STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Mikell Scarborough, Master in Equity

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SC Court of Appeals

Case No. 2011-CP-10-95

Bayview Acres Civic Club . . . . . Respondent

v.

Gerald E. Moore, Jr. a/k/a Gerald Moore and
Margaret Bates Moore . . . . . Appellants

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	)	IN THE COURT OF COMMON PLEAS FOR THE NINTH OF JUDICIAL CIRCUIT 2011-CP-10-95
BAYVIEW ACRES CIVIC CLUB, Plaintiffs, vs. GERALD E. MOORE, JR. a/k/a GERALD MOORE, MARGARET BATES MOORE, and ROBERT PAYNE, Defendant.	)	CIVIL ACTION NO.: ~~2010-CP-10-~~

FILED
2011 JAN -6 PM 1:38
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

COMPLAINT

Plaintiff, Bayview Acres Civic Club, by and through undersigned counsel, complaining of the Defendants Gerald E. Moore, Jr. a/k/a Gerald Moore (hereinafter "Gerald Moore"), Margaret Bates Moore and Robert Payne states as follows:

PARTIES AND JURISDICTION

1. Plaintiff is a corporation organized and existing under the laws of the State of South Carolina with an interest in the real property that is the subject of this action, located in Charleston County, South Carolina.

2. Upon information and belief, Defendants Gerald E. Moore, Jr. a/k/a Gerald Moore, Margaret Bates Moore and Robert Payne are citizens and residents of Charleston County and are not in the military service of the United States of America pursuant to the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940, as Amended.

3. Venue is proper pursuant to S.C. Code Ann. § 15-7-30 (1976, as amended).

4. Jurisdiction is proper pursuant to the Constitution of the State of South Carolina and the South Carolina Code of Laws.

AS AND FOR A FIRST CAUSE OF ACTION
(Rule to Show Cause)

Plaintiff reasserts and realleges the previous allegations of this Complaint as fully and completely as if set forth herein verbatim.

5. On or about November 24, 1982, an action for declaratory and injunctive relief was commenced in the Court of Common Pleas for Charleston County in the matter of *W.L. Guerry, Jr, et. al. vs. Gerald E. Moore, Jr., et. al.*, Civil Action No. 1982-CP-10-4234.

6. The litigation involved the access and use of a 50-foot parcel of land which extends about 250-300 feet from Bay View Drive to the marshes of Shem Creek, which is located between lot 37 and lot 38 in Bayview Acres Subdivision (hereinafter the "Subject Property").

7. The Petitioners in the above-referenced matter sought an Order enjoining Gerald E. Moore, Jr. and his wife Margaret Bates Moore from blocking or obstructing the Subject Property after Moore had erected a carport, no-trespassing signs and several metal buildings closer that encroached onto the Subject Property.

8. On April 6, 1984 an Order (the "Order") was issued by the Honorable Louis E. Condon enjoining Gerald E. Moore, Jr. and Margaret Bates Moore from "threatening or interfering in any way with Petitioners' right to use and enjoy the 50-foot strip in question in common with other lot owners in Bay View". A copy of said Order is attached hereto as Exhibit A and incorporated herein by reference.

9. In the Order, the Court found that the metal buildings and carport extended 15 or 20 feet into the Subject Property and ordered Gerald E. Moore, Jr. and Margaret Bates Moore to

remove the metal buildings , no-trespassing signs, and any other obstructions they placed in the 50-foot strip. Since no action was taken to halt construction of the carport, it was not ordered to be removed; however, the Court held that if the carport was ever taken down or removed by the owner, or destroyed by natural forces, it could not be rebuilt.

10. In violation of the Order, Gerald Moore, has interfered in with Plaintiff's right to use and enjoy the 50-foot strip by operating a commercial business on a portion of the parcel and erecting a new structure that encroaches on the Subject Property. See Exhibit A.

11. Large quantities of mulch on the 50-foot strip and dump trucks and other heavy machinery has been driven upon the 50-foot strip to deliver and remove mulch. See Id

12. Upon information and belief, Robert Payne has taken up residence in the new structure and is trying to establish an address by erecting a mailbox with the address of 359 B Bayview Drive.

13. Defendants have, and continue to, knowingly, openly and intentionally violate the terms of the Order issued by Judge Condon.

AS AND FOR A SECOND CAUSE OF ACTION
(Declaratory Judgment)

Plaintiff reasserts and realleges the previous allegations of this Complaint as fully and completely as if set forth herein verbatim.

14. SC Code Ann. § 15-53-20 provides that courts of record within their respective jurisdictions shall have power to declare rights, status and other legal relations whether or not further relief is or could be claimed.

15. SC Code Ann. § 15-53-100 provides that in an action for a declaratory judgment, the court may make such award of costs as may seem equitable and just.

16. In Judge Condon's Order, he found that the acquiescence of the original subdividers, together with the language of the Restrictions for Bayview Acres, led to the inescapable conclusion that the lot owners in Bay View Subdivision acquired an easement or property interest which allows them unobstructed access to the Subject Property.

17. Plaintiff seeks a declaration from the Court that the actions of Defendants Gerald E. Moore, Jr., Margaret Bates Moore and Robert Payne interfere with Plaintiff's right to use and enjoy the subject property and are a violation of the Order issued by Judge Condon.

AS AND FOR A THIRD CAUSE OF ACTION
(Civil Conspiracy)

Plaintiff reasserts and realleges the previous allegations of this Complaint as fully and completely as if set forth herein verbatim.

18. Gerald Moore, Margaret Bates Moore and Robert Payne constitute a combination of two or more people for the purpose of injuring Plaintiff.

19. Gerald Moore, Margaret Bates Moore and Robert Payne have conspired to interfere with Plaintiff's right to use and enjoy the Subject Property by operating a commercial business on the Subject Property, erecting structures that encroach on the Subject Property, and attempting to establish a residence for Robert Payne at the Subject Property.

20. As a result of the actions of the conspiring parties, Plaintiff has suffered actual, consequential, and special damages, to include loss of use and enjoyment of the Subject Property and the costs and fees associated with this action, among other things.

AS AND FOR A FORTH CAUSE OF ACTION
(Injunctive Relief)

Plaintiff reasserts and realleges the previous allegations of this Complaint as fully and completely as if set forth herein verbatim.

21 Pursuant to SCRCP Rule 65 and the laws of the State of South Carolina, and for the reasons set forth herein, Plaintiff is entitled to injunctive relief.

22. Plaintiff has suffered and will suffer irreparable injury in the event that Defendants Gerald Moore, Margaret Bates Moore and Robert Payne are allowed to interfere with Plaintiff's right to use and enjoy the Subject Property and to utilize the Subject Property for their own benefit.

23. Defendants Gerald Moore, Margaret Bates Moore and Robert Payne have no legal right to interfere with Plaintiff's right to use and enjoy the Subject Property, and Plaintiff has a great likelihood of success on the merits.

24. An adequate remedy at law does not exist to adequately recompense Plaintiff in the event Defendants are permitted to violate the terms of Judge Condon's Order.

25. Public policy would support the injunctive relief sought, as Defendants has wrongfully interfered with Plaintiff's right to use and enjoy the Subject Property and are in violation of Judge Condon's Order.

26. Wherefore, Plaintiff would respectfully request that this Court issue an Order for a permanent injunction ordering Defendants to remove the structure that encroaches on the Subject Property and to cease and desist from operating a commercial business on the Subject Property.

WHEREFORE, having fully set forth its complaint, Plaintiff prays that this Honorable Court inquire into the matters set forth herein and that:

1. Defendants Gerald E. Moore, Jr. a/k/a Gerald Moore and Margaret Bates Moore be sanctioned for violating the terms of the Order issued on April 6, 1984 in the matter of *W.L. Guerry, Jr, et. al. vs. Gerald E. Moore, Jr., et. al.*, Civil Action No. 1982-CP-10-4234, or in the alternative, an Order be issued requiring Defendants Gerald E. Moore, Jr. a/k/a Gerald Moore and

Margaret Bates Moore to show cause, if they can, why they should not be held in Contempt of Court for failing to comply with the Order; and

2. The Court declare that the actions of Defendants Gerald Moore, Margaret Bates Moore and Robert Payne violate the terms of the the Order issued on April 6, 1984 in the matter of *W.L. Guerry, Jr, et. al. vs. Gerald E. Moore, Jr., et. al.*, Civil Action No. 1982-CP-10-4234 and interfere with the lot owners in Bay View Subdivision's casement and/or property interest which allows them unobstructed access to the Subject Property; and

3. Plaintiff have Judgment against Defendants Gerald Moore and Robert Payne for civil conspiracy and an award of actual, consequential and punitive damages in an amount to be proven at trial and to include attorneys' fees and costs and interest; and

4. This Court issue injunctive relief to prohibit Defendants Gerald Moore, Margaret Bates Moore and Robert Payne from interfering with Plaintiff's right to use and enjoy the Subject Property and ordering the structure that encroaches onto the Subject Property be removed; and

5. Plaintiff be awarded the costs associated with the prosecution of this matter, including reasonable attorney's fees; and

6. For such other and further relief as the Court may deem just and proper.

ALTMAN & COKER, LLC

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Attorney for the Plaintiff

January 6, 2011

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH OF JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	
Bayview Acres Civic Club,	)	C/A No.: 2011-CP-10-95
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
Gerald E. Moore, Jr., a/k/a Gerald Moore, and Margaret Bates Moore,	)	
	)	
Defendants.	)	
	)	

FILED
2013 NOV -5 AM 11:35
JULIE J. ARMSTRONG
CLERK OF COURT
BY

ORDER

This matter is before the Court based on the Complaint of Plaintiff requesting the Court to find the Defendants have violated the terms of the Order issued on April 6, 1984 in the matter of *W.L. Guerry, Jr, et. al. vs. Gerald E. Moore, Jr., et. al.*, Civil Action No. 1982-CP-10-4234; in the alternative, issue an Order requiring Defendants Gerald E. Moore, Jr. a/k/a Gerald Moore and Margaret Bates Moore to show cause, if they can, why they should not be held in Contempt of Court for failing to comply with the Order; declare that the actions of Defendants Gerald Moore, Margaret Bates Moore and Robert Payne violate the terms of the Order issued on April 6, 1984 in the matter of *W.L. Guerry, Jr, et. al. vs. Gerald E. Moore, Jr., et. al.*, Civil Action No. 1982-CP-10-4234 (the "1984 Order") a copy of which is attached hereto as Exhibit A, and interfere with the lot owners in Bay View Subdivision's easement and/or property interest which allows them unobstructed access to the Subject Property; Plaintiff have Judgment against Defendants Gerald Moore and Robert Payne for civil conspiracy and an award of actual, consequential and punitive damages in an amount to be proven at trial and to include attorneys' fees and costs and

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interest; this Court issue injunctive relief to prohibit Defendants Gerald Moore, Margaret Bates Moore and Robert Payne from interfering with Plaintiff's right to use and enjoy the Subject Property and ordering the structure that encroaches onto the Subject Property be removed; and Plaintiff be awarded the costs associated with the prosecution of this matter, including reasonable attorney's fees.

The case was referred to the undersigned as Master in Equity for Charleston County by Order filed August 31, 2010.

When filed Robert Payne was a named defendant, however, upon Motion of the Plaintiff, he was dismissed from the case by Order filed November 15, 2010.

The case was scheduled for hearing on September 25, 2013 at 2:00 o'clock P.M. At the time of the hearing, the attorneys for the parties advised the Court an agreement had been reached to resolve the matter. The agreement was announced in open Court by Charles S. Altman, attorney for the Plaintiff and acknowledged and agreed to on behalf of the Defendants by their attorney, David A. Collins.

Based on the Agreement of the Parties and the consents to this Order by their attorneys on their behalf, it is hereby

ORDERED, ADJUDGED AND DECREED, as follows:

1. For purposes of this Order and the 1984 Order, the term "Plaintiff's Property" shall refer to the piece parcel or lot of land marked "Reserved" lying between Lots 37 and 38 on the Plat entitled "BLOCK "A" OF BAY VIEW ACRES CHARLESTON COUNTY, S.C." prepared by The John McCrady Co., Charleston, S.C., dated February, 1948 and recorded in the RMC Office for Charleston County in Plat Book G at page 48a on April 17, 1948.

2. For purposes of this Order and the 1984 Order, the portion of the Plaintiff's Property which the Defendants are entitled to use as a result of the construction by Defendants on Plaintiff's Property prior to the 1984 Order is described as bordering on the West by Lot 37, on the North by Bay View Drive, on the East by markers placed by a surveyor employed by Plaintiff and on the South by the rear portion of the structure erected by Defendants prior to the 1984 Order.

3. The 1984 Order remains valid and effective and the Order of the Court to be fully complied with by Plaintiff and Defendants ,Gerald E. Moore, Jr., a/k/a Gerald Moore and Margaret Bates Moore.

4. The property line between the property occupied by the Defendants, known as Lot 37, Bay View Acres Subdivision and the property belonging to the Plaintiff, designated as "RESERVED" on the plat entitled "Block "A" Bay View Acres Charleston County, S.C." is as shown on said plant recorded in Plat Book G at page 48-A in the RMC Office for Charleston County and shall be marked by appropriate markers installed by a surveyor employed by Plaintiff.

5. No later than October 25, 2013, Defendants shall remove all mulch, dirt and grass they allowed to be placed on the property of Plaintiff. Defendants will be allowed to use small equipment to remove the mulch, dirt and grass and the equipment shall be allowed to cross the property of the Plaintiff to accomplish the removal, provided the Plaintiff's Property will be restored to its condition prior to the time the mulch, dirt and grass was placed on the Property of Plaintiffs and any damage to the Plaintiff's Property created by the removal of the mulch, gras and dirt shall be repaired and the Property returned to its prior condition. Time is of the Essence with regard to the work to be done pursuant to this provision.

6. Defendants shall remove from the Plaintiff's Property any debris on the Property such as propane tanks, doors, sinks, plumbing fixtures, etc. The debris shall be removed no later than October 25, 2013. Time is of the Essence with regard to the removal of the debris.

7. Defendants will not allow their dogs on the Plaintiff's Property except when on a leash and controlled by the Defendants or someone designated by them.

8. Defendants will not, except as specifically provided otherwise herein, use vehicles on the Plaintiff's Property other than a bicycle. Defendants' use of the Plaintiff's Property shall be the same as any other resident of Bayview Acres.

9. With the exception of that portion of Plaintiff's Property which Defendants are entitled to use pursuant to the 1984 Order as described in Paragraph Number 2 of this Order the defendants will not perform any landscaping or cutting of any vegetation or perform any other work on the Plaintiff's Property. In the event Defendants believe any work needs to be performed to maintain the Plaintiff's Property, they will contact the President of the Plaintiff and advise him/her of what the Defendants believe need to be done. The Plaintiff shall be solely responsible through its agents to maintain the Plaintiff's Property. Defendants shall maintain the portion of Plaintiff's Property as described in paragraph 2 of this Order in a neat and clean condition. Nothing contained in this Order shall be deemed to prevent Defendants from using the existing driveway which lies within the portion of Plaintiff's Property which lies within the boundaries described in paragraph 2 of this Order as long as they are entitled to maintain the structures located thereon pursuant to the provisions of the 1984 Order. At such time as the right to maintain the said structures ends, the right to use any portion of the Plaintiff's property by Defendants shall terminate other than any right Defendants may have as residents of Bay View Acres Subdivision.

10. In the event Defendants violate the terms of this Order or the 1984 Order, upon application accompanied by an affidavit by the President of the Plaintiff setting forth with specificity the facts supporting the claim the Defendants or either of them or persons acting on either of their behalf have violated the terms of either Order, the Court will issue a Rule to Show Cause as to why the Defendants should not be held in contempt of Court and appropriate sanctions awarded to Plaintiff against the Defendants, which sanctions may include an award of reasonable attorney's fees to Plaintiff's attorney.

11. This Order shall be public notice, the Plat entitled "Map of Lot No. 37, A-B-C-D and Parcel X-B-E-F-C being joint to form Lot 37X located in Bay View Acres Subdivision, Block A Christ Church Parish, Charleston Co., S.C., recorded in Plat Book AW, at page 57, in the RMC Office for Charleston County on November 10, 1982 is void and of no effect.

12. This Order shall be recorded in the RMC Office for Charleston County to put the public on notice of the limitations of the owner of Lot 37, Bay View Acres Subdivision with regard to the use of the Plaintiff's Property as set forth herein and in the 1984 Order. The Order shall be indexed under the names of the current owners of Lot 37, Bay View Acres Subdivision, Margaret B. Moore and Alec Elizabeth Cleary and refer to TMS Number 517-06-00-037.

AND IT IS SO ORDERED.

Mikell R. Scarborough
Master in Equity, Charleston County

Nunc Pro Tunc

Charleston, South Carolina
Dated: October 5, 2013

Nov. 1, 2013

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) CASE NO. 82-CP-10-4234

W. L. GUERRY, JR., and PATRICIA S. GUERRY, individually and on behalf of all property owners in Bay View Acres Subdivision, and BAY VIEW ACRES CIVIC CLUB, an eleemosynary corporation,

Petitioners,

vs.

GERALD E. MOORE, JR., MARGARET BATES MOORE, FRANKLIN P. WERNER, and DORIS M. WERNER,

Respondents.

ORDER

This action for declaratory and injunctive relief was commenced on November 24, 1982, by the individual petitioners W.L. and Patricia Guerry, who own a home in Bay View Acres Subdivision, and by the Bay View Acres Civic Club, an eleemosynary corporation. The petitioners seek to enjoin the respondent Gerald E. Moore, Jr., and his wife Margaret Bates Moore from blocking or obstructing the 50-foot-wide strip of land which extends about 250-300 feet from Bay View Drive to the marshes of Shem Creek. This strip or street extension is between lots 37 and 38. The Moores have owned lot 37 since August of 1974, and the other respondents, Franklin P. and Doris M. Werner, own lot 38.

The Werners filed an answer joining in the prayer of the petitioners, and they state among other things in their answer:

> [T]hese respondents have in no manner ever attempted to claim this property (i.e., the 50-foot strip) to the exclusion of the petitioners;

The strip in question is highland which has a few shrubs and trees on it, and it in turn leads to what is apparently a quite old ten-foot-wide dirt causeway, which slices through the marsh down to the edge of Shem Creek. This is apparently the only way for Bay View Acres Subdivision residents to walk from their homes to Shem Creek and crab, fish, or just see the sights along this beautiful creek which often is filled with shrimp boats.

The plat for Bay View shows that the strip in question, along with two other similar strips that lead only to the edge of the marsh, have written on them the words, "Reserved." Mr. Moore argues that these words must mean that the strips were reserved strictly and exclusively for the original subdividers, Miss Daisie Sessions, et al. He further claims, by adverse possession, to have succeeded to the title of the original subdividers.

On the other hand, the petitioners introduced the restrictions for Bay View acres as well as a letter from Miss Sessions' attorney in 1955 addressed to the Bay View Acres Civic Club which clarifies Miss Sessions' position. In pertinent part, Miss Sessions' attorney stated:

Miss Sessions says that the reservation of the 50 feet involved (between lots 37 and 38 on Bay View Drive) was for the purpose of giving unobstructed access to the marsh.

It seems irrefutable from the long usage over the course of more than 35 years by residents of Bay View without the least hindrance from Miss Sessions, et al., that it was her intention and that of the other subdividers that the lot owners, when they bought their lots in Bay View, also acquired the right to use all of the streets, lanes, ways, etc., shown on the plat) and that these would certainly include the right to reach the marsh and creek along the 50-foot strip. After all, the marsh and harbor views provide the focal points for this subdivision. Certainly, if the subdividers had had a different intention, they would have made that intention manifest in the restrictions, on the plat, or by prohibiting access, on at least one occasion, over the course of the last several decades. These things did not occur, and there is no dispute in the record about this. Indeed, Miss Sessions' attorney confirmed that access was the point of laying out these strips.

Additionally, the petitioners claim that Mr. Moore has violated the restrictions of record which prohibit the erection of structures closer than five feet to a side line. Mr. Moore concedes that his carport was erected closer than five feet to the side lot line on the eastern side of his property. Indeed, it extends 15 or 20 feet into the 50-foot strip. The carport was

erected within the last two or three years. While the petitioners did not bring to Mr. Moore's attention his violation of the restrictions until the carport had been erected, this doesn't excuse Mr. Moore for failing to recognize his error or, possibly, having erected the carport intentionally within the access route.

Adding to the petitioners' consternation has been the fact that since Mr. Moore first occupied his house in 1977, he has slowly taken certain steps which might deter or discourage some of the lot owners from exercising what petitioners believe is their right to traverse the 50-foot strip in question. Specifically, Moore has erected two or three no trespassing signs, located a couple of small metal buildings on the strip, allowed three or four of his dogs to roam the strip without being controlled by a fence or rope, and he personally has questioned people who have sought to walk across the strip. Nevertheless, Mr. Moore concedes that he has never stopped anyone from using the strip in question. Thus, in no sense could Moore's conduct be considered "adverse" though it may be slightly inconvenient to petitioners and other lot owners to have to walk through the carport or around the dogs and metal buildings. Nor can it be said, as Moore claims in his answer, that he acquired any interest in the 50-foot strip from the respondents Werner, for the Werners, as noted, admit that they have never done anything adverse respecting the areas in question. In short, they conveyed

nothing to Moore in the quit claim deed Moore entered in evidence.

From the evidence, it appears that the Respondent Moore made several unsuccessful attempts to purchase the strip. The exchange of quit claim deeds with Werner was a futile move for uncertain motives. Hopefully no attorney suggested it as a means of acquiring title. Rather, Mr. Moore's major purpose seems to have been an attempt to stop trespassers from outside the subdivision whom he suspected had been or were a threat to his family and their peaceful enjoyment of their own property. While such concern is understandable, his acts were without authority in the subject strip.

The parties have agreed that this order shall be considered a final order appealable only to the South Carolina Court of Appeals. In light of the foregoing, I find as follows:

1. The acquiescence of the original subdividers, together with the language of the restrictions, leads to the inescapable conclusion that the lot owners in Bay View Subdivision acquired, when they bought lots pursuant to the McCrady plat, an easement or property interest which allows them unobstructed access to the 50-foot strip in question, and there is no basis for any claim by Mr. Moore to any greater right to use the strip than is enjoyed by the other lot owners.

2. The fundamental purpose of having drawn the 50-foot strip on the subdivision plat (what is referred to as the McCrady plat) was obviously to connect up the newly created Bay View

Drive with the old causeway leading through the marsh to Shem Creek, which is depicted on the much earlier plat in evidence. The lots in Bay View sold in large measure because of their proximity to Shem Creek, and the views afforded of the creek and Charleston Harbor as well as the beautiful marshes. Neither Mr. Moore nor any other lot owner has the right to block either the view or the access afforded so obviously by the subdividers to the marshes and creek. This easement or special property interest owned and enjoyed by the lot owners is sufficient to afford them entitlement to most of the relief they seek in this action. Accordingly, it is hereby ORDERED that:

(a) The 50-foot strip in question is declared to have been reserved to the right, use and benefit of all the lot owners in Bay View Subdivision, and they have, among other things, the right to use and enjoy the 50-foot strip in question which runs from Bay View Drive between lots 37 and 38 to the marshes without hindrance or obstruction from the respondents. This is so because the lot owners are declared to have an easement or special property interest in these areas in question for unimpeded and unrestricted access and view.

(b) The respondents Moore are hereby enjoined and required to immediately remove the metal buildings, no trespassing signs, and any other obstuctions they placed in the 50-foot strip. Since no action was taken to halt constuction of his carport before completion, I am not ordering its removal. However, if it is ever taken down or removed by the owner, or

destroyed by natural forces, i.e. a storm, earthquake, etc., it can not be rebuilt in violation of the restrictions, if any, then in force. Nor can the respondents do anything to expand said carport.

(c) The respondents Moore are further enjoined permanently from erecting any other structures, fences, or impediments over the area in question and from threatening or interferring in any way with the petitioners' rights to use and enjoy the 50-foot strip in question in common with the other lot owners in Bay View. Nor will any indirect impediments (such as barking dogs allowed to roam across the strip) be allowed within the 50-foot strip if they interfere with free access of the lot owners. If this occurs with any degree of frequency, this Court shall forthwith issue such an order as may then be appropriate.

While I cannot order it, the Court notes in passing that the problem might be resolved if the Civic Club took on the project of maintaining the several "reserved" areas including posting of appropriate no trespassing signs limiting access to residents or property owners in the subdivision.

AND IT IS SO ORDERED.

Louis E. Condon, Master In Equity

April 6, 1984

Charleston, South Carolina

ATTEST: A CERTIFIED COPY OF THE ORIGINAL FILED IN THIS MATTER.
LOUIS E. CONDON
MASTER IN EQUITY FOR
CHARLESTON COUNTY
By: _____
Certificator

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON BAYVIEW ACRES CIVIC CLUB, Plaintiffs v. GERALD E. MOORE, JR. A/K/A GERALD MOORE, MARGARET BATES MOORE, Defendants	IN THE COURT OF COMMON PLEAS NINTH JUDICIAL CIRCUIT CASE NO: 2011-CP-10-95 **AFFIDAVIT OF GRAHAM STONE**

The undersigned affiant appears before me and swears as follows:

1. My name is Graham Stone, I am over the age of 18 years, and I make the following averments on personal knowledge.

2. I have been a member of the Bayview Acres Civic Club ("BVACC") and a resident of the neighborhood for 22years, and have personal knowledge of the actions of Gerald Moore ("Moore"), who lives 3 doors from my house, as described herein. I was designated by appointment of the President of the BVACC Bobby Warrick, as ratified by May 22nd, 2014 vote of the BVACC board, to speak for Mr. Warrick and for the BVACC, in this matter.

3. From the time I have lived in Bayview, Moore has intruded incessantly upon the 50 foot wide strip of property ("Property") which is adjacent to his house, and which is owned by the BVACC. Exhibit C to the Motion for Rule to Show Cause is a set of photographs which are representative of his intrusion. They illustrate the complete and constant obstruction of the carport which sits predominantly above the Property. They also illustrate the boats, trash, cars, trucks, equipment, and miscellaneous personal property of Moore which he has stored, at all times since my occupancy, on the Property outside of the carport. They also reflect the establishment by Moore of what appears to be a private driveway leading to the carport, a driveway which sits almost entirely on the Property. They also reflect the profound damage done to the Property by Moore's having heaped thousands of cubic feet of mulch onto the Property, then, upon being ordered by this court to remove it, doing so in such fashion that it left a soggy mud-pit in place of what had been a verdant lawn rolling down to the BVACC's waterfront property. Moore erected, completely on the Property, a structure which his friend Robert Payne attempted to establish as a church of which he (Payne) claimed to be an ordained minister.

4. These actions by Moore—over the course of 35 years—have severely hindered my and other residents' access to and enjoyment of the Property. I was the president of the

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BVACC for several years, and still sit on its board. At general meetings of the BVACC and meetings of the Board, residents, officers and Board members complain constantly of Moore's conduct. From Bayview Drive to the carport—basically, the personal driveway he has purported to establish—no resident has been able to use the Property. If one walks from the street up the "driveway" (actually BVACC property), one's progress to the waterfront is completely blocked by the boats, cars and heavy equipment which constantly sit on the Property, and by the floor-to-ceiling piles of personal property which completely block the carport.

5. From the carport out to the waterfront, my and other owners' usage has been adversely affected by the heaping piles of crab traps, lumber, mulch, boats, cars, equipment, dogs and other debris that have been stored there for decades.

6. With neither the stretch from the road to the carport, nor the stretch from the carport to the waterfront easily or pleasurably used, the Property has been rendered a nullity from the standpoint of the BVACC. It ought to be a verdant and pleasant area to enjoy marsh views and access to Shem Creek; instead, it is little more than a constant source of aggravation, litigation and the fees that accompany litigation. The BVACC is tasked with operating a park in the central portion of the neighborhood. Families and children in the neighborhood use the park with its softball diamond and tennis court very frequently, and we hold regular neighborhood gatherings there. We have had many proposals for improvements to the park—barbecue grills, improved playground equipment for the children, a gazebo—but the legal fees we have incessantly racked up in fighting with Moore have severely hampered our ability to make these communal improvements.

7. Since the 1984 order Moore's aggressive and intimidating behavior—diplomatically described in the order as "certain steps which might deter or discourage" residents from using the Property—has persisted. The BVACC had a survey of the property line completed, but Mr. Moore unilaterally and wrongfully removed the survey stakes. Moore also removed the surveys markers on the west side of his property, markers that had been placed by the surveyors just 20 minutes beforehand. When I confronted Moore on this subject, he punched me in the face. In front of 5 witnesses, the police were called and offered to arrest Moore for assault, but to be neighborly I refused to press charges. The BVACC installed a fence designed to prevent Moore from using the Property as his personal driveway and parking lot for personal and commercial vehicles, but Moore unilaterally and wrongfully tore the fence down. Photographs of the survey work and fence (and its removal) are included within Exhibit C.

8. The BVACC and I believe that Moore's conduct has put him in constant violation of both the letter and spirit of the 1984 order, in numerous ways:

- The order declares that "there is no basis for any claim by Mr. Moore to any greater right to use the strip than is enjoyed by the other lot owners." Despite this, all of the conduct described above is undertaken solely by Moore, joined by no other lot owners, and in violation of their property rights. He clearly continues to behave in a fashion consistent with a "greater right" to the Property that simply does not exist under the 1984 order.

- The 1984 order specifically contemplates that BVACC members will be able to walk through the carport to the waterfront: "it may be slightly inconvenient to [BVACC members] to have to walk through the carport". As noted above, nobody has been able to walk through that carport since I have been a resident as a result of the heaps of personal property which are jammed tightly into the entire carport.

- The 1984 order declares that the purpose of the 50-foot strip was "obviously to connect up the newly created Bay View Drive with the old causeway leading through the marsh to Shem Creek". As noted above, this connection does not exist, as a result of Moore's conduct: the jam-packed carport, the boats, vehicles and other obstructions which constantly impede our use of the Property.

- The 1984 order declares that "Neither Mr. Moore nor any other lot owner has the right to block either the view or the access afforded so obviously by the subdividers to the marshes and creek." As set forth above, Moore has been blocking and continues to block access and the view for decades, in violation of the 1984 order.

- While Moore recklessly asserts his wrongful claim to the Property, in all the ways described above, the 1984 order goes out of its way to declare the economic importance of the Property to all of the landowners in the neighborhood: "The lots in Bay View sold in large measure because of their proximity to Shem Creek, and the views afforded of the creek and Charleston Harbor as well as the beautiful marshes."

- The 1984 order declares that the Property has been "reserved to the right, use and benefit of all the lot owners in Bayview Subdivision, and they have, among other things, the right to use and enjoy the 50-foot strip in question which runs from Bay View Drive...to the marshes without hindrance or obstruction" from Moore. As set forth above, the use of massive portions of the Property has been denied to BVACC members for decades, as a result of Moore's implacable wrongful conduct.

- On similar lines, the 1984 order declares that the BVACC members have legal right to "unimpeded and unrestricted access and view" of the Property. As set forth above, I and the BVACC have enjoyed nothing like unimpeded and unrestricted access and view.

- The 1984 order rules as follows: "[Moore is] enjoined and required to immediately remove the metal buildings, no trespassing signs, and any other obstructions [he] placed in the 50-foot strip." As noted above, for the entirety of the nearly thirty years since the order, Moore has stored an endless collection of obstructions, of all shapes, sizes and kinds, on the Property.

- Finally, the 1984 order enjoins Moore from "erecting...any other impediments over the [Property] or from interfering in any way with the petitioners' rights to use and enjoy the [Property]. Nor will any indirect impediments (such as barking dogs allowed to roam across the strip) be allowed within the [Property] if they interfere with free access of the lot owners."

9. The 1984 order specifically contemplated that remedial orders of the Court would be appropriate if Moore impeded or obstructed the BVACC's free access to the Property "with any degree of frequency". Respectfully, the foregoing establishes that Moore's violation of the Order has been constant.

10. I have personally witnessed constant violations by Moore of the 2013 order issued by this Court. The order required Moore to remove "all mulch, dirt and grass they allowed to be placed on the [Property]" and ordered that he restore the Property to the condition it was in "prior to the time the mulch, dirt and grass was placed on the Property". Though much of the mulch has been removed, Moore's doing so left a grassless, waterlogged, low-sitting tire-tracked, tree-less wasteland which, prior to the mulch being wrongfully put there had been a grassy, verdant, pleasant high ground on which property owners were able to enjoy the views and the marsh. It manifestly is not in the condition it had been in, despite that I personally have met with Moore's attorney to explain specifically what was required.

11. The 2013 order also required Moore to "remove from the Plaintiff's Property any debris on the Property such as propane tanks, doors, sinks, plumbing fixtures, etc" but these items have remained on the Property.

12. The 2013 order states that Moore "will not [with certain exceptions not relevant] use vehicles on the Plaintiff's Property other than a bicycle." I have witnessed, since the order, countless instances of vehicles being parked and driven across the Property, in violation of the Order.

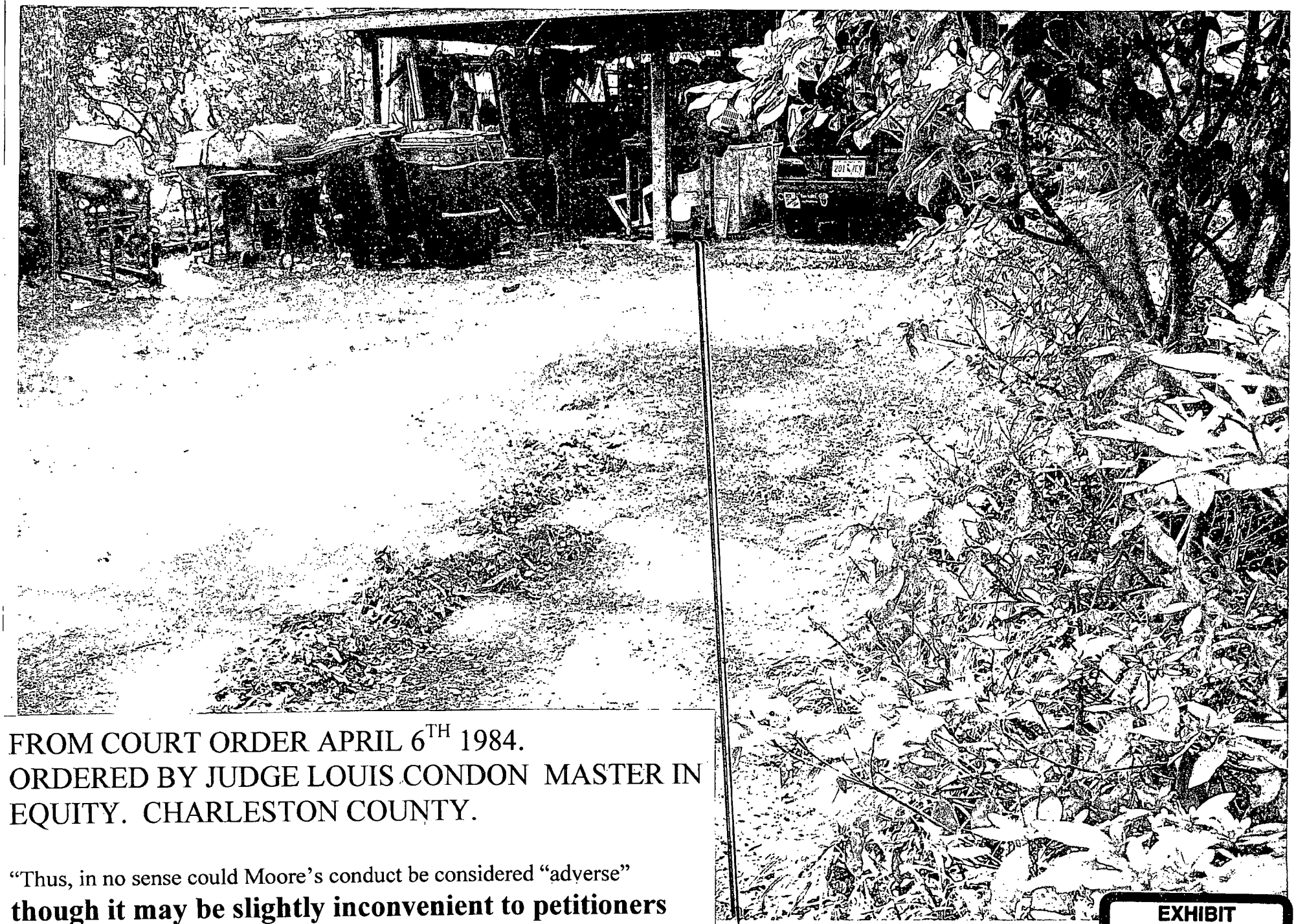
13. The BVACC and I believe that the only sure way to end this thirty-year battle is to have the carport removed, such that clean, unambiguous property lines are reestablished. The 1984 order's apparent compromise resolution—i.e., decisively affirming the BVACC's property rights, yet allowing the carport to persist—has led to incessant uncertainty as to the rights of the parties. Given Moore's constant violation of the 1984 Order, we believe that eliminating the carport is appropriate. The BVACC is willing, in that event, to pay for the erection of a nice, wooden fence which will delineate the parties' property, hopefully with the ultimate result that the parties and the court can move on to other matters.

Respectfully submitted,

Graham Stone.

M A Carter
NOTARY PUBLIC
State of South Carolina
My Commission Expires
12/19/2023

5/22/2014



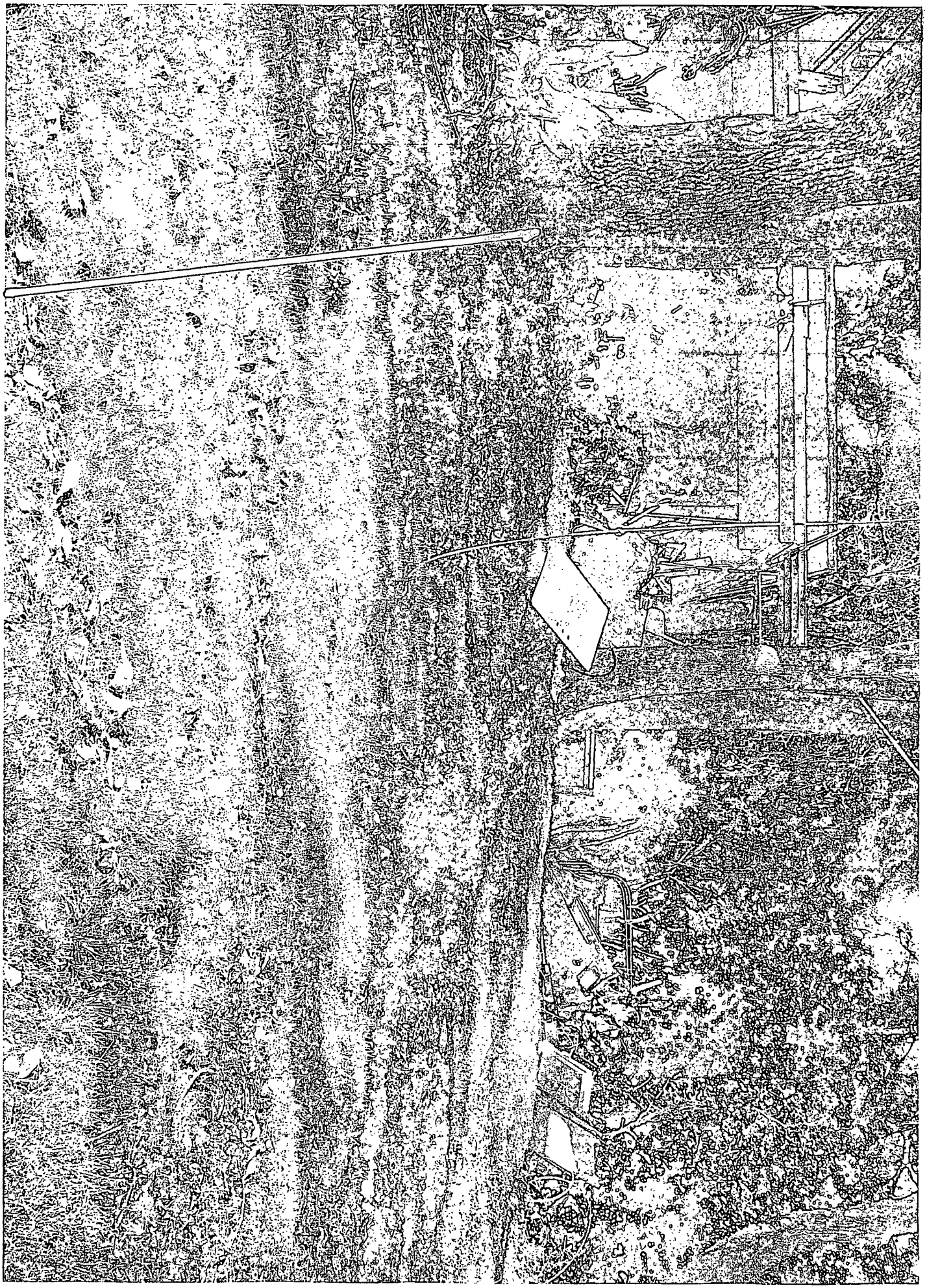
FROM COURT ORDER APRIL 6TH 1984.
ORDERED BY JUDGE LOUIS CONDON MASTER IN EQUITY. CHARLESTON COUNTY.

"Thus, in no sense could Moore's conduct be considered "adverse"
though it may be slightly inconvenient to petitioners and other lot owners to have to walk through the carport".

R-23

EXHIBIT
tabbies
C

5/31/2011



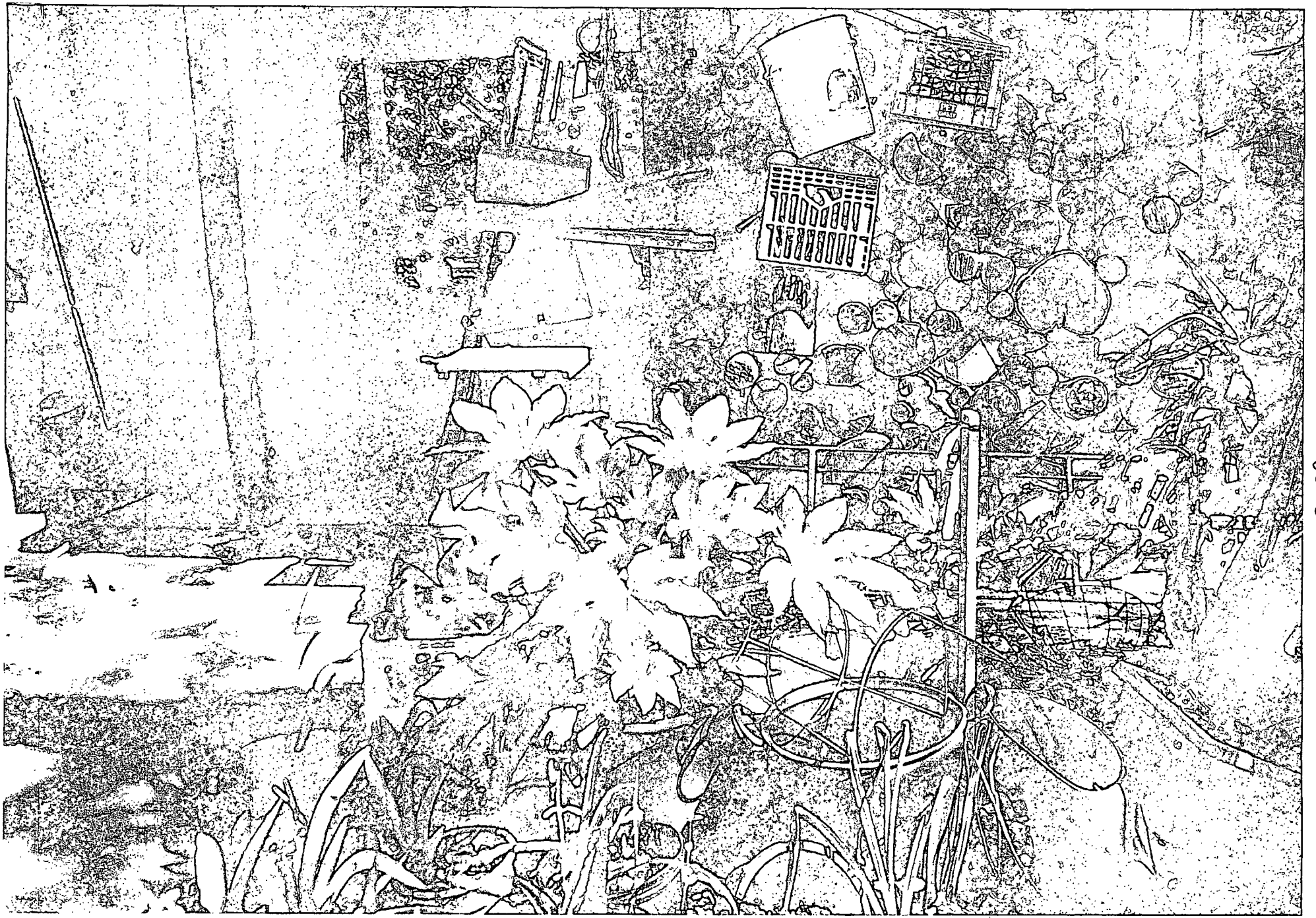




SURVEY PAID FOR BY BVACC

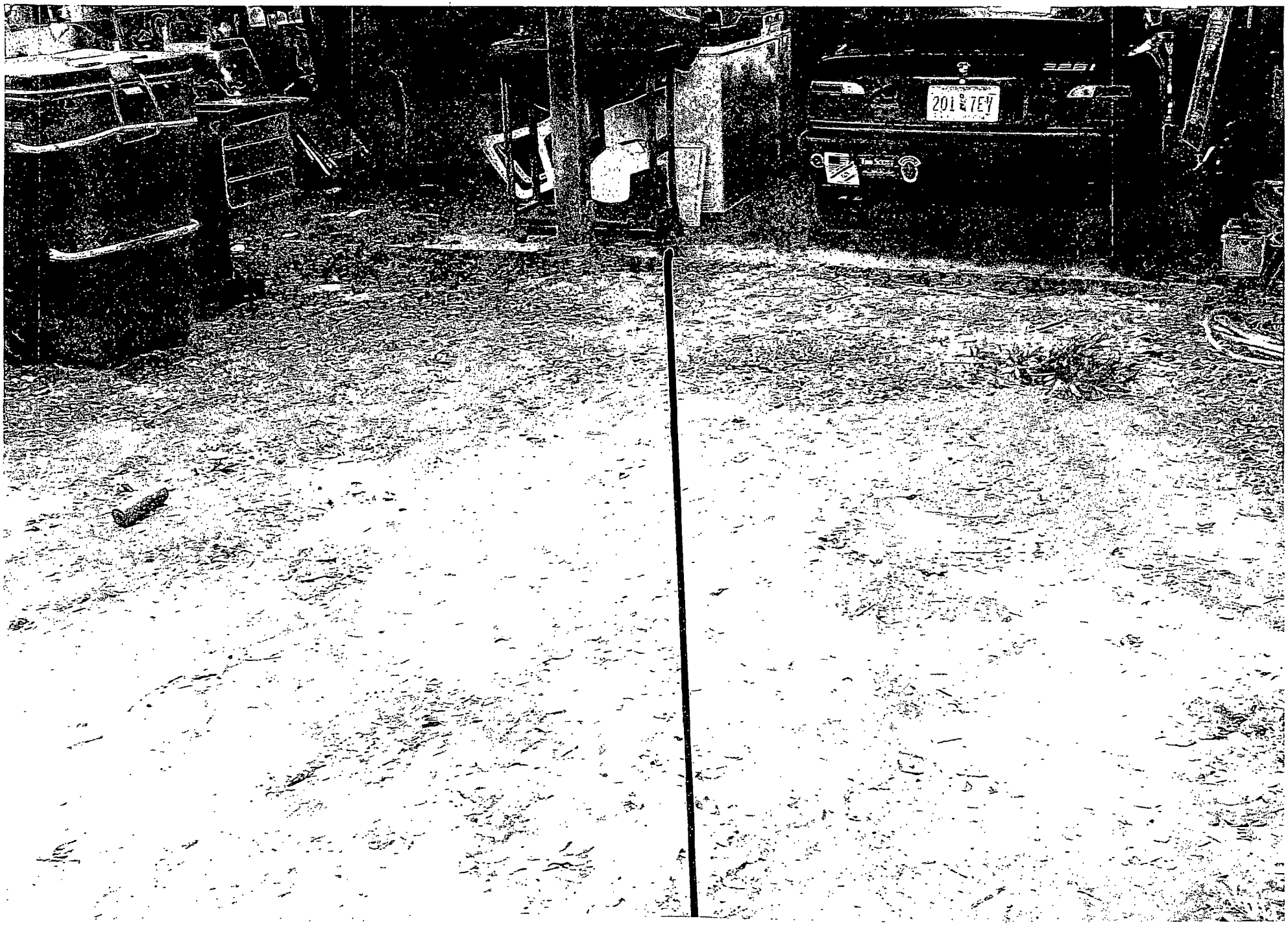


SURVEY PAID FOR BY BVACC



R-29

SURVEY PAID FOR BY BVACC



SURVEYORS PROPERTY LINE

R-30

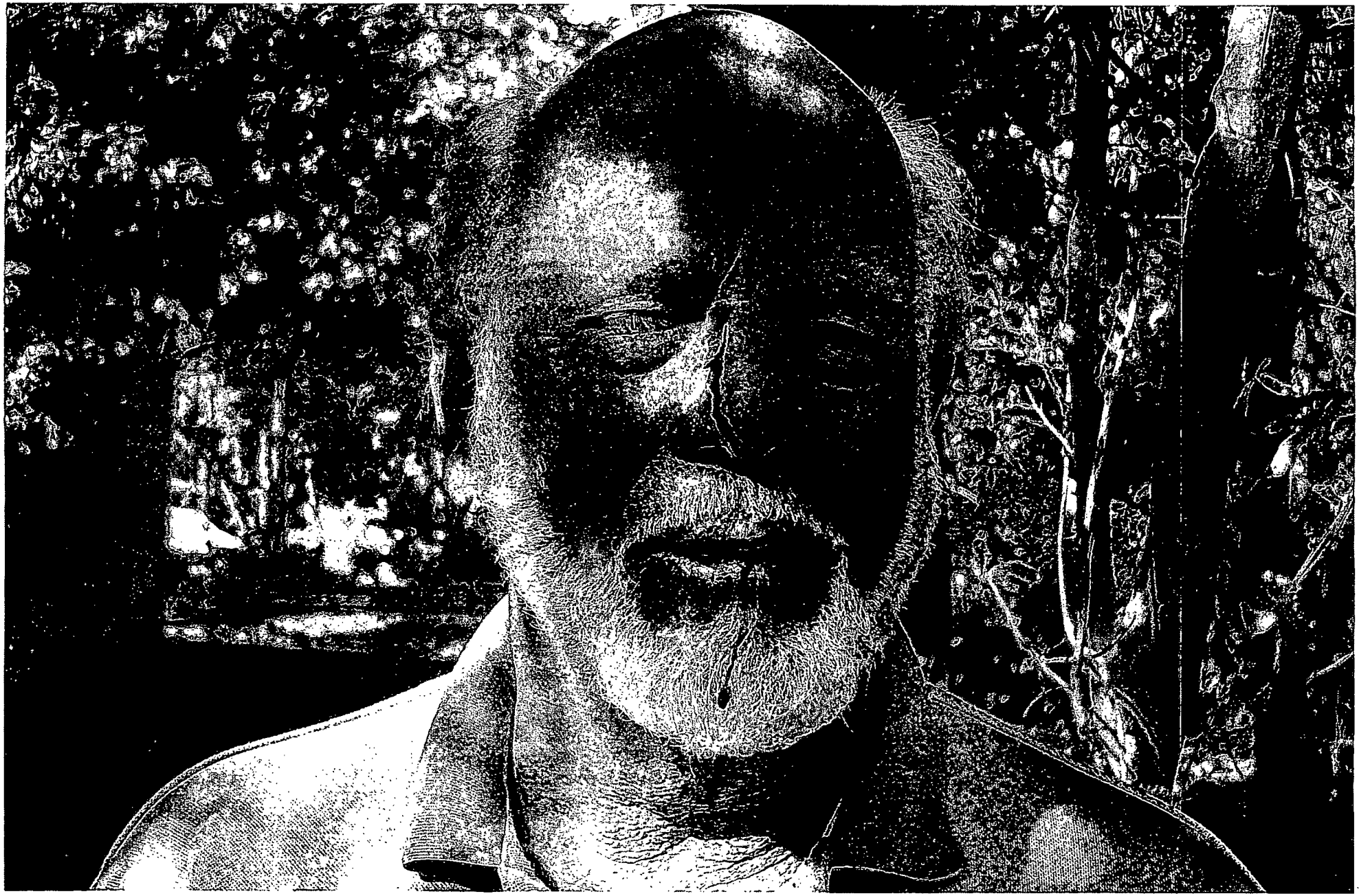


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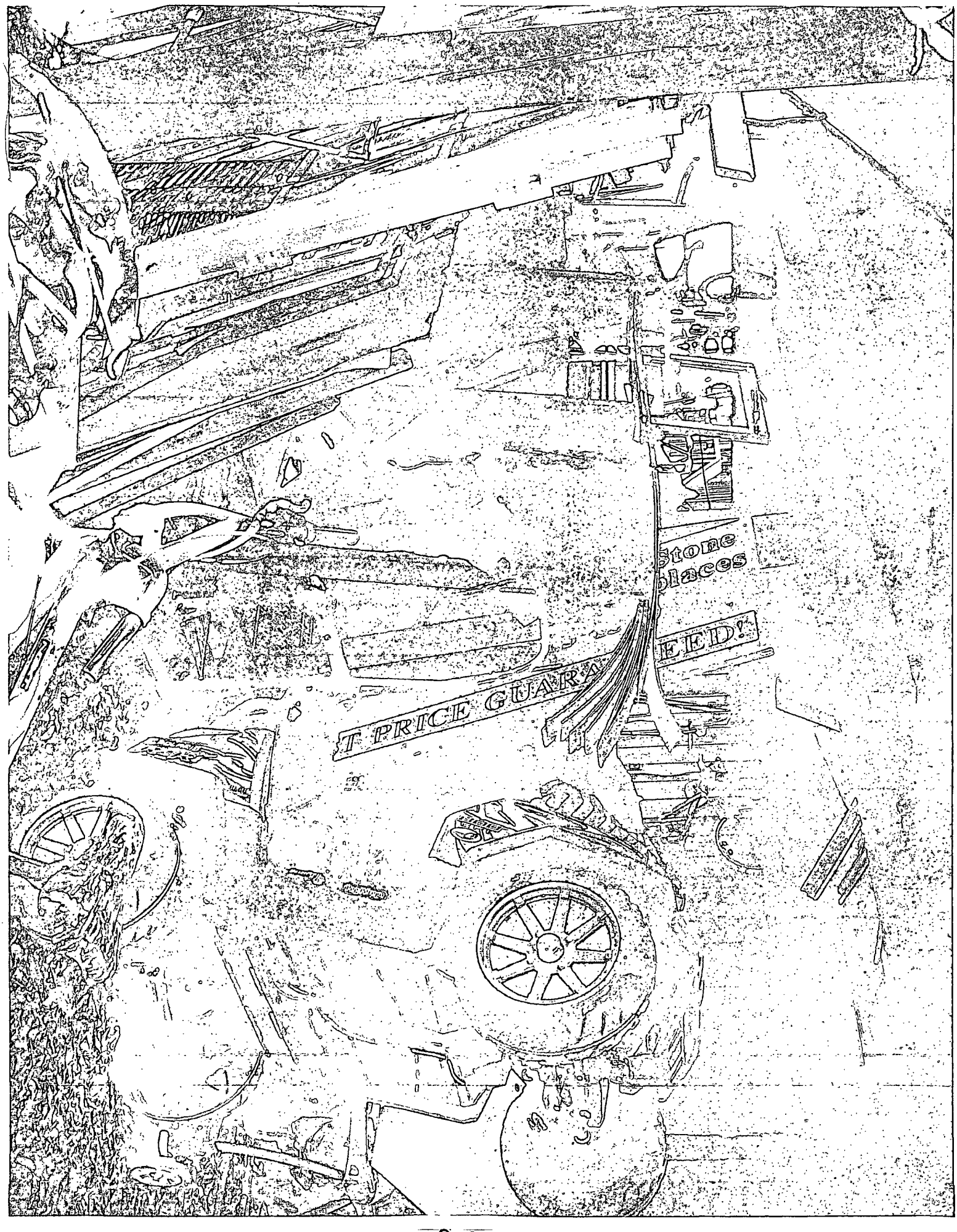
12/8/2010

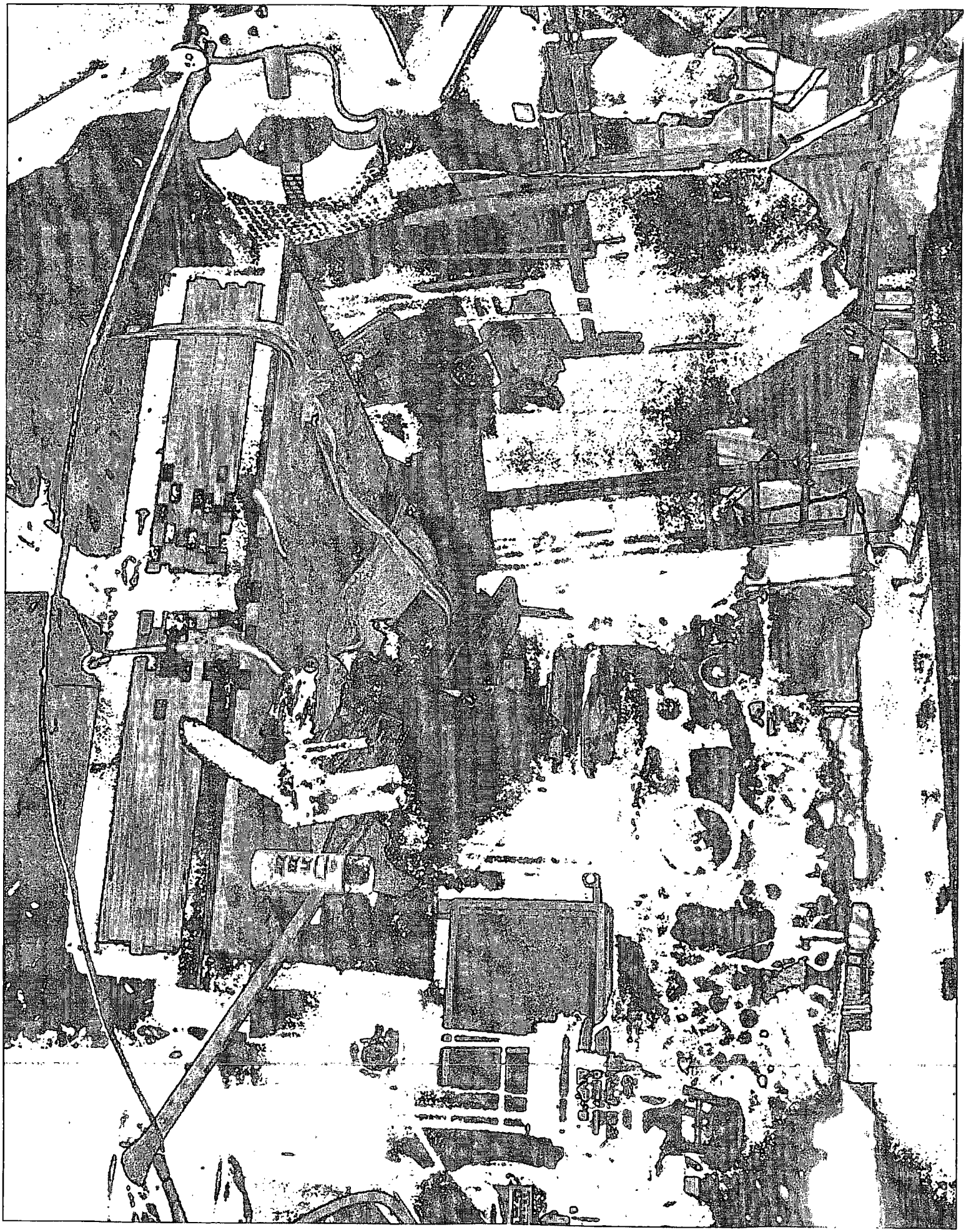
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R-34

11/22/11


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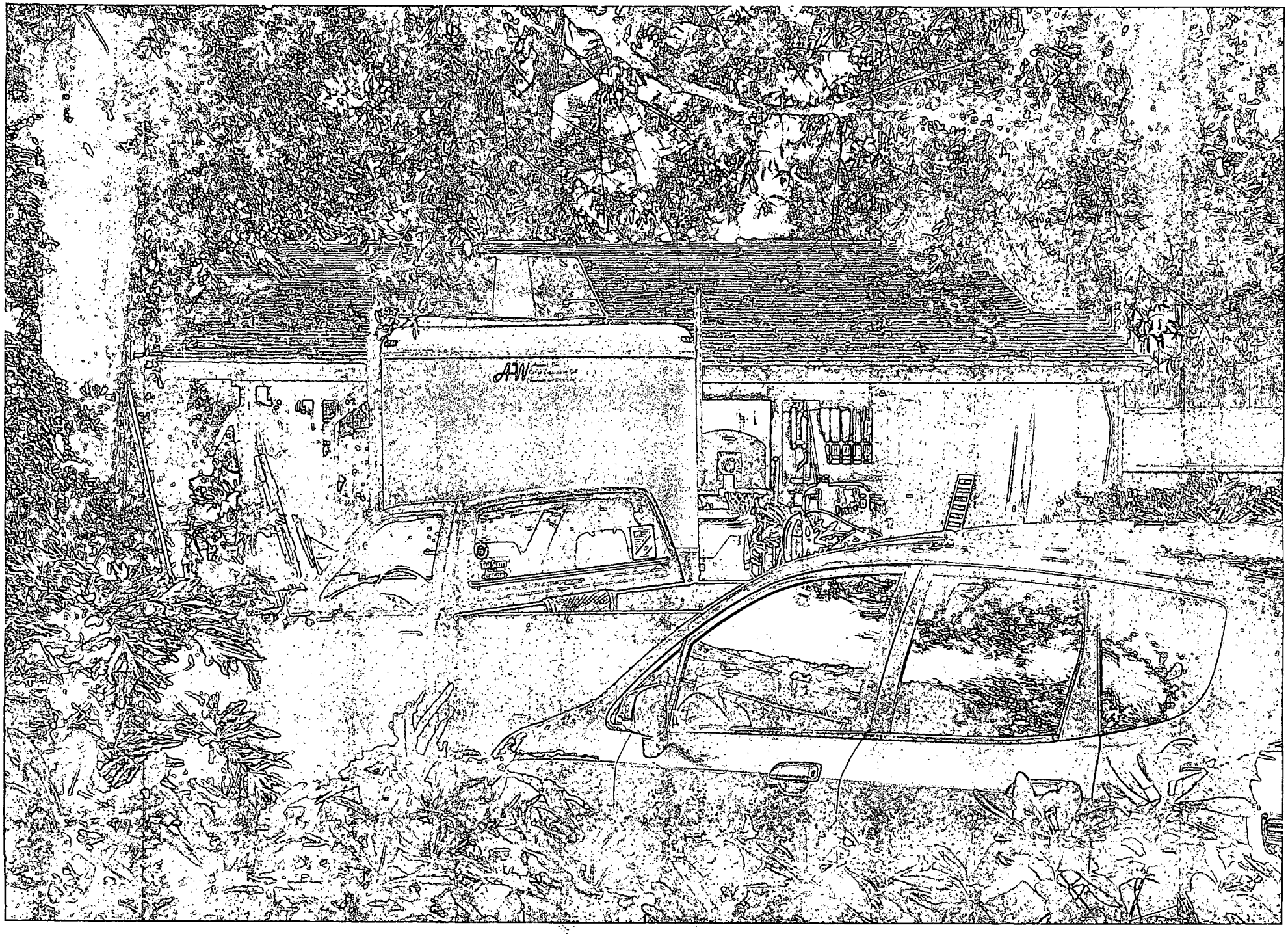
Judge, Condon's 1984 order also states: The respondents Moore are further enjoined permanently from erecting any other structures, fences, or IMPEDIMENTS over the area in question and from threatening or interfering in any way with the petitioners rights to use and enjoy the 50-ft strip in question.



FROM COURT ORDER APRIL 6TH 1984.
ORDERED BY JUDGE LOUIS CONDON MASTER IN EQUITY. CHARLESTON COUNTY.

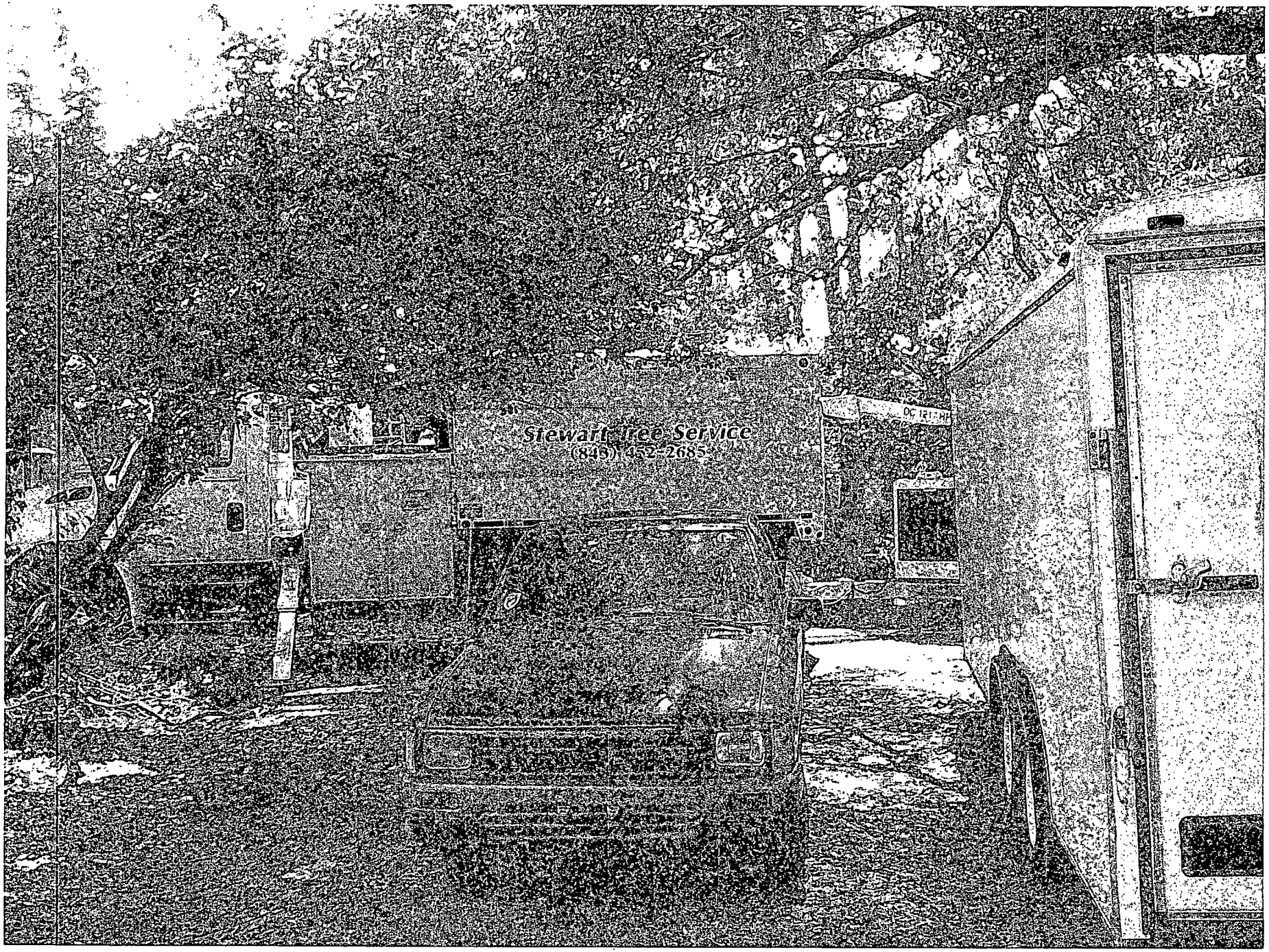
"Thus, in no sense could Moore's conduct be considered "adverse"
though it may be slightly inconvenient to petitioners and other lot owners to have to walk through the carport".

R-37



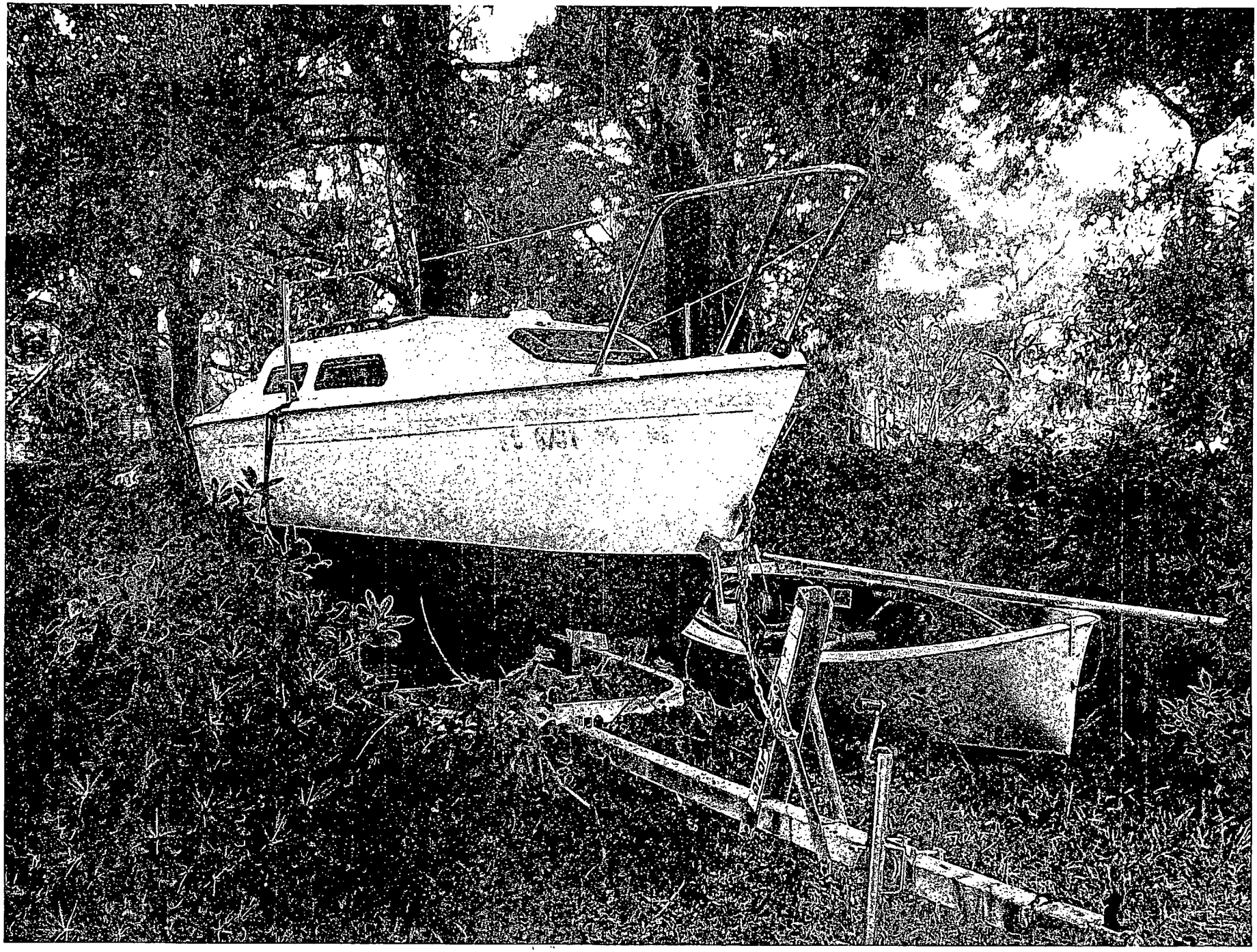
R-38

8/13



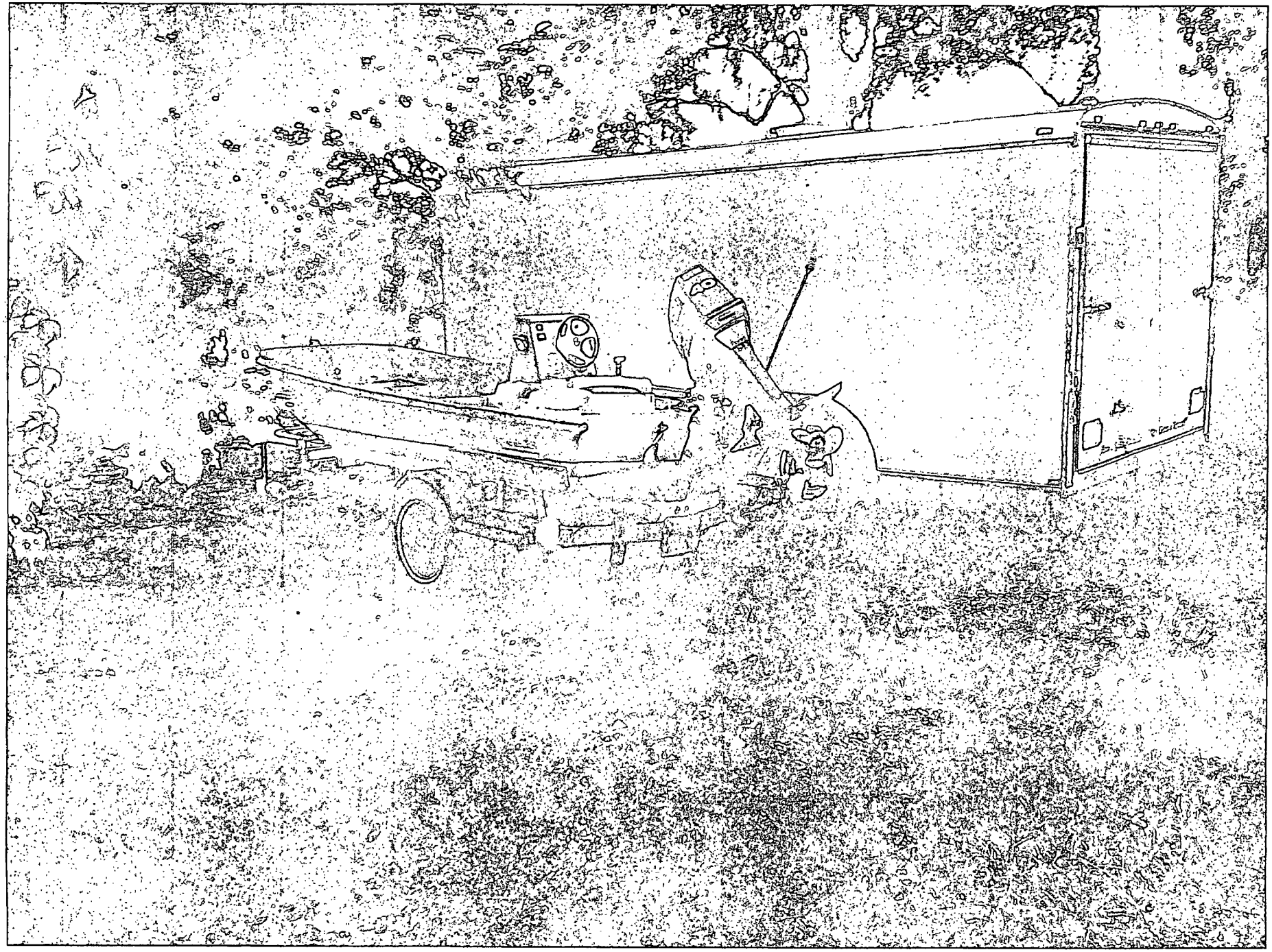
6/15/2011

R-39



6/17/09

R-40



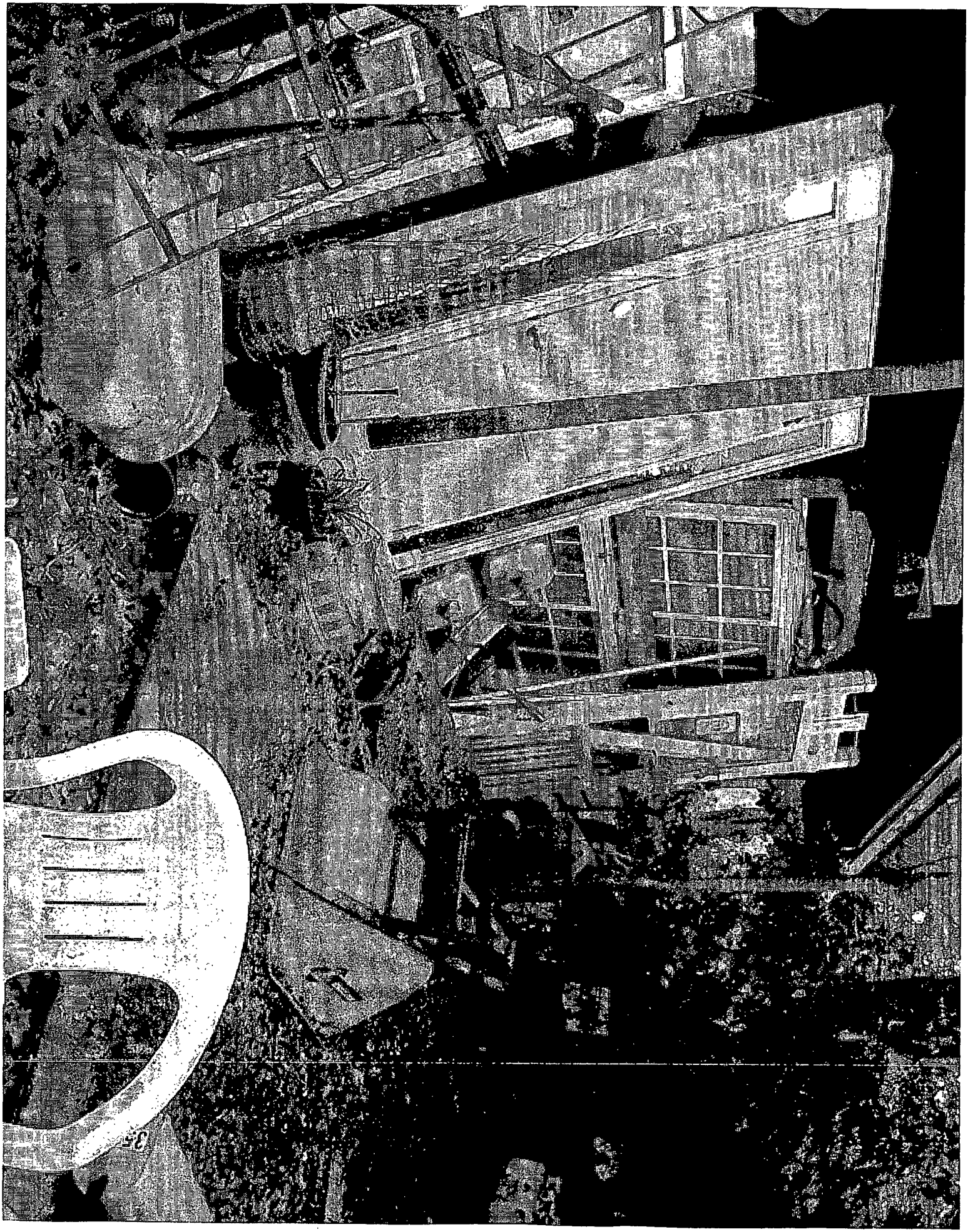
7/16/2011



R-42

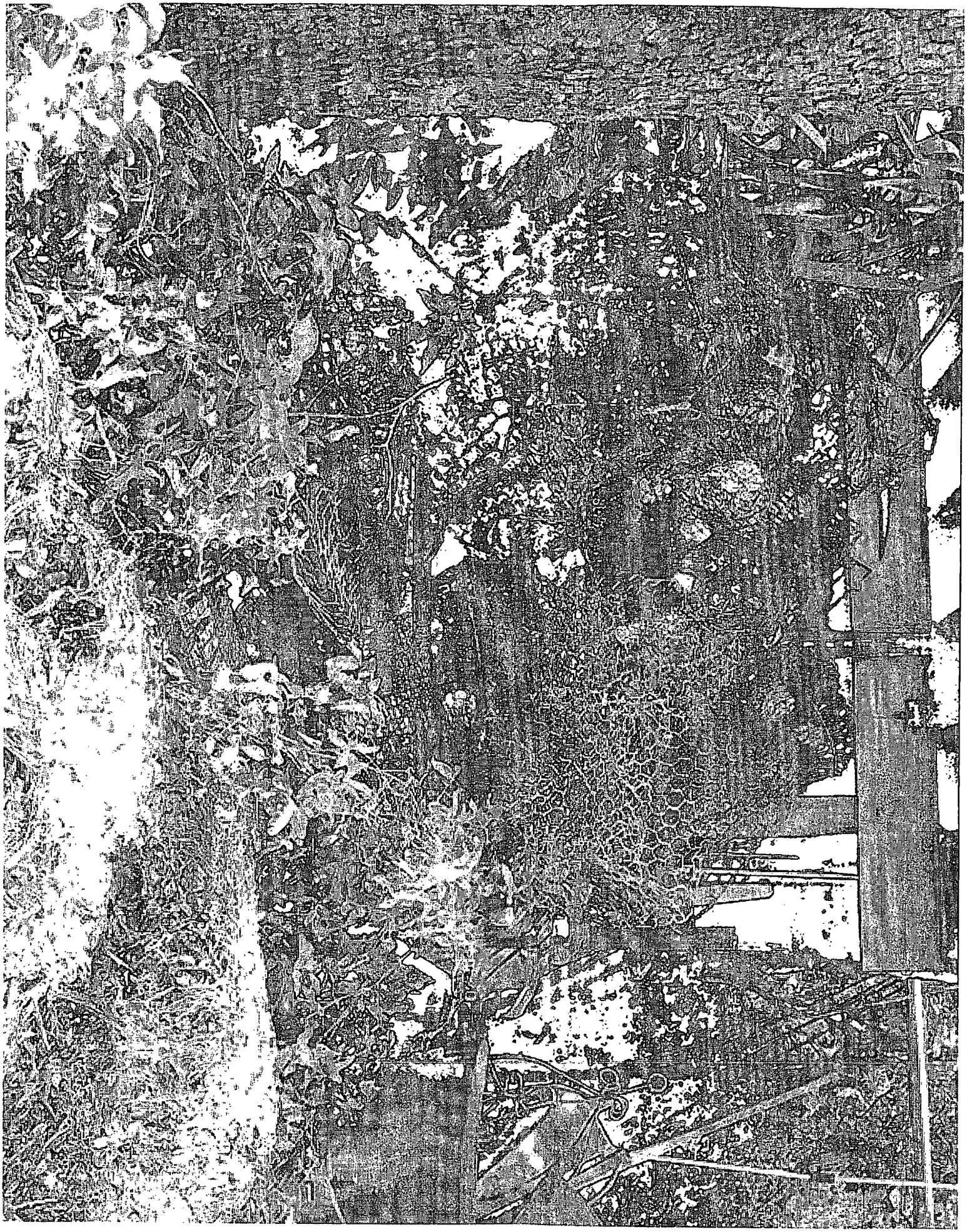
1984 ORDER: PA 2 (C) "THE RESPONDENTS MOORE ARE FURTHER ENJOINED PERMANENTLY FROM ERECTING ANY OTHER STRUCTURES, FENCES, OR IMPEDIMENTS".

7/10

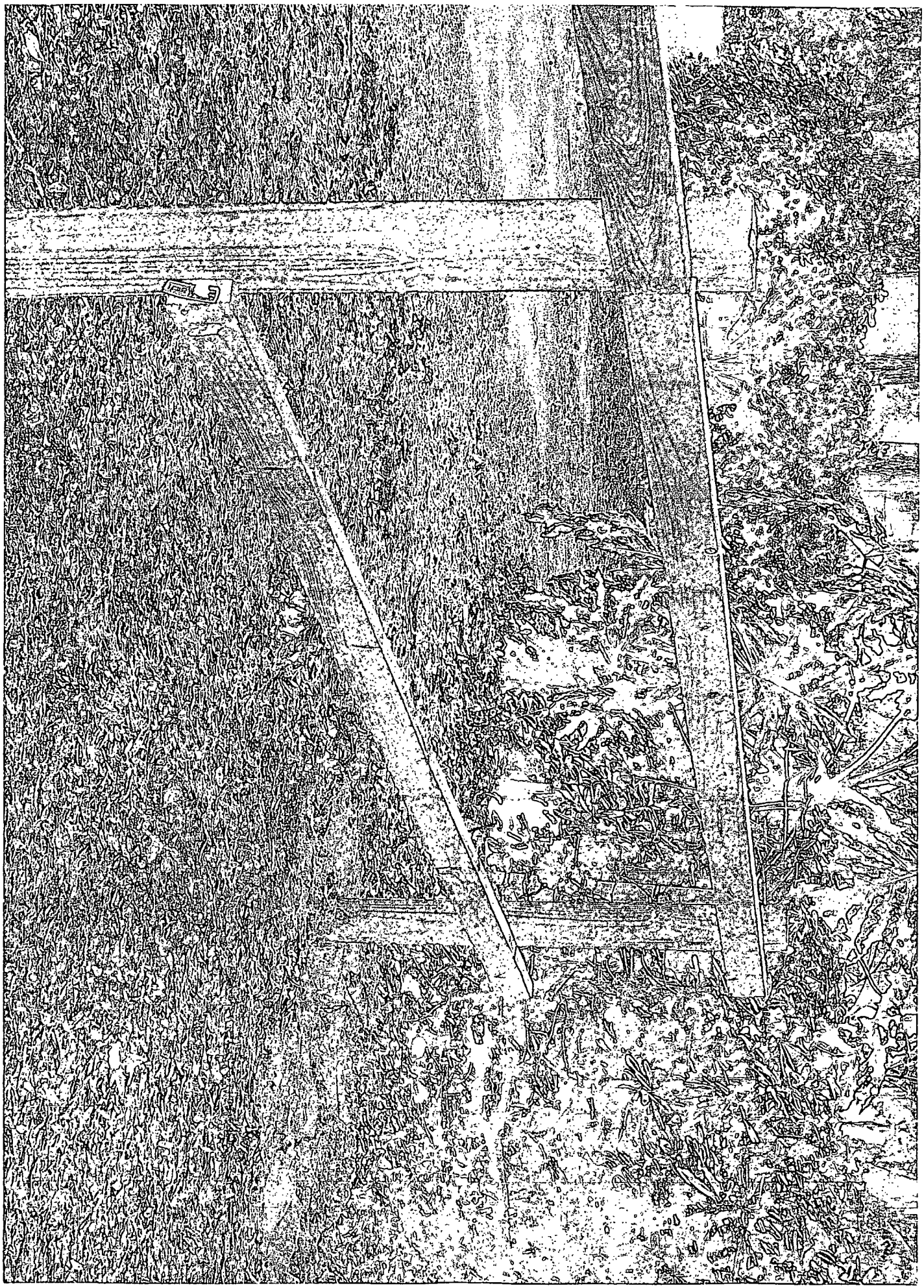




R-45



R-47



R-49

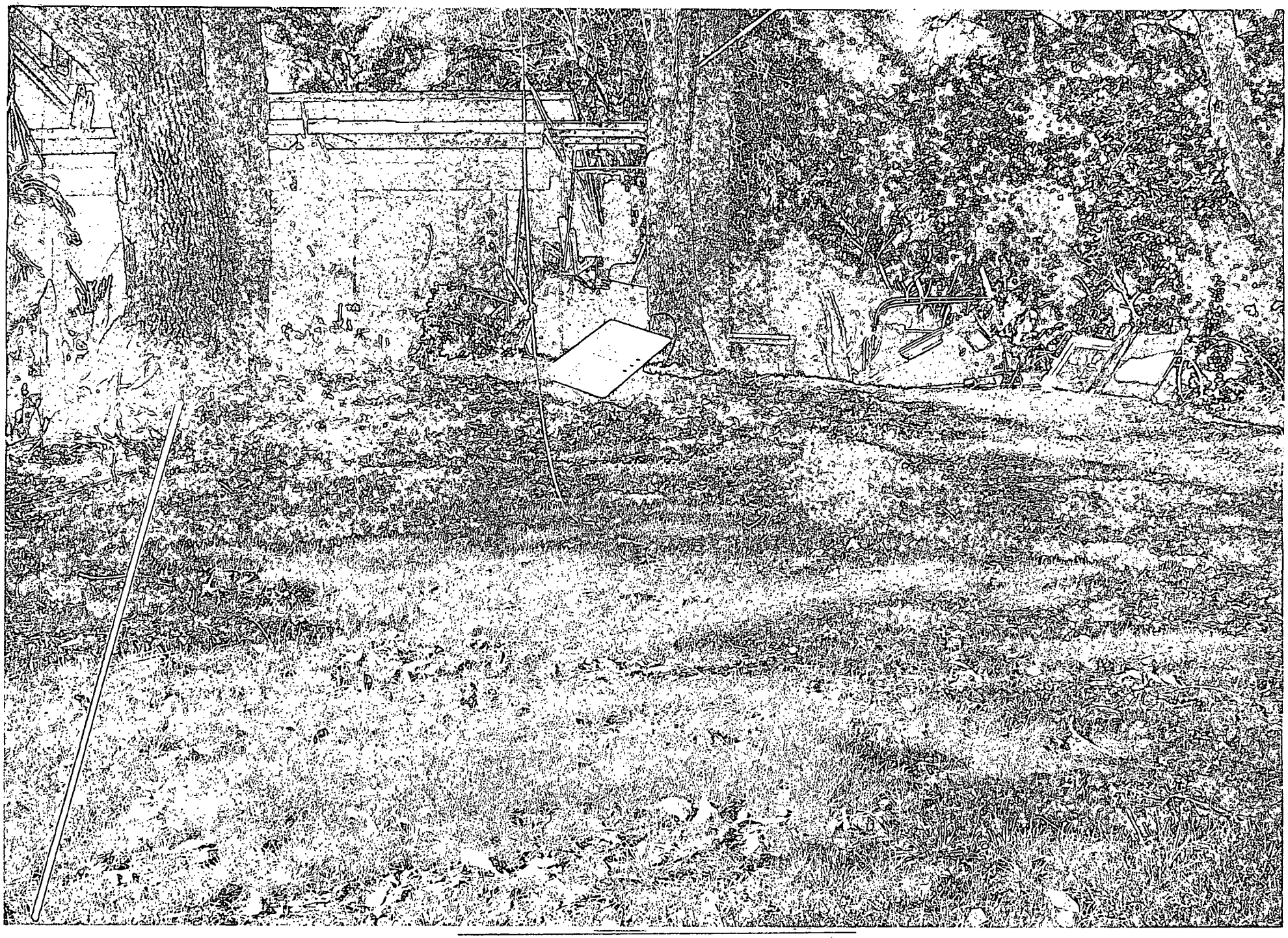
8/1/2010

R-50



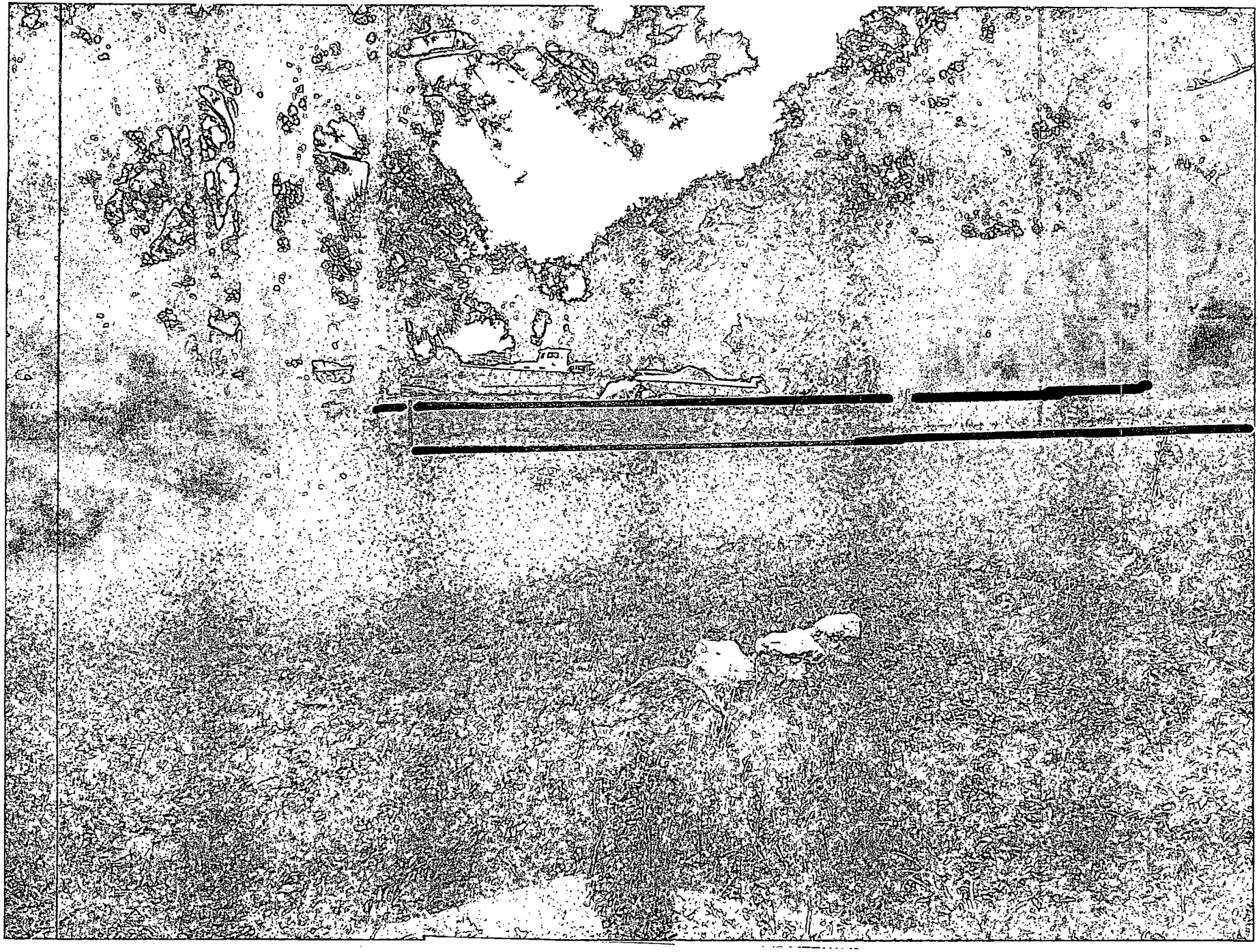
THE "BEAVERS" MUST BE GETTING STRONGER





PRIOR TO COURT ORDER

R-53



PRIOR TO COURT ORDER

R-54

R-55

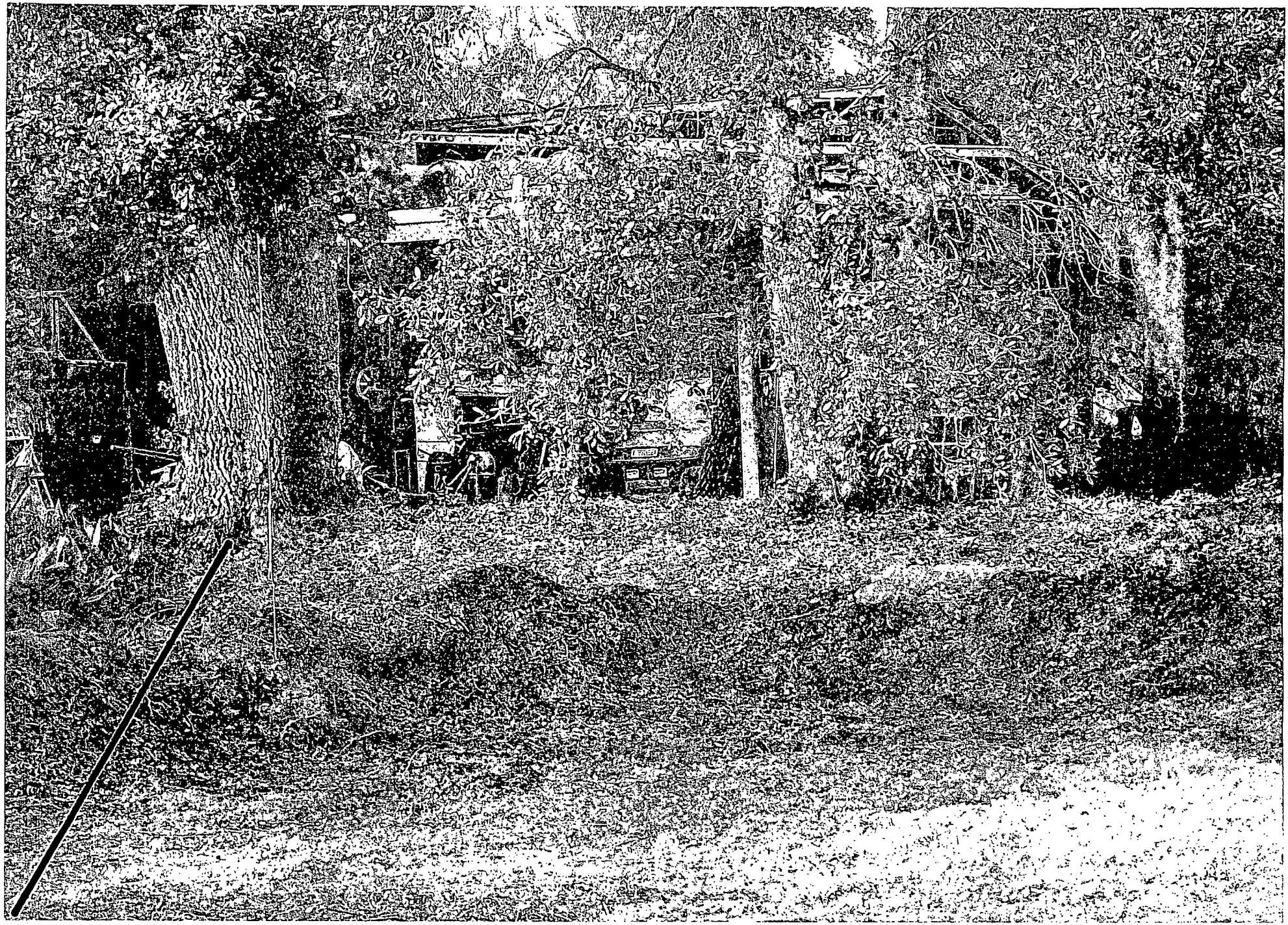


R. 56

10/6/2010

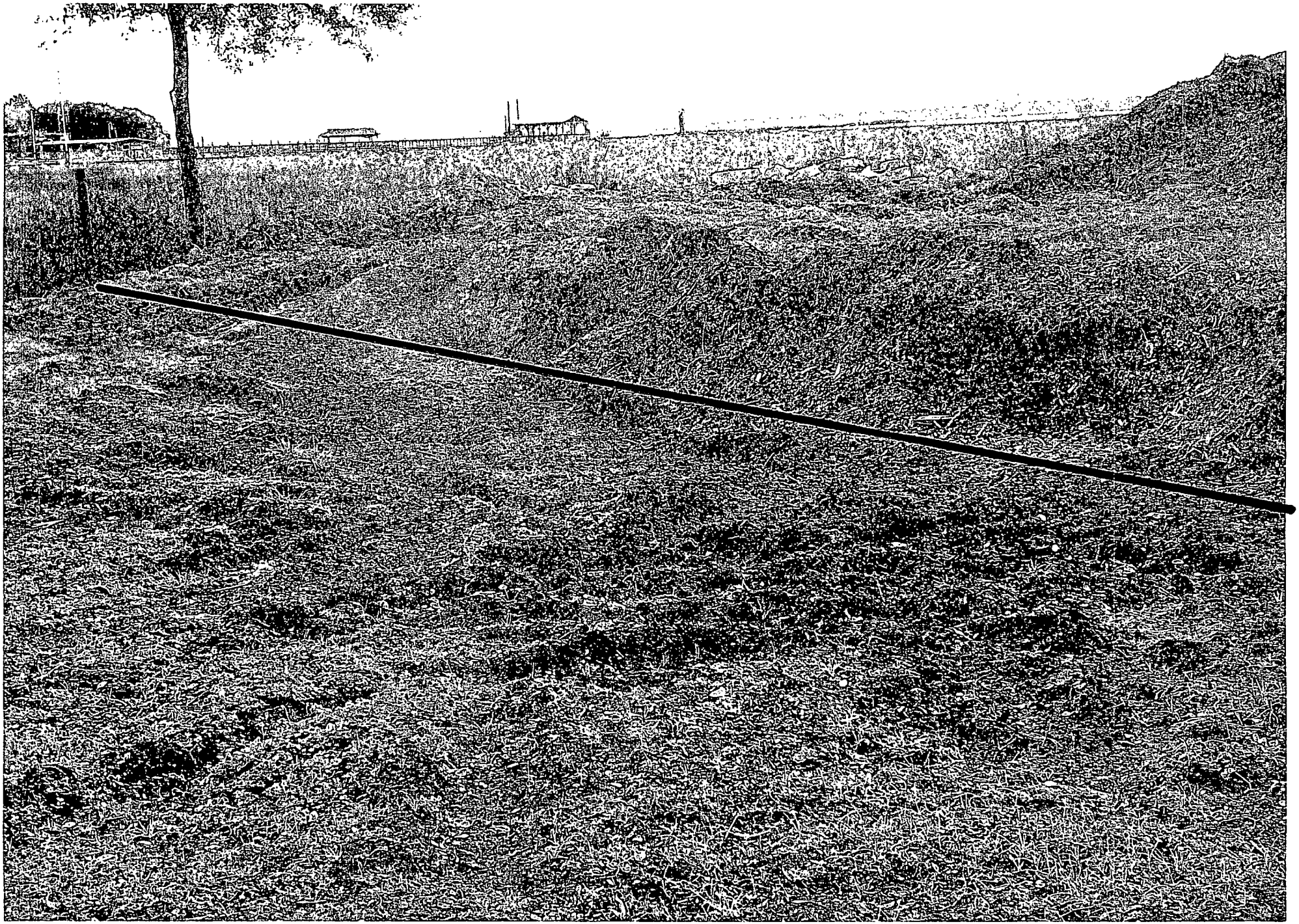
NOW

R-57



NOW

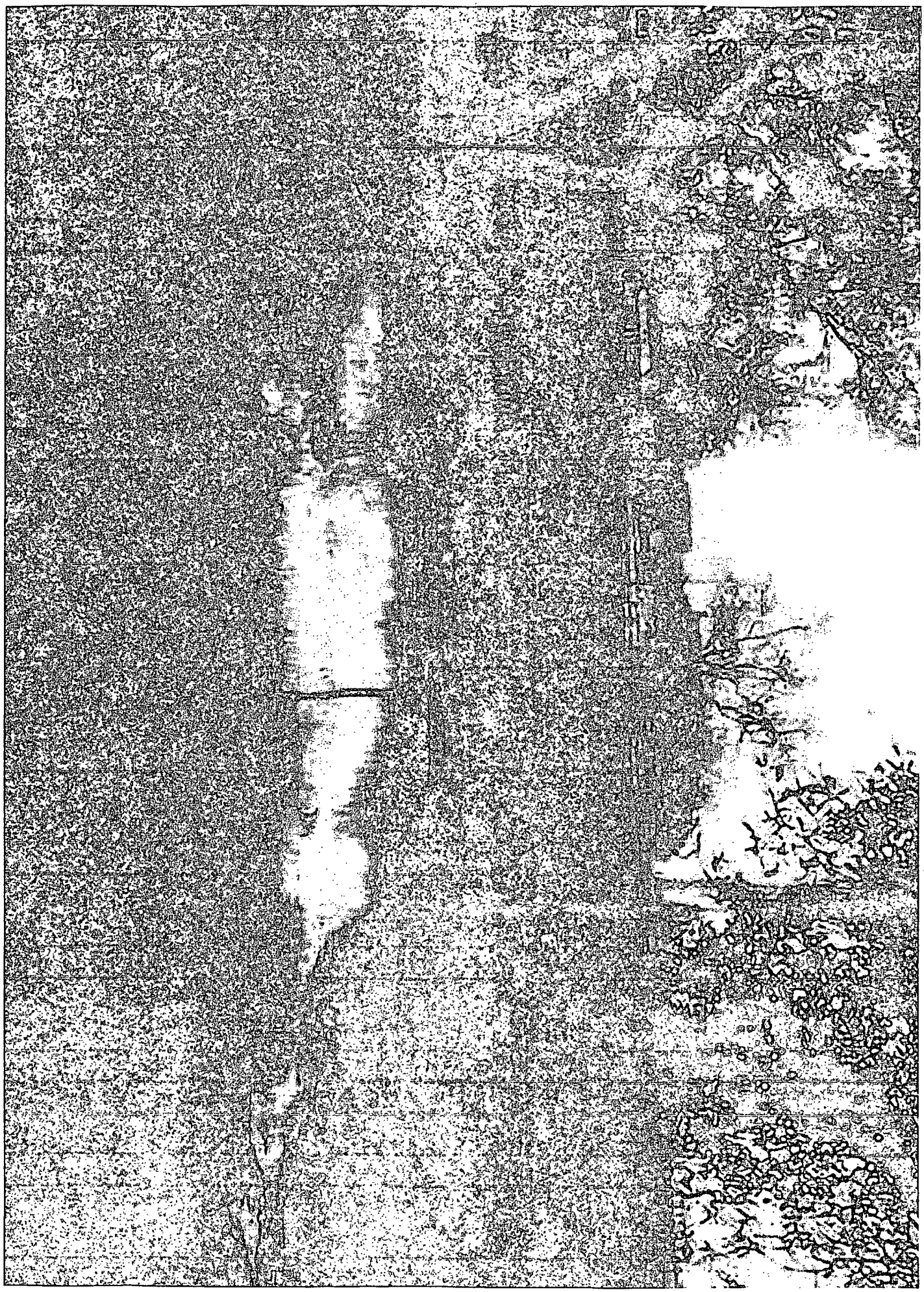
R-58



NOW

R-60

NOW





R-62

PRIOR TO COURT ORDER



NOW

R-63



R-64

11/19/2013

2011-CP-10-00095

Certificate of Service

The undersigned, by affixing his signature hereto, does certify that he caused a copy of the forgoing to be served by depositing a copy of same into US Mail, postage prepaid, first class and addressed as follows:

Mr. David A. Collins, Esq.
PO Box 40578
Charleston, SC 29423
And via email to, *Davidacollins2@aol.com*

By: _____
David P. Traywick

May 22, 2014

FILED
2014 MAY 22 PM 4:27
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) CASE NO. 82-CP-10-4234

W. L. GUERRY, JR., and PATRICIA S. GUERRY, individually and on behalf of all property owners in Bay View Acres Subdivision, and BAY VIEW ACRES CIVIC CLUB, an eleemosynary corporation,

Petitioners,

vs.

GERALD E. MOORE, JR., MARGARET BATES MOORE, FRANKLIN P. WERNER, and DORIS M. WERNER,

Respondents.

ORDER

This action for declaratory and injunctive relief was commenced on November 24, 1982, by the individual petitioners W.L. and Patricia Guerry, who own a home in Bay View Acres Subdivision, and by the Bay View Acres Civic Club, an eleemosynary corporation. The petitioners seek to enjoin the respondent Gerald E. Moore, Jr., and his wife Margaret Bates Moore from blocking or obstructing the 50-foot-wide strip of land which extends about 250-300 feet from Bay View Drive to the marshes of Shem Creek. This strip or street extension is between lots 37 and 38. The Moores have owned lot 37 since August of 1974, and the other respondents, Franklin P. and Doris M. Werner, own lot 38.

The Werners filed an answer joining in the prayer of the petitioners, and they state among other things in their answer:

> [T]hese respondents have in no manner ever attempted to claim this property [i.e., the 50-foot strip] to the exclusion of the petitioners;

The strip in question is highland which has a few shrubs and trees on it, and it in turn leads to what is apparently a quite old ten-foot-wide dirt causeway, which slices through the marsh down to the edge of Shem Creek. This is apparently the only way for Bay View Acres Subdivision residents to walk from their homes to Shem Creek and crab, fish, or just see the sights along this beautiful creek which often is filled with shrimp boats.

The plat for Bay View shows that the strip in question, along with two other similar strips that lead only to the edge of the marsh, have written on them the words, "Reserved." Mr. Moore argues that these words must mean that the strips were reserved strictly and exclusively for the original subdividers, Miss Daisie Sessions, et al. He further claims, by adverse possession, to have succeeded to the title of the original subdividers.

On the other hand, the petitioners introduced the restrictions for Bay View acres as well as a letter from Miss Sessions' attorney in 1955 addressed to the Bay View Acres Civic Club which clarifies Miss Sessions' position. In pertinent part, Miss Sessions' attorney stated:

Miss Sessions says that the reservation of the 50 feet involved (between lots 37 and 38 on Bay View Drive) was for the purpose of giving unobstructed access to the marsh.

It seems irrefutable from the long usage over the course of more than 35 years by residents of Bay View without the least hindrance from Miss Sessions, et al., that it was her intention and that of the other subdividers that the lot owners, when they bought their lots in Bay View, also acquired the right to use all of the streets, lanes, ways, etc., shown on the plat) and that these would certainly include the right to reach the marsh and creek along the 50-foot strip. After all, the marsh and harbor views provide the focal points for this subdivision. Certainly, if the subdividers had had a different intention, they would have made that intention manifest in the restrictions, on the plat, or by prohibiting access, on at least one occasion, over the course of the last several decades. These things did not occur, and there is no dispute in the record about this. Indeed, Miss Sessions' attorney confirmed that access was the point of laying out these strips.

Additionally, the petitioners claim that Mr. Moore has violated the restrictions of record which prohibit the erection of structures closer than five feet to a side line. Mr. Moore concedes that his carport was erected closer than five feet to the side lot line on the eastern side of his property. Indeed, it extends 15 or 20 feet into the 50-foot strip. The carport was

erected within the last two or three years. While the petitioners did not bring to Mr. Moore's attention his violation of the restrictions until the carport had been erected, this doesn't excuse Mr. Moore for failing to recognize his error or, possibly, having erected the carport intentionally within the access route.

Adding to the petitioners' consternation has been the fact that since Mr. Moore first occupied his house in 1977, he has slowly taken certain steps which might deter or discourage some of the lot owners from exercising what petitioners believe is their right to traverse the 50-foot strip in question. Specifically, Moore has erected two or three no trespassing signs, located a couple of small metal buildings on the strip, allowed three or four of his dogs to roam the strip without being controlled by a fence or rope, and he personally has questioned people who have sought to walk across the strip. Nevertheless, Mr. Moore concedes that he has never stopped anyone from using the strip in question. Thus, in no sense could Moore's conduct be considered "adverse" though it may be slightly inconvenient to petitioners and other lot owners to have to walk through the carport or around the dogs and metal buildings. Nor can it be said, as Moore claims in his answer, that he acquired any interest in the 50-foot strip from the respondents Werner, for the Werners, as noted, admit that they have never done anything adverse respecting the areas in question. In short, they conveyed

nothing to Moore in the quit claim deed Moore entered in evidence.

From the evidence, it appears that the Respondent Moore made several unsuccessful attempts to purchase the strip. The exchange of quit claim deeds with Werner was a futile move for uncertain motives. Hopefully no attorney suggested it as a means of acquiring title. Rather, Mr. Moore's major purpose seems to have been an attempt to stop trespassers from outside the subdivision whom he suspected had been or were a threat to his family and their peaceful enjoyment of their own property. While such concern is understandable, his acts were without authority in the subject strip.

The parties have agreed that this order shall be considered a final order appealable only to the South Carolina Court of Appeals. In light of the foregoing, I find as follows:

1. The acquiescence of the original subdividers, together with the language of the restrictions, leads to the inescapable conclusion that the lot owners in Bay View Subdivision acquired, when they bought lots pursuant to the McCrady plat, an easement or property interest which allows them unobstructed access to the 50-foot strip in question, and there is no basis for any claim by Mr. Moore to any greater right to use the strip than is enjoyed by the other lot owners.

2. The fundamental purpose of having drawn the 50-foot strip on the subdivision plat (what is referred to as the McCrady plat) was obviously to connect up the newly created Bay View

Drive with the old causeway leading through the marsh to Shem Creek, which is depicted on the much earlier plat in evidence. The lots in Bay View sold in large measure because of their proximity to Shem Creek, and the views afforded of the creek and Charleston Harbor as well as the beautiful marshes. Neither Mr. Moore nor any other lot owner has the right to block either the view or the access afforded so obviously by the subdividers to the marshes and creek. This easement or special property interest owned and enjoyed by the lot owners is sufficient to afford them entitlement to most of the relief they seek in this action. Accordingly, it is hereby ORDERED that:

(a) The 50-foot strip in question is declared to have been reserved to the right, use and benefit of all the lot owners in Bay View Subdivision, and they have, among other things, the right to use and enjoy the 50-foot strip in question which runs from Bay View Drive between lots 37 and 38 to the marshes without hindrance or obstruction from the respondents. This is so because the lot owners are declared to have an easement or special property interest in these areas in question for unimpeded and unrestricted access and view.

(b) The respondents Moore are hereby enjoined and required to immediately remove the metal buildings, no trespassing signs, and any other obstuctions they placed in the 50-foot strip. Since no action was taken to halt constuction of his carport before completion, I am not ordering its removal. However, if it is ever taken down or removed by the owner, or

destroyed by natural forces, i.e a storm, earthquake, etc., it can not be rebuilt in violation of the restrictions, if any, then in force. Nor can the respondents do anything to expand said carport.

(c) The respondents Moore are further enjoined permanently from erecting any other structures, fences, or impediments over the area in question and from threatening or interferring in any way with the petitioners' rights to use and enjoy the 50-foot strip in question in common with the other lot owners in Bay View. Nor will any indirect impediments (such as barking dogs allowed to roam across the strip) be allowed within the 50-foot strip if they interfere with free access of the lot owners. If this occurs with any degree of frequency, this Court shall forthwith issue such an order as may then be appropriate.

While I cannot order it, the Court notes in passing that the problem might be resolved if the Civic Club took on the project of maintaining the several "reserved" areas including posting of appropriate no trespassing signs limiting access to residents or property owners in the subdivision.

AND IT IS SO ORDERED.

Louis E. Condon, Master In Equity

April 6, 1984

Charleston, South Carolina

ATTEST: A CERTIFIED COPY OF THE ORIGINAL FILED IN THIS MATTER.
LOUIS E. CONDON
MASTER IN EQUITY FOR
CHARLESTON COUNTY
By: _____
Certificator

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH OF JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	
Bayview Acres Civic Club,	)	C/A No.: 2011-CP-10-95
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
Gerald E. Moore, Jr., a/k/a Gerald Moore, and Margaret Bates Moore,	)	
	)	
Defendants.	)	
	)	

FILED
2013 NOV -5 AM 11:39
JULIE J. ARMSTRONG
CLERK OF COURT
BY

ORDER

This matter is before the Court based on the Complaint of Plaintiff requesting the Court to find the Defendants have violated the terms of the Order issued on April 6, 1984 in the matter of *W.L. Guerry, Jr, et. al. vs. Gerald E. Moore, Jr., et. al.*, Civil Action No. 1982-CP-10-4234; in the alternative, issue an Order requiring Defendants Gerald E. Moore, Jr. a/k/a Gerald Moore and Margaret Bates Moore to show cause, if they can, why they should not be held in Contempt of Court for failing to comply with the Order; declare that the actions of Defendants Gerald Moore, Margaret Bates Moore and Robert Payne violate the terms of the Order issued on April 6, 1984 in the matter of *W.L. Guerry, Jr, et. al. vs. Gerald E. Moore, Jr., et. al.*, Civil Action No. 1982-CP-10-4234 (the "1984 Order") a copy of which is attached hereto as Exhibit A, and interfere with the lot owners in Bay View Subdivision's easement and/or property interest which allows them unobstructed access to the Subject Property; Plaintiff have Judgment against Defendants Gerald Moore and Robert Payne for civil conspiracy and an award of actual, consequential and punitive damages in an amount to be proven at trial and to include attorneys' fees and costs and

interest; this Court issue injunctive relief to prohibit Defendants Gerald Moore, Margaret Bates Moore and Robert Payne from interfering with Plaintiff's right to use and enjoy the Subject Property and ordering the structure that encroaches onto the Subject Property be removed; and Plaintiff be awarded the costs associated with the prosecution of this matter, including reasonable attorney's fees.

The case was referred to the undersigned as Master in Equity for Charleston County by Order filed August 31, 2010.

When filed Robert Payne was a named defendant, however, upon Motion of the Plaintiff, he was dismissed from the case by Order filed November 15, 2010.

The case was scheduled for hearing on September 25, 2013 at 2:00 o'clock P.M. At the time of the hearing, the attorneys for the parties advised the Court an agreement had been reached to resolve the matter. The agreement was announced in open Court by Charles S. Altman, attorney for the Plaintiff and acknowledged and agreed to on behalf of the Defendants by their attorney, David A. Collins.

Based on the Agreement of the Parties and the consents to this Order by their attorneys on their behalf, it is hereby

ORDERED, ADJUDGED AND DECREED, as follows:

1. For purposes of this Order and the 1984 Order, the term "Plaintiff's Property" shall refer to the piece parcel or lot of land marked "Reserved" lying between Lots 37 and 38 on the Plat entitled "BLOCK "A" OF BAY VIEW ACRES CHARLESTON COUNTY, S.C." prepared by The John McCrady Co., Charleston, S.C., dated February, 1948 and recorded in the RMC Office for Charleston County in Plat Book G at page 48a on April 17, 1948.

2. For purposes of this Order and the 1984 Order, the portion of the Plaintiff's Property which the Defendants are entitled to use as a result of the construction by Defendants on Plaintiff's Property prior to the 1984 Order is described as bordering on the West by Lot 37, on the North by Bay View Drive, on the East by markers placed by a surveyor employed by Plaintiff and on the South by the rear portion of the structure erected by Defendants prior to the 1984 Order.

3. The 1984 Order remains valid and effective and the Order of the Court to be fully complied with by Plaintiff and Defendants ,Gerald E. Moore, Jr., a/k/a Gerald Moore and Margaret Bates Moore.

4. The property line between the property occupied by the Defendants, known as Lot 37, Bay View Acres Subdivision and the property belonging to the Plaintiff, designated as "RESERVED" on the plat entitled "Block "A" Bay View Acres Charleston County, S.C." is as shown on said plant recorded in Plat Book G at page 48-A in the RMC Office for Charleston County and shall be marked by appropriate markers installed by a surveyor employed by Plaintiff.

5. No later than October 25, 2013, Defendants shall remove all mulch, dirt and grass they allowed to be placed on the property of Plaintiff. Defendants will be allowed to use small equipment to remove the mulch, dirt and grass and the equipment shall be allowed to cross the property of the Plaintiff to accomplish the removal, provided the Plaintiff's Property will be restored to its condition prior to the time the mulch, dirt and grass was placed on the Property of Plaintiffs and any damage to the Plaintiff's Property created by the removal of the mulch, gras and dirt shall be repaired and the Property returned to its prior condition. Time is of the Essence with regard to the work to be done pursuant to this provision.

6. Defendants shall remove from the Plaintiff's Property any debris on the Property such as propane tanks, doors, sinks, plumbing fixtures, etc. The debris shall be removed no later than October 25, 2013. Time is of the Essence with regard to the removal of the debris.

7. Defendants will not allow their dogs on the Plaintiff's Property except when on a leash and controlled by the Defendants or someone designated by them.

8. Defendants will not, except as specifically provided otherwise herein, use vehicles on the Plaintiff's Property other than a bicycle. Defendants' use of the Plaintiff's Property shall be the same as any other resident of Bayview Acres.

9. With the exception of that portion of Plaintiff's Property which Defendants are entitled to use pursuant to the 1984 Order as described in Paragraph Number 2 of this Order the defendants will not perform any landscaping or cutting of any vegetation or perform any other work on the Plaintiff's Property. In the event Defendants believe any work needs to be performed to maintain the Plaintiff's Property, they will contact the President of the Plaintiff and advise him/her of what the Defendants believe need to be done. The Plaintiff shall be solely responsible through its agents to maintain the Plaintiff's Property. Defendants shall maintain the portion of Plaintiff's Property as described in paragraph 2 of this Order in a neat and clean condition. Nothing contained in this Order shall be deemed to prevent Defendants from using the existing driveway which lies within the portion of Plaintiff's Property which lies within the boundaries described in paragraph 2 of this Order as long as they are entitled to maintain the structures located thereon pursuant to the provisions of the 1984 Order. At such time as the right to maintain the said structures ends, the right to use any portion of the Plaintiff's property by Defendants shall terminate other than any right Defendants may have as residents of Bay View Acres Subdivision.

10. In the event Defendants violate the terms of this Order or the 1984 Order, upon application accompanied by an affidavit by the President of the Plaintiff setting forth with specificity the facts supporting the claim the Defendants or either of them or persons acting on either of their behalf have violated the terms of either Order, the Court will issue a Rule to Show Cause as to why the Defendants should not be held in contempt of Court and appropriate sanctions awarded to Plaintiff against the Defendants, which sanctions may include an award of reasonable attorney's fees to Plaintiff's attorney.

11. This Order shall be public notice, the Plat entitled "Map of Lot No. 37, A-B-C-D and Parcel X-B-E-F-C being joint to form Lot 37X located in Bay View Acres Subdivision, Block A Christ Church Parish, Charleston Co., S.C., recorded in Plat Book AW, at page 57, in the RMC Office for Charleston County on November 10, 1982 is void and of no effect.

12. This Order shall be recorded in the RMC Office for Charleston County to put the public on notice of the limitations of the owner of Lot 37, Bay View Acres Subdivision with regard to the use of the Plaintiff's Property as set forth herein and in the 1984 Order. The Order shall be indexed under the names of the current owners of Lot 37, Bay View Acres Subdivision, Margaret B. Moore and Alec Elizabeth Cleary and refer to TMS Number 517-06-00-037.

AND IT IS SO ORDERED.

Mikell R. Scarborough
Master in Equity, Charleston County

Nunc Pro Tunc

Charleston, South Carolina
Dated: October 5, 2013

Nov. 1, 2013

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON BAYVIEW ACRES CIVIC CLUB, Plaintiffs v. GERALD E. MOORE, JR. A/K/A GERALD MOORE, MARGARET BATES MOORE, Defendants	IN THE COURT OF COMMON PLEAS NINTH JUDICIAL CIRCUIT CASE NO: 2011-CP-10-95 **MOTION FOR RULE TO SHOW CAUSE**

FILED
2014 MAY 22 PM 4:57
JULIE J. ARMSTRONG
CLERK OF COURT
BY

Pursuant to Rule 53, *SCRCP*, the Order of Reference dated October 2, 2012, and the Honorable Mikell R. Scarborough's Order of November 5, 2013, Plaintiff Bayview Acres Civic Club ("Bayview) hereby moves this Court for a Rule to Show Cause compelling Gerald E. Moore, Jr. a/k/a Gerald Moore, and Margaret Bates Moore (collectively, "Moore") to appear before the Honorable Mikell R. Scarborough, Master-in-Equity for Charleston County, on June 6, 2014, or as soon thereafter as may be ordered by the Court, and to show cause why they are not in contempt and violation of the Orders of the April 6th, 1984 and of November 5th, 2013.

The Orders (attached hereto, Exhibit A) has been violated in the various particulars set forth in Graham Stone's affidavit (attached hereto, Exhibit B) and in the photographic evidence (attached hereto, Exhibit C). The foregoing materials make clear that Moore is in violation of substantially all provisions of the Orders.

Based on the foregoing, Plaintiff requests this Court to: 1) order Moore to appear at the Rule to Show Cause hearing and to show why they have not complied with the April 6th, 1984 and November 5, 2013 Orders by failing to afford unimpeded, unrestricted access to the Plaintiff's property, to remove his property from the Plaintiff's property, and to remediate the land back to its original condition and 2) order such other relief as the Court deems just and appropriate, including a) finding that Moore is in contempt of Court and b) finding that any and all interests, claims, and rights Moore may have or claims to have, whether arising under the

November 5, 2013 Order, or arising under any other authority, including the April 6, 1984 Order, are extinguished.

Respectfully submitted,

TRAYWICK & TRAYWICK, LLC

By:_____

David P. Traywick
Benjamin A. Traywick
Meredith Ann Carter
PO Box 564
Isle of Palms, SC 29451
843-343-5092

Attorneys for Plaintiff, Bayview Acres Civic Club

Charleston, South Carolina
May 22, 2014

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON BAYVIEW ACRES CIVIC CLUB, Plaintiffs v. GERALD E. MOORE, JR. A/K/A GERALD MOORE, MARGARET BATES MOORE, Defendants	IN THE COURT OF COMMON PLEAS NINTH JUDICIAL CIRCUIT CASE NO: 2011-CP-10-95 **ORDER ON PLAINTIFF'S MOTION FOR RULE TO SHOW CAUSE**

FILED
2014 JUN 30 AM 8:5
JULIE J. ARMSTRONG
CLERK OF COURT
BY

This matter is before me on the Plaintiff's Rule to Show Cause. Having considered the submissions of the parties, and having taken testimony and heard oral argument on June 13th, 2014, I find the Defendant Gerald Moore to be in contempt of my September 25th, 2013 Order, and order as follows:

1. The Defendants shall utilize the Bayview Acres Civic Club property—which abuts the Eastern edge of the Defendants' property, and which has been at issue throughout this litigation—solely for ingress and egress to the carport at issue. Any use by the Defendants of the Bayview Acres Civic Club property other than ingress/egress to the carport—storage, parking, driving other than to and from the carport, or otherwise—shall constitute a violation of this order.

2. Within the two-bay carport, the Defendants' occupation of the Western bay—i.e., the bay that is closest to the Defendants' house—shall be at their discretion. Within the Eastern bay, the Defendants' use and occupation of the bay shall be limited to the storage of a single motor vehicle: automobile, motorcycle, golf cart, etc. Any use or occupation of the Eastern bay of the carport beyond this single-vehicle storage shall constitute a violation of this order.

3. Finding that good fences make good neighbors, the Court orders that the Plaintiff shall be and is by this order deemed entitled to survey the property line, and to build a fence from the rear of the carport down to the marsh line. Any interference by the Defendants with the survey, construction or maintenance of this fence, should the Plaintiff choose to erect it, shall

constitute a violation of this order. Should any violation of this order be perpetrated by the Defendants, and proved by the Plaintiff, the Plaintiff will be entitled, in addition to any other remedy the Court deems appropriate, to erect a fence from the front of the carport, along the property line, down to Bayview Drive.

4. As a penalty for his contempt of court, the Defendant Gerald Moore shall pay to the Bayview Acres Civic Club $1,000.00, within thirty (30) days of this order.

AND IT IS SO ORDERED.

Hon. Mikell R. Scarborough
Master-in-Equity for Charleston County

Date 6/25/14

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON BAYVIEW ACRES CIVIC CLUB, Plaintiffs v. GERALD E. MOORE, JR. A/K/A GERALD MOORE, MARGARET BATES MOORE, Defendants	IN THE COURT OF COMMON PLEAS NINTH JUDICIAL CIRCUIT CASE NO: 2011-CP-10-95 **MOTION FOR RULE TO SHOW CAUSE**

FILED
2015 JAN 15 PM 12:49
JULIE J. ARMSTRONG
CLERK OF COURT
BY

Pursuant to Rule 53, *SCRCP*, and to the Honorable Mikell R. Scarborough's Orders of April 6th, 1984, November 5th, 2013 and June 25th, 2014, the Plaintiff Bayview Acres Civic Club ("Bayview) hereby moves this Court for a Rule to Show Cause compelling Gerald E. Moore, Jr. a/k/a Gerald Moore, and Margaret Bates Moore (collectively, "Moore") to appear before the Honorable Mikell R. Scarborough, Master-in-Equity for Charleston County, on December 1st, 2014, or as soon thereafter as may be ordered by the Court, and to show cause why they are not in contempt and violation of the Orders of the April 6th, 1984, November 5th, 2013 and June 25th, 2014.

The Orders (attached hereto, Exhibit A) have been violated as set forth in Benjamin A. Traywick's affidavit (attached hereto, Exhibit B) and as demonstrated by the photographic evidence (attached hereto, Exhibit C). These material establish violations of the letter and spirit of all three Orders, by demonstrating the Defendants' utter disdain for the Plaintiff's property rights, despite repeated, specific orders by the Court that they respect the Plaintiff's rights. As a result, the Defendants have shown the same disdain—utter, and shocking—of the Court's authority.

Of particular note is that these materials establish willful violations of an order the Court handed down just this year, on June 25th, including:

- That Defendant Gerald Moore has failed to tender the $1,000.00 the Court ordered him to pay the Plaintiff as a sanction for his most recent contempt of Court;

- That the Defendants have directly violated the order that they use the Plaintiff's property "solely for ingress and egress to the carport at issue", and
- That the Defendants have directly violated the order that "[w]ithin the Eastern bay [of the carport], the Defendants' use and occupation of the bay shall be limited to the storage of a single motor vehicle: automobile, motorcycle, golf cart, etc.".

Based on the foregoing, Plaintiff respectfully asks that the Court 1) order the Defendants to appear and to show why they have not complied with the Court's orders, and 2) order such other relief as the Court deems just and appropriate, including without limitation:

- Find that the Defendants are in contempt of Court and impose as a sanction, rather than a monetary penalty, that the Defendants are deemed to have forfeited any and all rights they were granted under the 1984 Order;
- Order, as specifically provided under the June 25th order, that the Plaintiff is permitted to complete the street-ward fence along the Westward boundary of its property;
- Order that the Plaintiff can, at its expense, and without harm to the Defendants' property, remove the carport, as a means of re-establishing the meaningful demarcation of its and Moore's property, thereby finally ending the parties' and the Court's involvement in this decades-old dispute, and
- Award the Plaintiff costs and fees associated with this motion.

A proposed Rule to Show Cause is enclosed herewith. Respectfully submitted.

TRAYWICK & TRAYWICK, LLC

David P. Traywick
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Attorneys for Plaintiff

Charleston, South Carolina
November 20th, 2014

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON BAYVIEW ACRES CIVIC CLUB, Plaintiffs v. GERALD E. MOORE, JR. A/K/A GERALD MOORE, MARGARET BATES MOORE, Defendants	IN THE COURT OF COMMON PLEAS NINTH JUDICIAL CIRCUIT CASE NO: 2011-CP-10-95 **ORDER ON MOTION FOR RULE TO SHOW CAUSE**

FILED
2015 MAR 24 AM 10: 28
JULIE J. ARMSTRONG
CLERK OF COURT
BY

This matter is before me on the Plaintiff's November 20th, 2014 motion for Rule to Show Cause why the Defendants are not in violation of orders in this case issued on April 6th, 1984, November 5th, 2013, and June 25th, 2014, concerning the Plaintiff's fifty (50) foot strip of land ("subject property" or "Plaintiff's property") which lies immediately adjacent to the Defendants' property, all as more specifically described in the prior filings in this matter. Having considered the parties' submissions, and having conducted an evidentiary hearing and heard oral arguments of counsel on March 4th, 2015, I make the following findings of fact and conclusions of law.

1. I find that the Defendants are in violation of my order of June 25th, 2014, in the following particulars: they have failed to pay the $1,000.00 that I ordered them to pay to the Plaintiff within thirty days of that order; they have utilized the Plaintiff's property for storage of their personal belongings and parking of their vehicles, in violation of my order that they utilize it solely for ingress and egress; they have kept more than a single vehicle in the lefthand or Eastern bay of the carport (the bay furthest from the house), in violation of my order.

2. I find that the long history of this matter establishes that the Defendants have impeded and interfered with the Plaintiff's use and enjoyment of the property regularly and frequently. I find that this ongoing interference with the Plaintiff's rights has triggered the portion of the 1984 Order which asserts that this Court "shall forthwith issue such an order as may be appropriate," (1984 Order, p. 7, item 2(c)), and that this triggering—along with the repeated violations of my orders—justifies a modification of rights allocated under prior orders on this matter.

3. I find that the Defendants' conduct does not yet support the imposition of jail time as a sanction for their contempt of Court, nor that their repeated interference with the Plaintiffs' use and enjoyment of their property justifies the relief requested by the Plaintiff: the removal of the carport. However, I find that any further violation by the Plaintiff of this or any of the Court's other orders in this matter will justify jail time as a contempt sanction, and I find that any further interference with the Plaintiff's use and enjoyment of the subject property will justify an order that the carport be removed altogether.

Having so found, and so concluded, I order as follows:

4. As I indicated from the bench on March 4th, 2015, the Defendants shall have paid the $1,000.00 payment required by my June 25th, 2014 order no later than the close of business on March 5th, 2015. As a sanction for their contempt, I order the Defendants to pay the Plaintiff a further $1,000.00 within thirty (30) days of this order.

5. I reiterate the Court's finding that "good fences make good neighbors." Per my June 25th, 2014 order, a consequence of the Defendants' violations of that order is that the Plaintiff now is entitled to erect a fence along the length of the subject property line, from Bayview Drive back to the marsh. I order that this fence is to terminate no less than fifteen (15) feet from the

paved portion of Bayview Drive, and no less than ~~fifteen (15)~~ twenty five (25) feet from the perpendicular marsh line.

6. The Defendants' rights to use the righthand or Western bay of the carport (i.e., the bay nearest their house) continues at their discretion. However—with the exception of any rights the Defendants have to the subject property by virtue of their residency in the neighborhood, or of their membership in the Bayview Acres Civic Club—the Defendants' rights or other authorizations to utilize the Plaintiffs' property are hereby terminated. In the interest of clarity only, I note that this ruling terminates the Defendants' right or authority to utilize the Eastern bay of the carport (the bay furthest from the house), and it terminates the Defendants' right or authorization to utilize any part of the Plaintiff's property for ingress or egress to any part of the Defendants' property.

7. ~~I instruct the Plaintiff that~~ upon entry of this order, it shall file this Order with the Charleston County Register of Mesne Conveyance, in order that the Defendants' successors in interest to their property be notified of this and the Court's previous rulings concerning rights to use the subject property and concerning the carport.

AND IT IS SO ORDERED

Hon. Mikell R. Scarborough

Date 3/18/15

Mikell R. Scarborough
Charleston, SC

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON BAYVIEW ACRES CIVIC CLUB, Plaintiffs v. GERALD E. MOORE, JR. A/K/A GERALD MOORE, MARGARET BATES MOORE, Defendants	IN THE COURT OF COMMON PLEAS NINTH JUDICIAL CIRCUIT CASE NO: 2011-CP-10-95 **PLAINTIFF'S THIRD MOTION FOR RULE TO SHOW CAUSE**

FILED
2015 AUG 21 AM 10:00
JULIE J. ARMSTRONG
CLERK OF COURT

Pursuant to Rule 53, *SCRCP*, and to the Court's Orders in this matter of April 6th, 1984, November 5th, 2013, June 25th, 2014, and/or March 24th, 2015, the Plaintiff Bayview Acres Civic Club ("Bayview) hereby moves this Court for a Rule to Show Cause compelling Gerald E. Moore, Jr. a/k/a Gerald Moore, and Margaret Bates Moore (collectively, "Moore") to appear before the Honorable Mikell R. Scarborough, Master-in-Equity for Charleston County, on August 4th, 2015, or as soon thereafter as may be ordered by the Court, and to show cause why they are not in contempt and violation of these orders. The Defendants' violations include:

- The June 25th, 2014 order required the Defendants to pay the Plaintiff $1,000.00 within thirty days of that order; as of July 17th, 2015, that money has not been paid, despite a further admonition, in open court on March 4th, 2015, that this sum be paid by March 5th, 2015;
- The March 24th, 2015 order required the Defendants to pay the Plaintiff a further $1,000.00 within thirty days of that order; as of July 17th, 2015, that money has not been paid.[1]

Based on the foregoing—and in special consideration of the flagrancy of the Defendants' repeated refusal to comply with the Court's order—the Plaintiff respectfully asks that the Court 1) order the Defendants to appear and to show why they have not complied with the Court's

[1] The Defendants have appealed this order.

orders, and 2) order such other relief as the Court deems just and appropriate, including without limitation:

- Find that the Defendants are in contempt of Court and impose as a sanction, in addition to a monetary penalty, that the Defendants are deemed to have forfeited any and all rights they were granted under the 1984 Order;
- Order that the Plaintiff can, at its expense, and without harm to the Defendants' property, remove the carport, as a means of re-establishing the meaningful demarcation of its and Moore's property, thereby finally ending the parties' and the Court's involvement in this decades-old dispute, and
- Award the Plaintiff costs and fees associated with this motion.

A proposed Rule to Show Cause is enclosed herewith. Respectfully submitted.

TRAYWICK & TRAYWICK, LLC

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Attorneys for the Plaintiff

Charleston, South Carolina
Date: July 20th, 2015

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON Bayview Acres Civic Club, Plaintiff v. Gerald E Moore, Jr. a/k/a Gerald Moore, and Margaret Bates Moore, Defendants	IN THE COURT OF COMMON PLEAS NINTH JUDICIAL CIRCUIT CASE NO: 2011-CP-10-95 **ORDER** FILED 2015 SEP 22 PM 3:28 JULIE J. ARMSTRONG CLERK OF COURT BY

This matter is before me on the Plaintiff's motion for Rule to Show Cause, dated July 22nd, 2015, but shown on the clerk's register as having been filed on August 21st, 2015. Having considered the parties' filings and having heard oral argument on September 3rd, 2015, I find and order as follows:

I find that Defendant Gerald E Moore, Jr. is in contempt of the two prior orders by which I have found him to be in contempt, dated June 25th, 2014 and March 24th, 2015. Each order required him to pay to the Plaintiff $1,000.00; though Mr. Moore delivered $2,000.00 to the Plaintiff on or about September 2nd, 2015, neither payment was timely.

As a penalty for this contempt, I fine Mr. Moore an additional $1,000.00, which he is to pay to the BVACC within thirty days of the date of this order.

I further order Mr. Moore to pay to the BVACC reasonable attorney's fees in connection with their attorney's efforts, via the motion at hand, to enforce my prior contempt orders. Having considered the affidavit of Benjamin A.C. Traywick, I find that the reasonable attorney's fees to be paid shall be in the amount of $ 500.00. Like the $1,000.00 fine, this amount shall be paid to the Plaintiff within thirty days of this order.

AND IT IS SO ORDERED.

Hon. Mikell R. Scarborough
Master-in-Equity for Charleston County

9/16/15
Date

STATE OF SOUTH CAROLINA
COURT OF COMMON PLEAS
COUNTY OF CHARLESTON

Bayview Acres Civic Club,

Plaintiff,

vs. CASE NO. 2011-CP-10-959

Gerald E. Moore, Jr., a/k/a
Gerald Moore and Margaret Bates Moore,

Defendants.

Hearing before the Honorable Mikell R. Scarborough, reported by Christine A. Smith, Court Reporter and Notary Public, at 3:38 p.m. on March 4, 2015, at 100 Broad Street, Charleston, South Carolina.

Christine A. Smith, Court Reporter
Master-in-Equity
P. O. Box 30276
Charleston, South Carolina, 29417
(843) 958-5071
casmith@charlestoncounty.org

APPEARANCES OF COUNSEL:

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(843) 760-0220

(INDEX AT REAR OF TRANSCRIPT)

PROCEEDINGS

THE COURT: Mr. Traywick, this is your Rule to Show Cause. You filed a motion in January and we set it for today. When it
00:00:01 came in I did see some accompanying exhibits. How do you wish to proceed, or do you want to just tell me what's going on?

MR. TRAYWICK: Your Honor, I'm happy to
00:00:12 put some testimony up, and I think we need to. It may be worthwhile to just give us three or four minutes here just to kind of outline what's happening. I know you're familiar with the situation.

00:00:26 The gist of it is, here we are back in 2013 you issued an order in November that Mr. Moore take some actions to clean up the property that belongs to the BVACC that he had piled a bunch of junk up on and had
00:00:45 plowed up and churned up with all this heavy equipment. He didn't do it.

We filed yet another Rule -- we filed our first Rule to Show Cause. That was heard. You heard that in June of 2014. So
00:00:56 for seven months Mr. Moore did nothing to

comply with the order, completely flaunted the order which I've never seen. I've actually never seen this. Then he makes these efforts two or three days before the
00:01:09 hearing to do what you had ordered him to do seven months before.

It appeared that the Court was not overly impressed with those efforts and ultimately found him to be in contempt of the
00:01:17 court for violation of the order from November of 2013.

So you found him in contempt, he violated the order, you issued a new order in June of 2014, so last June. That order
00:01:32 included four or five things. The first one was that Mr. Moore pay BVACC $1,000. He hasn't done it.

The second one was that you ordered Mr. Moore to keep his property, his personal
00:01:44 property off of our real property. We're going to put up some exhibits and some testimony to show that that hasn't happened. I reached out months after the compliance deadline and said, can we please just -- we
00:01:49 really don't want to go back to Court.

Honestly, Your Honor, we're at a loss. We need some kind of remedy here that prevents us from coming back here. All of these people leaving work, you know, the
00:02:13 BVACC expending time and resources all because this gentleman will not comply with pretty straightforward orders.

So we would love to find some solution that actually brings this to a close. We
00:02:22 didn't want to come back, but we're back for noncompliance. Ongoing. You told him not to park anything on the left side of that carport except one vehicle. He's parking multiple vehicles.
00:02:33 Your told him to keep his personal property off there. He's parking cars all over our property. He's parking his trash cans and his recycling. All of this stuff is all over our property, and they're obvious
00:02:42 violations of your order.

So here we are again. We can prove all this. I can show you everything we need to show you, but really we've seen this movie. This man does not want to comply with the
00:02:56 Court's orders. He doesn't want to

acknowledge our property rights. I think, it's important to point out, Your Honor, that the whole reason we're in this mess -- it could be well, the BVACC needs to just kind
00:03:00 of get over it.

Well, the whole reason we're in this mess is that if the 1984 order says, Well, you-all didn't tell him to stop building on your property back at the time. He's got
00:03:15 ongoing litigation, I think, the last time I checked for adverse possession with people on the other side of the property.

It's an ongoing issue out there. All we're trying to do is protect our rights here
00:03:25 so that we don't get into this same problem. It seems like there should be a straightforward solution. I personally think that your orders have been clear and really easy to comply with and yet we keep coming
00:03:35 back here to the same thing, wasting the Court's time, wasting all of these people's time. It feels like now is the time for a final remedy.

I don't know whether this man needs to
00:03:48 be locked up in jail for the message to get

through to him, but he doesn't care about the orders that the Court issues. Thus far, none of them have been sufficiently serious grade to bring this man into compliance with
00:04:01 really, really simple orders.

So we can put up whatever we need to put up. We have photographs showing from the day you issued that order until today or until February he's violating the order.
00:04:12 He's doing it knowingly. He doesn't care. He certainly doesn't care about his neighbors or the property rights of others. He doesn't care about the Court's orders. I find it shocking.
00:04:21 There needs to be a solution, and obviously it's your call on how to proceed, but this is our view.

THE COURT: Thank you. Mr. Collins?

MR. COLLINS: Judge, I really don't
00:04:33 believe a lot of that. I think they want to be here. This is an ongoing dispute. You know how homeowner's associations are. You have these people. Some of them are on the board. They just walk around and try to pick
00:04:48 on people. Really, you've never heard me say

something like that before I know. I can tell you, in all the years I've been in this court in front of you I've always tried be candid and honest. A lot of times that has
00:05:07 hurt me and hurt my client. I'm not going to stop.

We've got two issues today. The first one is the thousand bucks. That's on me. I've had it for six months. Mr. Moore and I
00:05:22 have had ongoing discussions about whether to release it or not. I've got it. I can give them a check tomorrow. I would be glad to do it. I wish I had time to go back to my office and bring it today, but I didn't.
00:05:33 I'm not in the habit of falling on the sword for my client. I have got to do it this time. If you're going to sanction somebody for that sanction me. I'll take it. If I need to pay him some more money I'll do
00:05:48 it.

The bigger issue today is these pictures. Look at them. All you've got is another car parked in the driveway for five days. How is that impeding their access to
00:06:08 the easement. It's not, not one bit. Not

one bit. Now understand this, there's another whole road right there where they can access the easement. Is this really about access? Really? Or is this about just
00:06:17 messing with him? I mean, come on.
We're sitting here. We've got all these people and we're fighting over one car or two cars in a driveway that's not impeding access to anything?
00:06:18 THE COURT: All right. Very good. Mr. Traywick, call your first witness.
MR. TRAYWICK: I call Mr. Gerald Moore, Your Honor.
THE COURT: Come on up, Mr. Moore.
00:06:51 GERALD MOORE,
being first duly sworn, testified as follows:
THE COURT: Please have a seat and give me your full name and address.
THE WITNESS: Gerald Edgar Moore,
00.07.19 Junior.
THE COURT: Address, sir? Your address?
THE WITNESS: Oh, 359 Bayview Drive, Mt. Pleasant, South Carolina, 29464.
00:07 26 EXAMINATION

BY TRAYWICK:
Q. Good afternoon, Mr. Moore.
A. Good afternoon, sir.
Q. Why haven't you paid us the thousand
00 07:36 bucks?
A. I paid it the day the Judge ruled. I gave it to my attorney.
Q. Have you instructed him to pay the money to us?
00:07:42 **A. I told him to do what was proper.**
Q. Did you instruct your attorney to pay the money to us as required?
A. The check was written to my attorney's escrow account for Bayview.
00.07.49 **Q.** Are you going to answer the question?
THE COURT: It's irrelevant. It's owed. The Court ordered it. It's got to be paid. Okay? I don't know why it wasn't paid, but it wasn't paid. There will be a
00:08:02 sanction for that. Go ahead.
Q. (BY MR. TRAYWICK) Mr. Moore, do you recall being ordered by this Court not to park your vehicles on the property owned by the Bayview Acres Civic Club?
00:08:13 **A. Absolutely.**

Q. Have you parked your vehicles on the property owned by the Bayview Acres Civic Club?
A. No.
00:08:20 **Q.** So since June of 2014 your testimony is you've not parked your vehicles on BVACC property?
A. I have not parked any vehicle that I drove on Bayview property.
00.08:31 **Q.** How about your family members or guests while they've been at your house?
A. They've all been instructed not to.
Q. Have you permitted any of your family and --
00:08:36 **A. Absolutely not.**
Q. Let me finish my question. Have you permitted any of your family members or guests to park their vehicles on BVACC property?
A. Not when I was at home. If I had an
00.08.47 **unexpected guest and they didn't know the rules they may have parked there temporarily.**
Q. What do you drive?
A. I drive a Honda Fit.
Q. What does your wife drive?
00.08:56 **A. She drives a Chevrolet Suburban.**

Q. Have either of those vehicles been parked on BVACC property since --
A. Not that I know of.
Q. Let me finish my question. Have any of
00.09:06 those vehicles been parked on BVACC property since June of 2014?
A. Not while I was driving them or my wife.
Q. Who else drives those vehicles?
00 09:14 **A. I have three children, two grandchildren, and anybody else that wants to borrow a car, but normally my wife and I drive them.**
Q. Have you used the Bayview Acres Civic
00:09:31 Club property since June of 2014 for anything other than ingress and egress to and from the carport?
A. Not that I know of.
Q. Okay.
00.09.41 **A. Not that comes to mind.**
MR. TRAYWICK: Okay. That's all the questions, Your Honor. Thank you.
THE COURT: Very good.

EXAMINATION

BY MR. COLLINS:

Q. Mr. Moore, how long have you lived there?

00:09:58 **A. About 50 years.**

Q. Have you always had a good relationship with your neighbors?

A. Yes.

Q. Have you really?

00:10:06 **A. Well, one or two I haven't.**

Q. Well, let's be honest. Sometimes you don't, do you?

A. I beg your pardon?

Q. Sometimes you have conflicts with your

00:10:19 neighbors, don't you?

A. Not my immediate neighbors but one or two neighbors in Bayview, yes.

Q. Let's talk about Mr. Stone sitting right back here (indicating).

00:10:26 **A. Yes.**

Q. You've had physical confrontations with him, right?

A. I've had what?

Q. You've had physical confrontations with

00:10:31 him in the past?

A. Absolutely.

Q. And the police were called?

A. Yes.

Q. Were charges filed?

00:10.37 **A. No.**

Q. Have you ever had any tires slashed or damage to your personal property?

A. Many times the Mt. Pleasant Police Department's records will show that my tires

00:10:46 **have been slashed.**

MR. TRAYWICK: Your Honor, what is the relevance of this?

MR. COLLINS: The relevance is that --

MR. TRAYWICK: Is this an accusation of

00:10 55 criminal conduct? Pretty reckless and totally irrelevant.

THE COURT: Overruled. Go ahead.

Q. (BY MR. COLLINS) Tell me about that.

A. Well, over the years my tires, my car

00:11:09 **tires and lawnmower tires have been cut. I've called the police. My next door neighbor who wouldn't join in the Bayview assault, her tires were cut, and she moved away. A lady down the street wouldn't join the Bayview**

00.11.26 **team, you might say, against me, her tires**

were cut and her husband put in a security camera. This has happened over a long period of time, not just recently.

Q. What about other confrontations with

00:11:36 members of the board? Have you found them on your property taking pictures of your guests?

A. Well, just the other night my partner -- I say just the other night -- a month or two ago my partner came down from

00.11:50 **Tryon for a doctor's appointment. He drove into my driveway at dusk and 20 feet away he looks and here's this outline of a man taking a picture of him and his fiancee.**

The lady said she was creeped out. She

00:11:58 **wouldn't get out of the car. My partner recognized it as Mr. Stone. This was dusk. That's just the tip of the iceberg. I've had hollering choruses along my property line on Saturday. I've had car patrols when I'm out**

00.12.20 **working in the yard. You've got the list.**

Q. Now, let's talk about the other side. All right? We've got some pictures of two cars parked in the driveway, right?

A. If you say so.

00:12 37 **Q.** Have you seen them?

A. No.

MR. TRAYWICK: Your Honor, I have premarked seven or eight pictures, and I've got copies for you all. I'm happy for

00:12.54 Mr. Collins to use them if that will be beneficial.

THE COURT: I've got some colors that came in with your motion. Are these the same or different?

MR. TRAYWICK: I've got that and a few supplemental ones as well.

THE COURT: Whatever you would like to use.

MR. COLLINS: Well, I want to use the ones that are in evidence. Of course, nothing is in evidence right now.

THE COURT: Nothing is in evidence yet.

MR. COLLINS: Are you going to use them?

00:13:20 MR. TRAYWICK: They will be introduced.

Q. (BY MR. COLLINS) All right. Here's a picture of August, 2014.

MR. TRAYWICK: Can Mr. Collins hand a copy to the Court so we're all on the same page?

MR. COLLINS: I will when he identifies it.

THE COURT: Do you have multiple copies or just one?

MR. TRAYWICK: I have got four copies of each one, Your Honor.

THE COURT: Okay.

Q. (BY MR. COLLINS) Okay. Is that the driveway?

00:14:12 **A. Yes.**

Q. There are two cars there, right?

A. Well, yes.

Q. Why are there two cars?

A. Well, this side of the driveway is mine

00:14:16 **(indicating).**

Q. Okay.

A. I mean, they've painted the driveway and the carport showing clearly half of it belongs to them and half of it belongs me.

00:14:30 **Q.** Does it impede anybody's use of the easement?

A. No, but it's my property.

Q. Can anybody go to the marsh if they want to? Does this block anybody's access?

00:14:44 **A. I don't think anybody goes this way**

anyway.

Q. I didn't ask you that. Hold on. I didn't ask you that.

A. No, it does not.

00:14:48 **Q.** I asked you whether or not that car there impedes anybody in the neighborhood from going to the marsh and using the easement?

A. No, it does not.

Q. Hold on. Now, you've identified this.

00:15:03 **A. Now somebody has drawn a line here on this one that's not correct.**

MR. COLLINS: I guess that will be Defendant's 1.

THE COURT: If you want to hand that to

00:15:18 my court reporter, I'll mark that one.

(DFT. EXH. #1, Photograph, was marked for identification.)

(DFT. EXH. #2, Photograph, was marked for identification.)

MR. COLLINS: I move that into evidence, Judge.

THE COURT: Very good. Thank you.

Q. (BY MR. COLLINS) Here is one of October of 2014; can you identify that?

00:15:51 **A. It is a flag showing the Bayview Civic**

Club property line.

Q. Do you have shrubbery on their property?

A. I beg your pardon?

00:15:59 **Q.** Do you have shrubbery on their property?

A. Yes. It has always been there.

Q. How long has that been there?

A. 50 years.

00:16:04 **Q.** Have they ever asked you to remove it?

A. No.

Q. Speaking about shrubbery and landscaping, tell me about how the Civic Club maintains the property that is on the

00:16:37 easement. Do they cut the grass?

MR. TRAYWICK: Your Honor, once again, what is the relevance? What is the relevance of this about how we handle our own property? It's none of their business.

00:16:43 MR. COLLINS: Your Honor --

THE COURT: You're just talking about on this easement, right?

MR. COLLINS: Right. It is relevant because it goes directly to the relationship between the parties in this case.

THE COURT: Go ahead. Go ahead. Overruled. Go ahead.

THE WITNESS: Well, for the first 50 years I maintained it. I even tried to cut the path down the causeway, but my lawnmower bogged down and I had to pull it back by cable. I, for the almost 50 years that I have lived there until recently, I maintained it. Now it's unmaintained. It's a jungle.

Q. (BY MR. COLLINS) All right. You say a jungle. Describe it to me.

A. Well, before I moved the fill I have pictures of weeds shoulder high (indicating). I would say that the weeds down there now are

00:17:39 **probably knee high.**

Q. Okay. Have you complained?

A. No.

Q. Why not?

A. Well, because -- one reason was because

00:17:48 **when I pulled all that stuff on my yard, I haven't smoothed my yard out sufficiently to complain about theirs. As a matter of fact, my wife this morning was complaining about it. I need to do something so she can cut the**

00:18:08 **grass.**

MR. TRAYWICK: This is going to be 3?
(DFT. EXH. #3, Photograph, was marked for identification.)
MR. COLLINS: Yes.
00:18:20 **Q.** (BY MR. COLLINS) Here's a picture in January of this year. It shows what appears to be two vehicles on the left-hand side of the carport; is that right?
A. No. No, it's wrong.
00:18:35 **Q.** No.
A. Look at the picture.
Q. I am.
A. Well, that one is underneath the carport, and that's according to the Judge's
00:18:42 **ruling that I could keep a wheeled vehicle in the carport. That car's been there for over a year. It won't start.**
Q. What about this other vehicle that's parked behind it?
00:18:57 **A. Well, that is the Fit.**
Q. Okay.
A. This is my wife's --
Q. So that's your vehicle?
A. Well, it is, yes.
00:19:01 **Q.** And it is parked kind of across the

line?
A. Yes, it is. Apparently so.
Q. Is that a common occurrence?
A. I don't think so. I have a permanent
00:19:17 **parking place on my front lawn that everybody sort of leaves to me to park there. It's right by the front steps.**
Q. Does that vehicle in any way impede anybody's access for the marsh?
00:19:25 **A. No.**
Q. Or easement?
A. No. And you know, I've got no idea except for this date that that is where this was taken. The last hearing we had, we had a
00:19:39 **picture that had been modified and mispresented to the Judge as being on one side of the house and it was on the other side. The lawyer didn't apologize for that. He apologized for misquoting the thing about Mr. --**
Q. We're not going there. We're past that.
A. You have pictures that are modified by somebody.
00:19:58 **Q.** Well, I know but we're past all that.

Okay? That's not what we're here today for. Let me ask you something. Some time ago somebody put a bunch of big rocks in this easement, right?
00:20:19 **A. Yes.**
Q. And I guess what the reason that was was to keep you from turning around, right?
A. Yes.
Q. Do you think that's right?
00:20:29 **A. Well, as far as I'm concerned it's a violation of --**
MR. TRAYWICK: Objection.
THE COURT: Hold on just one second, Mr. Moore. Objection?
00:20:37 MR. TRAYWICK: It's speculation. He's asking to give the reason somebody placed some rocks out there. How can this man possibly know what reason somebody else had to put rocks on their own property.
00:20:50 MR. COLLINS: Fair game. I agree. I withdraw the question.
MR. TRAYWICK: Leaving aside the fact that it's completely irrelevant.
THE COURT: He just withdrew the
00:20:56 question, so stay ahead of it.

MR. COLLINS: It's not irrelevant because this is a matter of equity.
THE COURT: I understand. Go ahead.
Q. (BY MR. COLLINS) That's a fence, isn't it?
A. It is a fence and I pointed it out to you and you told me just to live with it.
Q. Well, are you familiar with the bylaws and covenants and restrictions of Bayview?
00:21:12 **A. I am.**
Q. Is there something in the restrictions that says something about building a fence without association approval?
A. Yes. I don't --
00:21:23 MR. TRAYWICK: Your Honor?
MR. COLLINS: Hold on.
MR. TRAYWICK: This is sort of getting into a legal -- he's asking for a legal conclusion about what the covenants and
00:21:33 restrictions say.
MR. COLLINS: Judge, it's a matter of equity.
THE COURT: I'm going to allow it. Go ahead.
00:21:39 MR. COLLINS: Clean hands.

THE COURT: Go ahead.
Q. (BY MR. COLLINS) Go ahead.
A. Fences are not allowed in the front of your property, period, of any kind.
00:21:48 **Q.** Did anybody ever say anything to you about building a fence and putting the rocks there?
A. Of course not.
Q. Have you complained about it?
00:21:54 **A. I complained to you.**
Q. But not to anybody else?
A. What point is there?
Q. What did I tell you? I don't mind you telling the Court. What did I tell you about
00:21:59 it?
A. Just to live with it.
MR. COLLINS: Okay. That's all I've got. Thank you.
THE COURT: Mr. Traywick?
00:22:08 EXAMINATION
BY MR. TRAYWICK:
Q. Do you recall being ordered to keep one vehicle on the left side of that carport?
A. Yes.
00:22:22 **Q.** And looking at these pictures you can

see that you're obviously in violation of that, correct?
A. That certainly appears so.
Q. So you're in violation of that. Let's look at No. 1 here. This is dated August 21, 2014.
A. You say it. You say it. You've presented pictures in the past that were false.
Q. Okay.
A. I'm not going to accept your date.
Q. Okay.
A. And how about Mr. Payne when you testified that I had served his papers. You apologized privately. Why don't you apologize to the Judge?
MR. COLLINS: May I instruct my witness --
MR. TRAYWICK: No. No. No. You can't
00:22:55 save your own witness.
MR. COLLINS: Well, fine. No. Go ahead. That's subject for recross.
THE COURT: You all stop. Everybody. Mr. Moore, he's going to ask you some
00:23:09 questions. He's going to ask you questions.

I would like you to answer his questions.
THE WITNESS: All right, sir. I will. Yes, sir.
THE COURT: If you go far afield, we're going to have a problem.
THE WITNESS: All right. I will answer them.
THE COURT: Let's stick with that question.
Q. (BY MR. TRAYWICK) So in looking at No. 1 here, we can see that you agree that the left-hand portion of this driveway belongs to the BVACC, right?
A. Absolutely.
Q. Is your vehicle parked on it right here?
A. Yes, it is.
Q. Very good. You're in violation of the order there.
A. The car is.
Q. Very good. Your car and your property?
A. Absolutely.
Q. You parked it there?
A. I don't know that that's true.
00.23 38 **Q.** You're in violation of the order by

having your garbage cans on it, right?
A. The garbage cans have always been there. The judge didn't ever say anything about garbage cans.
00:23:50 **Q.** Well, the order says what it says, but that's fine.
A. Okay.
Q. Now, the most interesting thing you said was that nobody uses that part of the
00:23:57 right of way that goes through the carport. Remember that? Do you remember saying that?
A. I did, yes.
Q. And there's a roadway on the left-hand side that people do use, don't they?
00:24:04 **A. As far as I know they do, yes.**
Q. But they don't go up the part of their driveway on the part of their property that includes the part that you use as your driveway?
A. Never have.
Q. And that you treat as your own?
A. Never have.
Q. Does that strike you as being something more than just a coincidence that people don't use that part that you're exercising

illegally?
A. Over the years I have kept that walkway clean and neat and free from debris.
Q. Really? Because you were ordered to clean up that exact same right of way that you were --
A. No. No. I --
COURT REPORTER: I can't take two people down at the same time.
THE COURT: Gentlemen, she can't take this down. You-all are arguing over one another. I need questions and answers. Okay?
MR. TRAYWICK: All right, sir.
00:25:46 **Q.** (BY MR. TRAYWICK) I'm showing you Plaintiff's Exhibit No. 1. Whose black Chevy is that?
A. I don't have a clue.
Q. You agree that it's parked on BVACC
00:25:59 property?
A. Absolutely.
Q. You don't deny that whoever's car that is was visiting your residence, do you?
A. No, absolutely not.
00:26:08 **Q.** So that wasn't your car, but we have

the Fit on there at one point. We have this on there at one point. Let me show you Plaintiff's No. 2. Whose minivan is that?
A. I don't have a clue.
00:26:17 **Q.** You don't deny, do you, that that person was visiting your house?
A. No.
Q. You don't deny that it's sitting on BVACC property, do you?
00:26:23 **A. No, I do not.**
Q. Once again let me ask you, do you think it's possible that the reason nobody uses that half of the right of way is that you and all your guests park all over it and treat it as
00:26:27 if it's your private property?
A. I have instructed all of my family, who come on a regular basis, to park on my front lawn.
Q. Now, answer the question.
00:26:41 **A. So if somebody comes and hasn't gotten that instruction, and I don't happen to be there and tell them to move it then it stays there.**
Q. Now, answer the question.
00:26:47 **A. Now what is the question?**

Q. The question is, does it seem reasonable to you to conclude that the reason people don't use that half of their property is that you and your guests and your family
00:27:02 members are treating it as if it's your property?
A. The answer is, no.
MR. TRAYWICK: Very good. Nothing further, Your Honor. Thank you.
00:27:13 MR. COLLINS: Nothing further.
THE COURT: Mr. Moore, thank you. You may step down, sir.
(Witness excused.)
THE COURT: Mr. Traywick?
00:27:18 MR. TRAYWICK: Your Honor, just to sort of save some time, what I would do is bring Mr. Stone up just to sort of authenticate the dates that appear on these photographs. If we can stipulate to it then it can save us
00:27:36 the time, but it's totally up to the Court and Mr. Collins.
MR. COLLINS: I wouldn't quibble with that.
THE COURT: We have Plaintiff's 1 and
00:27:49 Defendant's 3, right?

MR. TRAYWICK: Plaintiff's 2, Your Honor. And if I may --
MR. COLLINS: Did you move those in?
MR. TRAYWICK: Yes. Well, let me just
00:28:01 show them to you.
MR. COLLINS: I've got them.
THE COURT: Plaintiff's 1 and 2. All right.
MR. COLLINS: Without objection.
00:28:25 THE COURT: Very good.
MR. TRAYWICK: If I can beg the Court's indulgence for one quick second?
Nothing further, Your Honor. Thank you.
00:28:52 THE COURT: All right. Any response, Mr. Collins?
MR. COLLINS: Judge, I'm not going to call any witnesses. It is what it is.
THE COURT: All right. Very good.
00:29:00 What do you seek, Mr. Traywick?
MR. TRAYWICK: Well, it's hard to know, but I can tell you what I think makes the most sense. This is what we're asking for, Your Honor. Shoot for the moon, right? What
00:29:18 we think makes the most sense, and I've got

this in our memo, is that we should be allowed to -- that you, Your Honor -- and I realize this is always an uncomfortable topic, but the 1984 order that is sort of the
00:29:30 wellspring of this whole problem provides that in the event there are -- I can point out the provision. It actually specifically says that in the event that there are violations of the order, impediments to
00:29:46 residents' view and access of the marshes, if there are violations with any degree of frequency then the order is subject to modification.

In my view what should happen is the
00:29:59 '84 -- what we respectfully ask Your Honor to do is just eliminate the '84 order. Let us go back to the time when we owned our property, Mr. Moore owned his, and there was nothing over there to cause any confusion about whose was whose and what was what. We can tear down that carport at our own expense exposing ourselves to whatever liability might befall us as a result of it to damage Mr. Moore's house. We'll do it at our own expense. We'll build a fence all the way

down there.

As Your Honor ordered before and as you said, Good fences make good neighbors. Never could that phrase be more apt than it is in
00:30:41 this situation. So that's what we think makes the best sense. I will point out to Your Honor that at a bare minimum that the order that you entered in June of 2014 on this subject of the fence you said, In the
00:30:53 event there is a violation of this order we can build a fence from the carport along the property line down to the roadway. I think that, at a bare minimum, we ought to do.

Obviously we can take the position,
00:31:04 well, it's in the order. We can just do it, but obviously we think that that's a sensitive issue and we would like your input. We would like the 1,000 bucks that we were entitled to. By the way, you ordered before
00:31:17 that we could build a fence from the carport down to the marsh.

Do you know why that hasn't been done? Because with our $3,500 annual collections that is our entire annual budget we thought
00:31:19 you know, we'll take the 1,000 bucks. We

actually rounded up a bunch of guys from the neighborhood to agree to come out there and build it one day. We could buy the materials with the 1,000 bucks. That hasn't happened
00:31:41 because Mr. Moore apparently instructed his lawyer not to give us the $1,000.

So at a bare minimum we think we ought to be able to build a fence right straight down that property line. Since we were last
00:31:53 here we had that property line surveyed. We've got some nice, fresh marks. We can get out there and build that thing. I'm not quite sure that would alleviate the matter. It would still be the case that that fence
00:32:00 would run rather awkwardly through the middle of a carport that straddles the property line. Really I believe that until that thing is gone that this is never going to end.

THE COURT: Your proposal is to run the
00:32:00 fence from the street all the way to the marsh; is that your proposal?

MR. TRAYWICK: Yes, sir. It probably wouldn't come all the way -- to the point that it's anywhere near the actual roadway,
00:32:23 but on down to within ten or 12 feet of the

roadway so that it's very clear when you're standing in the street, hey, this is one piece of property. This is another. Mr. Moore would still be able to get into his
00:32:37 side of the carport. We'd be able to use ours. I thought it was very, very interesting. He said, oh, yeah. Nobody ever uses this route. Of course they don't. How could we?

00:32:53 THE COURT: Very good. Mr. Collins, let me hear from you on that.

MR. COLLINS: All right, Judge. We've got an order in place, 1984. It gives us the right to encroach. This is a Court of
00:33:06 Equity. You've seen the pictures. They're in evidence. How can any reasonable person come to the conclusion that the parking of one car over the easement line limits access to this easement? It doesn't. You've seen
00:33:27 it. Every time we come down here we have multiple people from the Civic Club. This is more than about this easement. There is nothing that restricts any access to this at all, period. It never has.

00:33:40 You instructed my client to clean it

up? He's cleaned it up. There haven't been any pictures in evidence that it's dirty. There's no refuse. There's nothing. Look at the pictures. The only violation we can
00:33.55 claim is the parking of this car on three or four different dates since we were here last time six or seven months ago. That's it. That's it.

This is a matter of equity. We're not
00 34:12 in a court of law. Equity works on both sides. I agree. We shouldn't be here. If this is the evidence that they've got -- they want to run a fence through my client's carport -- is totally insufficient.

00:34:30 THE COURT: Very good. All right. Well, there is at least the third hearing that we've had since I've been here. This matter is hotly contested, and it is unfortunate, but that's where we are. I am a
00:34:51 Judge who thinks good fences make good neighbors. That's what I'm going to order. Okay? We had a hearing -- an order issued in November of 2013, and then June of 2014, and now here we are in March of 2015. At this
00 35:09 rate we're going to be back in October of

2015. Then somebody's going to have to go to jail. I don't know who that's going to be. $1,000 needs to be paid over today, no later than 5:00 p.m. tomorrow. There's an additional $1,000 for not having paid the first $1,000. Contempt of Court. Contempt of Court.

I'm authorizing the neighborhood association to build a fence from the roadway
00:35:29 back to the marsh. I think it should be at least ten to 12 feet off the roadway. I think it should be at least ten to 25 feet off the marsh. Okay? I don't know how you're going to build it through the carport.
00:35:53 I'm not ordering the carport to be torn down. If we continue to have problems I'm going to order the carport to be removed, at least to the property line. Okay? I'm not doing that today. I'm not having -- neither am I having
00:36:07 to change the order from 1984. Let me read to you-all what I think is relevant from that. It is hereby ordered -- this is Page 6 of Judge Condon's order.

The 50-foot strip in question is for
00:36:18 the right to use and enjoy by the Bayview

homeowners without hindrance or obstruction, for an unimpeded and unrestricted access and view.

Paragraph B was removing metal
00:36:36 buildings. We crossed that bridge back in November of 2013.

Paragraph C, talking about structures and impediments. If this occurs with any degree of frequency this Court shall
00:36:50 forthwith issue such an order as it may then be appropriate. That was in 1984. We've been to Court in 2013, 2014, and now 2015.

I find this to be sufficient frequency to take some type of action that needs to be
00:37:06 taken. So I'm finding Mr. Moore to be in contempt for having failed to pay the $1,000 and I'm going to charge him another $1,000. That's my ruling. That needs to be paid forthwith. Okay? If that's not paid within
00:37:17 30 days, Mr. Traywick, let me know.

Mr. Moore, somebody is going to have to go to jail if that doesn't get paid. Okay? I want that to be paid ASAP. I'm authorizing them to build the fence. I don't know
00:37:32 whether that's in conformity with the

restrictions or not, but unfortunately that's what needs to happen in this case. All right?

MR. COLLINS: As a matter of
00:37:38 clarification, is the fence going to run through the carport?

THE COURT: I don't know how they're going to do that.

MR. COLLINS: Well, my client --

THE COURT: They have the authority to build it through the carport. Okay?

MR. COLLINS: So you're denying access to my client of the carport?

THE COURT: Only the part of the carport that's on the Bayview Acres property.

MR. COLLINS: Right. That's the subject of Judge Condon's order?

THE COURT: Right. Yes. Yes. So from that standpoint, that's the frequency part
00:37:58 that says, we need to create some sort of remedy.

MR. COLLINS: And it's going to be a written order?

THE COURT: I hope so.

00:38:08 MR. TRAYWICK: I'll prepare the order

and share it with Mr. Collins before we submit it, Your Honor.

THE COURT: Please do. Please do. Any problems, you-all let me know.

00:38:17 MR. TRAYWICK: Thank you, Your Honor.

THE COURT: I'm hoping this fixes it, but I don't know that it does. I can tell you, I like fences. All right? I just do. Sometimes they're made out of stone.

00:38:25 (PLF. EXH. #1, Photograph, was marked for identification.)

(PLF. EXH. #2, Photograph, was marked for identification.)

(The proceedings were concluded at 4:18 p.m.)

-15 40:14

State of South Carolina)
)
County of Charleston)C E R T I F I C A T E

I, Christine A. Smith, Court Reporter and Notary Public for the State of South Carolina at Large, do hereby certify that the foregoing transcript is a true, accurate, and complete record.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 16th day of June, 2015 at Charleston, Charleston County, South Carolina.

_____
Christine A. Smith
Notary Public
My Commission Expires
May 12, 2021

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing Record on Appeal was served, via United States Mail or hand delivery, upon

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STATE OF SOUTH CAROLINA
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APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Mikell Scarborough, Master in Equity

Case No. 2011-CP-10-95

Bayview Acres Civic Club . . . . . Respondent

v.

Gerald E. Moore, Jr. a/k/a Gerald Moore and
Margaret Bates Moore . . . . . Appellants

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

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6/2, 2016
Charleston, SC