the attached copies are true and correct copies of those records.

FURTHER THE DEPONENT SAITH NOT.

Alicia Shelley
Alicia Shelley

Sworn to before me this 17
day of October, 2012

Janet L Carter
Notary Public for South Carolina

My Commission Expires: 1/15/2013

EXHIBIT A

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM Horry COUNTY
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Honorable Larry B. Hyman, Circuit Court Judge

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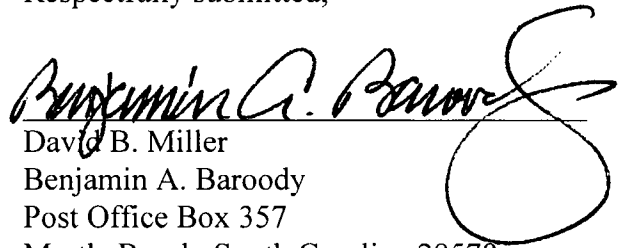
PROOF OF SERVICE

The undersigned certifies that he is employed with the law firm of Bellamy, Rutenberg, Copeland, Epps, Gravely & Bowers, P.A., attorneys for the Respondent, Helicopter Solutions, Inc. d/b/a Helicopter Adventures, that he has mailed a copy of the Respondent's Return to Appellant's Reply to Respondent's Return to Appellant's Reply to Respondent's Return on Matters to be Included in the Respondent's Amended Designation of Matter and Proof of Service to Counsel listed below this 21st day of October, 2013, with proper postage attached thereto:

Kenneth R. Moss, Jr., Esquire
Wright, Worley, Pope, Ekster & Moss, PLLC
628A Sea Mountain Highway
North Myrtle Beach, SC 29582
Tel: 843-281-9901
Email: KennethMoss@wwpemplaw.com
-Attorneys for the Appellant

Emma Ruth Brittain, Esquire
Thomas & Brittain, PA
Post Office Box 1290
Myrtle Beach, SC 29578
Tel: 843-692-2628 / Fax: 843-692-00928
erbrittain@myrlaw.com
-Attorney for Defendant Horry County Zoning Administrator

Respectfully submitted,


David B. Miller
Benjamin A. Baroody
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Myrtle Beach, South Carolina 29578
(843) 448-2400
bbaroody@bellamylaw.com

Attorneys for the Respondent

Myrtle Beach, South Carolina

October 21, 2013

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AFFIDAVIT OF DEDIE GARREN

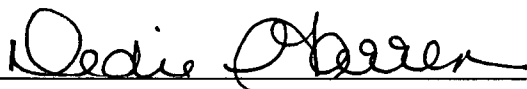
The undersigned does hereby swear and affirm as follows:

1. I am Dedie Garren. I am competent to offer testimony and base the testimony herein on personal knowledge.
2. I am employed with Bellamy, Rutenberg, Copeland, Epps, Gravely & Bowers, P.A. as a Legal Assistant.
3. On October 19, 2013, I was asked by Benjamin A. Baroody, Esq., to examine the Clerk of Court's file of Civil Action No. 2012-CP-26-06987, captioned as Helicopter Solutions, Inc. d/b/a Helicopter Adventures v. Richard Hinde and Horry County

Zoning Administrator to determine what documents were contained inside of the Exhibit box located within the file.

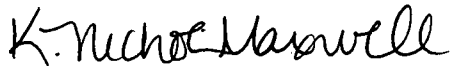
4. Upon arrival at the Horry County Courthouse, the Clerk of Court produced a sealed box from their Exhibit Room labeled "2012CP266987, Exh#1692, Zoning Board of Appeals, Helicopter Solutions, inc. et al vs Richard Hinde, et al." Inside of that sealed box, which was opened by Annette Cline with the Horry County Clerk of Court's office, was the original Transcript of the Hearing before the Horry County Zoning Board of Appeals of Monday, September 10, 2012 inside of a sealed envelope along with 1127 pages of documents.
5. Attached are photographs of the outside label and contents of the sealed box.

FURTHER AFFIANT SAITH NOT.


Dedie Garren

Sworn to and subscribed before

me this 18th day of October, 2013



Notary Public for South Carolina

My Commission Expires: 4/7/2015

CP 266987

EXH# 1692

Zoning Board of Appeals

Helicopter Solutions inc. et al

vs.

Richard Hinde, et al.

2012-CP-26-06987

BOARD OF APPEALS

NOVEMBER 10, 2012

MEMBERS WERE PRESENT:

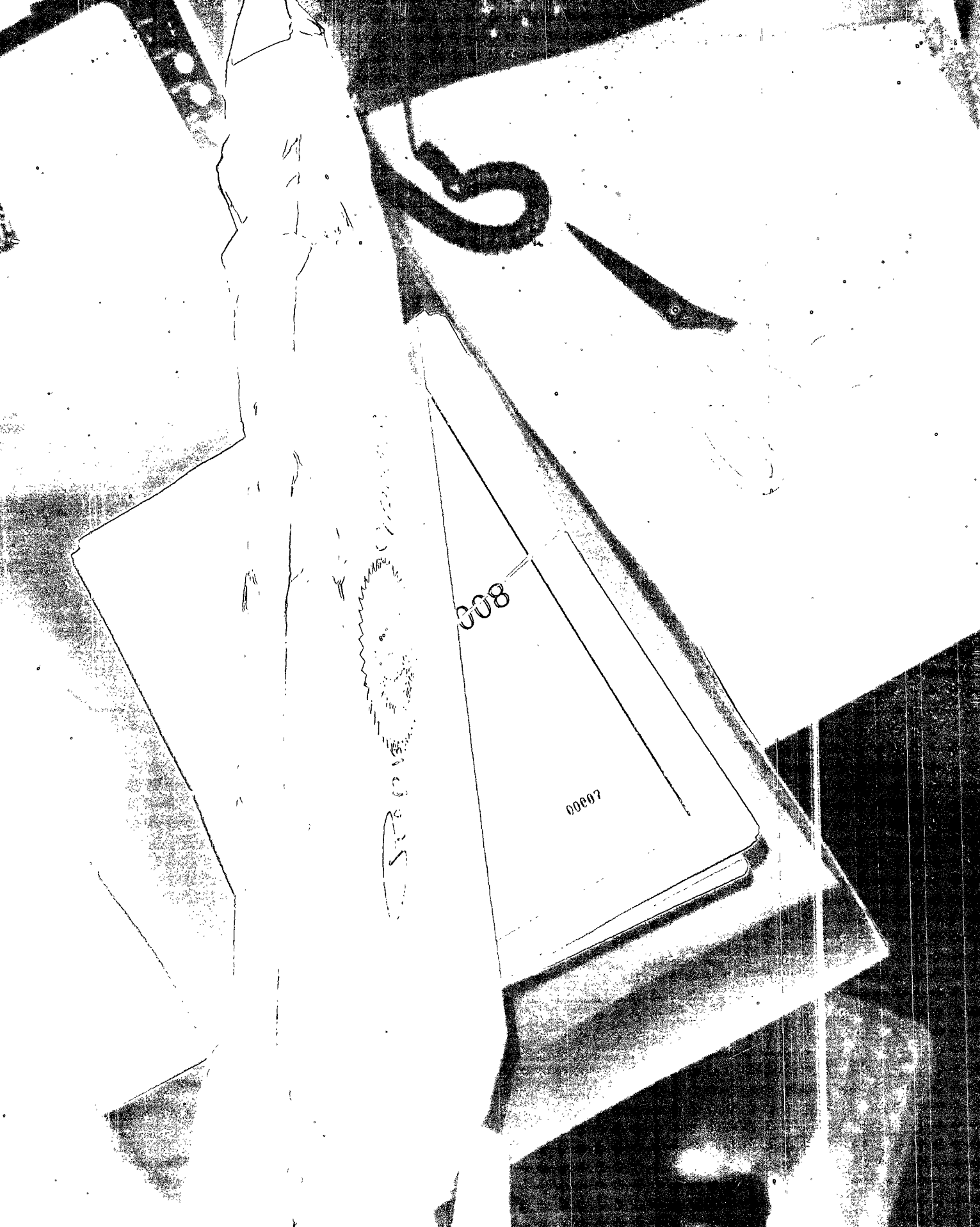
- PAT KEENE
- BOB ALLEN
- BOB BARKER
- MARIE MINCEY
- BOB CARTER
- BOB SNELL
- BOB HEMAN
- BOB WARD

FILED
 HARRIS COUNTY
 2012 OCT 18 AM 10:48
 MELANIE HUGGINS-WARD
 CLERK OF COURT

STATE OF TEXAS
 COUNTY OF HARRIS
 IN THE COUNTY OF HARRIS

CLERK OF COURT

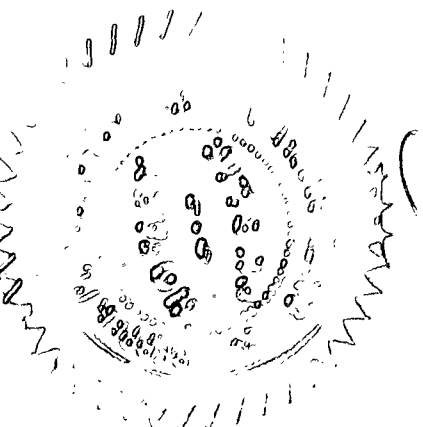
2012 OCT 18 AM 10:48



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00007

Proprietor
Wm. A. Carter



Case # 2012-07-008

00007

218

The difference between the adjusted price and the appraised value of each home was marginal. The appraised value was \$1,538 higher than the sale price in the noisy neighborhood and only \$577 higher than the sale price in the quiet neighborhood.

3.1.3 Housing Value Comparison (Step 3)

3.1.3.1 Appraisal Approach

The appraiser applied the conventional appraisal process for all the homes in the study. Based on these appraisals, one reference home was chosen in each of the selected neighborhoods.

The normalization process (as described in section 2.3.1) was then performed for all the homes in each neighborhood. The adjustments made to the property values ranged from -\$6,589 to +\$14,209. The average adjusted appraised values were then compared to determine the effect of airport noise on housing values. These values were \$126,879 in the quiet neighborhood and \$129,262 in the noisy neighborhood.

The adjusted appraised values suggested an average \$617 higher property value in the noisy neighborhood, a minimal amount that is difficult to characterize as a direct consequence of the noise. The difference between the unadjusted property values and the adjusted, or normalized, values is significant, indicating considerable differences in the amenities offered at each neighborhood.

Table 3-2. Summary of Appraisal Approach Implemented at BWI

Item	Neighborhood		Difference	% Difference	Difference	
	Noisy	Quiet			Per dB	% Differ.
Prst. db	72	61	11	N.A.	N.A.	N.A.
Value (unadj.)	\$120,538	\$126,877	\$6,339	9.0%	-\$574	0.45%
Value (adj.)	\$129,262	\$129,879	\$617	-0.5%	-\$56	-0.04%

3.1.3.2 Modeling Approach

The multiple regression model developed for BWI used appraised values as the dependent variable, since these were virtually identical to the sale price of each home. Table 3.3 shows the final model, which considered only those independent variables that were statistically significant.

60578

