THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Clifton Newman, Circuit Court Judge

Case No. 2010-CP-26-03901

RECEIVED
NOV 13 2015
SC Court of Appeals

Rivergate Homeowners' Association, Appellant,

v.

WW & LB Development Company, LLC, RWG, Inc., Aiello Associates, Daniels Engineering, Inc., Rivergate Homeowners' Association, Rivergate Homeowners' Association Board of Directors, Wayne Winderman, individually, Salvatrice Foran, individually, Gerald Foran, individually, Marcos Soares Construction, William C. DeSouza, individually, James Eason individually and d/b/a James Eason & Company, D&D Cleaning and Construction, Inc., Joel's Framing, Joe Freza, Aroldo Garcia, Joaquin Geraldo Zeferinao, individually and d/b/a Zeferino Framing, Leo Trombley, Judy Schultz, J&D Interior Design, Jose Dasmerces d/b/a J.P. Construction, Scott Chandler

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Clifton Newman, Circuit Court Judge

Case No. 2010-CP-26-03901

Rivergate Homeowners' Association, Appellant,

v.

WW & LB Development Company, LLC, RWG, Inc., Aiello Associates, Daniels Engineering, Inc., Rivergate Homeowners' Association, Rivergate Homeowners' Association Board of Directors, Wayne Winderman, individually, Salvatrice Foran, individually, Gerald Foran, individually, Marcos Soares Construction, William C. DeSouza, individually, James Eason individually and d/b/a James Eason & Company, D&D Cleaning and Construction, Inc., Joel's Framing, Joe Freza, Aroldo Garcia, Joaquin Geraldo Zeferinao, individually and d/b/a Zeferino Framing, Leo Trombley, Judy Schultz, J&D Interior Design, Jose Dasmerces d/b/a J.P. Construction, Scott Chandler

d/b/a Coastal Custom Windows & Doors, R&D Construction, Nicasio Ramirez Zunigo, Walchir Morais, Marco Trebbi, Blankenship Roofing, Inc., DLJ Construction, LLC, Dewayne Bates, The Bates Group, LLC, Bridges Construction Co., Brewer Construction, Inc., Speedy Concrete, REB-FEL, Inc., Mark Mychajluk, Eric Jazwinski, Southern Framing Corporation, AB Consulting Engineers, Inc., WWI Development Company, LLC, Michael Dawson Construction, Inc., Asphalt Paving & Maintenance Co., Inc. and Chuck's Construction Co., Inc., Right Way Group, Inc., Stevens Construction Co., Inc., Geometrics, Inc., Eric Yazwinski, Law Engineering, Inc., D & M Builders, Inc., Hill Construction Company, Bonnie Stone a/k/a Bonny Stone, DJL Construction Company, L.L.P., Adrian Mondragon, individually and d/b/a Mondragon Construction, Inc., and Glen Causey, Defendants,

Of Whom Speedee Concrete, Inc. and Chuck's Construction, Inc. are the Respondents.

Chuck's Construction Co., Inc., Third-Party Plaintiff,

v.

Vereen Concrete Co., Inc. and Asphalt Pavement Maintenance of Myrtle Beach, Inc., Third-Party Defendants,

Rivergate Homeowners' Association, Appellant,

v.

WW & LB Development Company, LLC, Speedy Concrete, AB Consulting Engineers, Inc., and Chuck's Construction Co., Inc., Defendants,

Of Whom AB Consulting Engineers, Inc. is the Respondent.

RECORD ON APPEAL

VOLUME II

Stacy L. Stanley, Esquire
V. Denise Hamilton, Esquire
STANLEY LAW FIRM
3303 Highway 9 East
Little River, SC 29566
(843) 390-9111 – Tel.
Attorney for Appellant

G. Michael Smith, Esquire
THOMPSON & HENRY, P.A.
Post Office Box 1740
Conway, SC 29528
(843) 248-5741 – Tel.
Attorney for Respondent Speedee Concrete, Inc.

Stephanie Burton, Esquire
GIBBES BURTON, LLC
308 East Saint John Street
Spartanburg, South Carolina 29302
(864) 327-5000 – Tel.
Attorney for Respondent AB Consulting Engineers

Christina Bisset, Esquire
McANGUS GOUDELOCK & COURIE LLC
Post Office Box 1349
Myrtle Beach, SC 29578
(843) 848-6000 – Tel.
Attorney for Respondent Chuck's Construction, Inc. (Co-Counsel)

J. Christopher Clark, Esquire
McANGUS GOUDELOCK & COURIE LLC
Post Office Box 1349
Myrtle Beach, SC 29578
(843) 848-6000 – Tel.
Attorney for Respondent Chuck's Construction, Inc. (Co-Counsel)

INDEX

VOLUME I

Order of March 31, 2009 1

Order of August 18, 2009 4

Order to Restore Case April 28, 2010 6

Order Granting SJ to Chuck's March 13, 2014 9

Order Granting SJ to Speedee May 12, 2014 15

Order Granting SJ to AB May 19, 2014 23

Order Denying Plaintiff's Motion for Reconsideration of Order Granting SJ to AB December 10, 2014 34

Order Denying Plaintiff's Motion for Reconsideration of Order Granting SJ to Speedee December 10, 2014 39

Order Denying Plaintiff's Motion for Reconsideration of Order Granting SJ to Chuck's December 10, 2014 42

Order of Court of Appeals Granting Appellant's Motion to Consolidate Appeals June 3, 2015 45

Chuck's Motion for Summary Judgment 48

AB's Motion for Summary Judgment 52

Speedy's Motion for Summary Judgment 56

Plaintiff's Memorandum of Law in Opposition to Speedy's Motion for SJ 60

Motion for Reconsideration on Order Granting Summary Judgment to AB 75

Motion for Reconsideration on Order Granting Summary Judgment to Speedy 84

Motion to Consolidate (Court of Appeals) 95

Sanger Complaint 97

Sanger Amended Complaint 118

Rivergate Complaint 142

Rivergate Amended Complaint 167

Rivergate Second Amended Complaint 188

Chuck's Answer to Second Amended Complaint 210

Speedy's Answer to Second Amended Complaint 219

AB's Answer to Second Amended Complaint 229

Notice of Appeal dated March 2, 2015 236

Transcript of Record on January 17, 2014 238

Transcript of Record on September 8, 2014 363

VOLUME II

Excerpts from Deposition of Amie Drucker with Exhibits 3, 10, 11, and 12 433

Excerpts from Deposition of James K. Dunn with Exhibits 2, 5, 6, 15, 16, 17, 19, 21, 22, 23, 24, 25, 26, 27, 28, 30, 32, 33, 34, 36, 37, 38, and 41 467

Excerpts from Deposition of Donna Dawson 759

Excerpts from Deposition of Wayne Winderman 777

Excerpts from Deposition of Luther Bellamy 782

Excerpts from Deposition of Salvatrice Foran 787

Excerpts from Deposition of Christopher Sarratt with Exhibit 3 807

VOLUME III

Excerpts from Deposition of Michael Gardner 830

Deposition of J. Drew Wilkie Volume I with Exhibit 2 838

Deposition of J. Drew Wilkie Volume II 936

Affidavit of J. Drew Wilkie, P.E 1062

Kimley-Horn and Associates, Inc. Report 1065

Speedee's Invoice dated March 22, 2007 1073

Agreement Between Owner and Engineer for Professional Services (AB Consulting Engineers, Inc.'s contract) 1074

Contract Agreement Between WW & LB and Chuck's Construction Company 1077

Letter from Winderman to Rivergate Homeowners dated September 12, 2007..... 1085

Letter from Winderman to Atalaya dated September 16, 2007 1088

Letter from Winderman to Santee Cooper dated September 16, 2007 1089

Letter from Winderman to Little River Water and Sewer dated September 16, 2007 1090

Letter from Winderman to Rivergate HOA Ad Hoc Committee dated July 6, 2005 1091

Minutes of Rivergate Home Owners Meeting November 4, 2006 1095

Horry County Land Records for WW & LB 1099

Site Repair – Preliminary Budget 1101

Rivergate Master Deed, Exhibits, and By-Laws 1099

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.

November 9, 2015

V. Denise Hamilton

Stacy L. Stanley, Esquire
V. Denise Hamilton, Esquire
Stanley Law Firm
3303 Highway 9 East
Little River, South Carolina 29566
(843) 390-9111
Attorney for Appellants

STATE OF SOUTH CAROLINA)
) COURT OF COMMON PLEAS
COUNTY OF HORRY)

RIVERGATE HOMEOWNERS' ASSOCIATION,

Plaintiffs,

-versus-

CASE NO.: 2010-CP-26-3901

NW & LB Development Company, LLC, RWG, Inc., Aiello Associates, Daniels Engineering, Inc., Rivergate Homeowners' Association, Rivergate Homeowners' Association Board of Directors, Marcos Soares, individually, and d/b/a M.S. Construction, William C. De Souza, individually, James Eason, individually and d/b/a James Eason & Company, D&D Cleaning and Construction, Inc., Joel's Framing, Jo Frass, Aroldo Garcia, Joaquin Geraldo Zeferino, individually, and d/b/a Zeferino Framing, Leo Trombley, Judy Schultz, J&D Interior Design, Jose Dasmerces, d/b/a J.P. Construction, Scott Chandler d/b/a Coastal Custom Windows & Doors, R&D Construction, Nicasio Ramirez Zuniga, Walchir Morais, Marco Trebbi, Blankenship Roofing, Inc., DLJ Construction, L.L.C., Dewayne Bates, The Bates Group, LLC, Bridges Construction Co., Brewer Construction, Inc., Speedy Concrete, REB-PEL, Inc., Mark Mychajluk, Eric Jaswinski, Southern Framing Corporation, AB Consulting Engineers, Inc., WWI Development Company, LLC, Michael Dawson Construction, Inc., Asphalt Paving & Maintenance Co., Inc., Chuck's Construction Co., Inc., Right Way Group, Inc., Stevens Construction Co., Inc., Geometrics, Inc., Erick Yaswinski, Law Engineering, Inc., D&M Builders, Inc., Hill Construction Company, Bonnie Stone a/k/a Bonny Stone, DJL Construction Company, L.L.P., Adrian Mondragon, individually and d/b/a Mondragon Construction, Inc., and Glen Causey

Defendants.

THE DEPOSITION OF
AB CONSULTING ENGINEERS, INC.,
BY AMIE DRUCKER, THE 30(B)(6) DESIGNEE
Monday, February 25, 2013
9:04 a.m. -- 3:03 p.m.

9:04

The deposition of AB CONSULTING ENGINEERS, INC., BY AMIE DRUCKER, THE 30(B)(6) DESIGNEE, taken on behalf of the Plaintiff, at the office of McAngus Goudelock & Courie, located at 2411 North Oak Street, Myrtle Beach, South Carolina, on Monday, February 25, 2013.

"driveways," right?
A: The individual home driveways.
Q: Okay. So you've got driveways which are, I call them lanes, ---
A: Correct.
Q: --- right?
A: Correct.
Q: And you've marked those as A and B on Exhibit 2, correct?
A: Correct.
Q: And then we've got individual driveways which would go to each individual unit; ---
A: Correct.
Q: --- is that correct?
A: Yes.
Q: And so when you talk about Mr. Lewis sent Mr. Winderman correspondence relating to the slope of the driveways, you were talking about the individual driveways?
A: Correct.
Q: My question earlier was about whether you had any complaints about Mr. Winderman, and you've talked about the drainage work that was done on Exhibit 2, where you circled the number 2's, and you also talked about the individual driveways. Do you

have any other complaints in regards to Mr. Winderman or WW & LB?

A: Just their general changing of the design without any consultation with us.

Q: Other than what we've talked about, ---

A: The, the driveways or lanes, as you've indicated, according to the design, were supposed to be concrete, and they were built out of asphalt, which is a big deviation from our design.

MR. SANDEFUR: WHAT WAS CHANGED FROM CONCRETE TO ASPHALT? I'M SORRY.

MS. DRUCKER: THESE INDIVIDUAL LANES OR, ON OUR PLANS, WE'RE CALLING THEM DRIVEWAYS.

MR. SANDEFUR: A, B, C, D, AND E?

MS. DRUCKER: CORRECT.

MR. STANLEY CONTINUES:

Q: And what could be the consequences of that?

A: Our design has an inverted crown for the, for the roadway, and in doing that, the seam of the asphalt winds up being right where the water is to travel to the catch basin, and asphalt, of course, does -- water deteriorates asphalt more than it deteriorates concrete, so the -- and with

a seam being there, as, it has more of a potential to let water underneath the asphalt, which can cause the asphalt to fail.

Q: Okay. And that seam, just so I understand it, the seam is where the paving would come in contact with the curbing?

A: There's no curbing. It's -- The center of the street is lower than the sides of the street, and to create that slope, the paving machine would go down one side and then down the other side, so there would be a seam in the center of the pavement.

Q: I've got you. And that seam would deteriorate quicker if it were ---

A: If it was concrete, there wouldn't be a seam there.

Q: And why would there not be a seam there?

A: They wouldn't, most likely would not build the, the roadway with the seam there.

Q: There would be expansion joints for that?

A: Uh-huh (affirmative response).

Q: So you had, in your plans, you had specified a concrete ---

A: Correct.

Q: --- driveway, correct, or lane?

A: Correct.
Q: And instead of that, Mr. Winderman installed asphalt ---
A: Yes.
Q: --- lanes, correct?
A: Correct.
Q: And did he install asphalt for each lane, including what you've marked as A and B on Exhibit 2?
A: Yes.
Q: Did you notify Mr. Winderman that you had not specified asphalt paving?
A: Not in writing, no.
Q: And you notified him verbally?
A: I'm not sure.
Q: Okay. What other complaints or problems did you have with Mr. Winderman?
A: Just, like I said, just a general complaint that he didn't follow the plans.
Q: Are there other issues that you can identify for me where he didn't follow the plans?
A: Just by going out to the site, the, the inverted crown of these lanes is flatter than what's specified on the, or appears to be flatter than what's specified on the plans. The frames and

grates of the catch basins don't match the ones that were specified on the plans, and the ones in the lane are like a concave grate, which is, doesn't match the grading of the pavement, so it's, in some places the grate is higher than the asphalt around it and the water can't get into catch basins.

Somebody's put speed bumps out there, that looks like it may direct the water away from where it was intended to go. There's some concrete curbing that's graded out towards Rivergate Lane instead of back to the catch basin in the lane. Somebody's installed concrete pavement at the end of some of the lanes that's higher than the asphalt, that part of the design of the project that the systems should surcharge, the water would come out of those catch basins by the, by Baker Street, and then there's a swale, a grass swale that would take it to the wetlands, so with that concrete being higher, it's kind of blocking the water from getting to the, the swale that's there.

Q: Is that at the end of that lane, ---

A: Yes.

Q: --- those lanes?

A: Uh-huh (affirmative response).
Q: Is that a yes?
A: Yes. So from the S&ME report, it looks like even though he installed asphalt, it was not the type that we had recommended for, in our design for the asphalt for the project. It's type, I think, four instead of type one. Another deviation I saw when I was out there was that the, the catch basins are full of, well, not full of, had sediment in the bottom of them, up to the inverts of the pipe, so it doesn't look like anybody's maintaining the system. The driveway that connects to Baker Street does not match the design that was permitted through the county.
Q: Anything else?
A: No, no.
Q: You talked about -- and I didn't get this. I wasn't writing quick enough. You said frames and grates ---
A: Of the catch basins.
Q: --- of the catch basins. What did you say before that; do you recall?
A: No.
Q: You had concrete, it was about the concrete design versus asphalt design, and then I thought

you said something else, and then you said ---
MR. SANDEFUR: I THINK IT WAS PARKING PADS. THAT'S WHAT MY NOTES SAY.
Q: Parking pads, is that what you said?
A: There's concrete, there's concrete, looks like concrete parking pads at some of the ends of these, like, I think, three different alleyway or lanes.
Q: So let's talk about the parking pads then.
A: Okay.
Q: What was your issue with those?
A: They're -- Well, first of all, it's more impervious than was supposed to be on the site. It's additional impervious, as well as they're installed higher than the asphalt, and the intent was that if the, if the system should surcharge, there's an emergency overflow, but if something happened with that, the ultimate emergency would be the water would come out of the catch basins near Baker Street and there's a grass swale that would carry it down to the wetland. With those concrete pads being higher, it's blocking the water from overflowing into the grass swale if it should need to.

Q: Did you specify a different ---

A: There was no parking pads specified.

Q: And why weren't there any parking pads specified?

A: They weren't required.

Q: And when you talk about parking pads, are you talking about the individual driveways?

A: No. There's concrete at the end of the lane, and people are parking on it.

Q: About the frames and grates, tell me again what your issue is with that as-built condition.

A: Especially in the, in the lanes, there's a concave grate that's installed, and it doesn't match the pavement grade, so that the grate is sticking up above, the pavement is lower than the grate, and the water can't get into the grate, so there's puddles around the grates.

Q: You mentioned speed bumps. What is your issue with the speed bumps?

A: There's a speed bump across driveway A.

Q: Will you circle that, where you think that speed bump is and then put a number three?

A: (Complies with request.) The water from Rivergate Lane, from the northern side, is supposed to come down Rivergate Lane and then make a turn and get into the drainage system in

driveway A, and it looks like this speed bump is directing this water down to the next intersection, which would be driveway B. So this, each individual driveway has its own drainage system. So you're directing water, more water into this system than was originally designed.

Q: So when you say "you're directing more water into this system," are you talking about the driveway B system?

A: Yes.

Q: And what kind of problems could that cause?

A: The, the system's designed to exfiltrate -- or infiltrate water into the soil, and if you're, and it has a certain amount of storage that's required for the ten year storm. So if you're directing more water to it, there's, it's not, it's not designed for that extra water.

Q: It's got a greater chance of flooding?

A: It could.

Q: And another issue you cited was the concrete curbing. Tell me again what your issue is with that.

A: There's, on one of the driveways, the concrete curbing is graded back towards Rivergate Lane,

which will, again, will direct water, instead of going to this catch basin at the end of the lane where it's supposed to go, it's directing water down to the next driveway.

Q: You don't recall which driveway that is where you cite that problem?

A: I think it was G -- No, it was, I think, the fourth driveway, but I'm not, I'm not sure.

Q: You also mentioned that the concrete pavement was higher than the asphalt.

A: That was the concrete pads at the end.

Q: All right. That's the same as the parking pad that you referred to earlier?

A: Uh-huh (affirmative response).

Q: Is that right?

A: That's correct.

Q: And then you talk about you saw where asphalt number four was installed instead of asphalt number one?

A: That was from your expert witness's report that he, that I had seen.

Q: So is that something that you've observed personally?

A: No. That was just from that report.

Q: And you mentioned the driveway to Baker Street

does not match the design?

A: Correct.

Q: What's the deviation there?

A: The driveway, the, the shoulder of Baker Street was supposed to be graded to Baker Street, and somebody's installed the grass swale upstream of the driveway connection with no, no way for the water to get out of that swale.

Q: We've talked about the grading on the individual driveways, and I know that you all provided something in writing to Mr. Winderman in regards to that issue, correct?

A: Correct.

Q: Now, we talked about the concrete versus the asphalt design in the lanes, and I think you testified you did not have anything in writing to Mr. Winderman; is that correct?

A: Correct.

Q: How about in regards to the parking pad issue, did you have something in writing to Mr. Winderman regarding that issue?

A: I did not see those parking pads till, actually, after this lawsuit came about. They must have been installed after we were done with our services out there.

than the grates.

Q: Okay. So do you think the asphalt has, what's the word for it, sunk? What's the proper word for that?

A: Sunk. Like I said, if it was, if it was that way at the time we had observed the, when we were trying to do our certification, I would have noted that, and I didn't. So it, it just looks like it's old, old pavement that's basically, can't think of the word, settled.

Q: Just so I'm clear, because I'm not trying to trick you or do anything like that, I just want to know exactly when you observed this condition about where the frames of the grates were higher than the asphalt.

A: It was after, after ---

Q: After your work at ---

A: Yes.

Q: --- Rivergate?

A: Yes.

Q: And in your opinion, do you think that the asphalt around the frames and grates has settled or sunk, whatever you want to call that?

A: Yes.

Q: And what would cause that, what would cause the

asphalt to sink like that?

A: It's -- It could be the soil underneath or it could be the rock. There's something in the structure of the, of the pavement that's not supporting the pavement.

Q: How about the concave grate issue, where you said the water can't get into the grate?

A: Because the, the asphalt has settled around it, it's not ---

Q: Is that similar to the issue that we just talked about?

A: Yes. And the speed bumps weren't there when we were working on the project either.

Q: How about the concrete curbing, was that there at the time that you were working on the project?

A: From the, from the pay requests I saw in the file, it was.

Q: Did you bring that to the attention of Mr. Winderman?

A: Not per the file, no.

Q: But do you recall bringing it to his attention any other time?

A: I don't recall.

Q: And in regards to the issue of asphalt number four instead of asphalt number one, ---

A: Right.
Q: --- did that as-built condition exist at the time that you were doing work at the Rivergate project?
A: I don't know.
Q: If it had, would you have brought that to the attention of Mr. Winderman?
A: Without testing the asphalt, I don't know how I would know if, the difference between the two types of asphalt,
Q: But you specified asphalt number one in your drawings?
A: Yes.
Q: Okay. In regards to the driveway to Baker Street ---
A: Yes.
Q: --- that we've referred to earlier, did you observe that as-built condition at the time that you were working at the Rivergate project?
A: No. That was observed afterwards. The, the county signed off on the work, and I don't remember that ditch being there at the time we did the project, and like I said, the county had issued a certification that the work was in compliance with the encroachment permit that we

got from them, so I would -- I don't remember, like I said, I don't remember that ditch being there, and I'm sure the county wouldn't approve the, you know, he wouldn't certify the work if, if that ditch was there, because it was not supposed to be there.

Q: Okay. Will you circle -- Just for the record, when you talk about things and we don't have it --

A: Okay.

Q: --- identified on this document, it's kind of hard for us to make it out later on. So when you talk about the ditch was not there, will you circle that and put, I think our next number is four.

A: (Complies with request.)

Q: There you go. It's kind of hard to put it in there.

A: Uh-huh (affirmative response).

Q: Good, thank you. And that is at the corner of the last lane, it looks like, in the Rivergate project?

A: Correct.

Q: And Baker Street?

A: Yes.

MARKED FOR IDENTIFICATION.

Q: This is Exhibit 10, Ms. Drucker.

A: Okay.

Q: And again, this comes from your file. This is a Hold Harmless Indemnification Agreement. Are you familiar with this document?

A: Yes.

Q: Tell me how this document came about.

A: This document was in response to us observing some deviations from the plans by Mr. Winderman.

Q: And I know we've talked about different deviations, but can you be more specific as it relates to this hold harmless agreement that's been marked as Exhibit 10?

A: It references the installation of the stormwater system and revisions to the proposed grades at the Rivergate project.

Q: And I see where it says that, but you were a little more specific about some issues that you had with Mr. Winderman earlier.

A: Uh-huh (affirmative response).

Q: Can you break out the issues with the stormwater system, the stormwater management system?

A: This is shortly after we saw him installing the stormwater management system without the rock

envelope around the perforated pipe and ---

Q: Can you hold on just one ---

A: Yep.

Q: --- second? Just so we can be a little more specific, we had marked Exhibit 2 earlier, ---

A: Yes.

Q: --- and you had circled an area at the project, two areas, and we had marked those as "2."

A: Yes.

Q: Is that what you're referring to right now?

A: Yes.

Q: Okay. I'm sorry to interrupt you. So that's one of the issues that you had in regards to the stormwater management system. Is there another one?

A: No.

Q: Okay. And then you also reference revisions to the proposed grades at the Rivergate project. What are you talking about specifically there?

A: That's the revised building pad elevations that Mr. Lewis had referenced in a letter that I believe this hold harmless was attached to, referencing that he thought that the individual unit driveways may be too steep, that they were installed at the grades that Mr. Winderman had

revised them to.

Q: Does this hold harmless agreement apply to any other issues or problems that you had involving Mr. Winderman, WW & LB, at the Rivergate project?

A: It just references the stormwater management system and the revisions to the grading.

Q: Okay. But other than, I know you say -- Stormwater management system is a very general concept, right?

A: Yeah.

Q: But specifically when we're talking about stormwater management system, you're just talking about ---

A: We're -- I mean, we wanted him to basically sign this for the whole system. I mean, we only did periodic inspections and, or observations out there, and during our observations, we didn't see anything, but we weren't out there the entire time he was, the entire time that the system was installed, so we wanted him to basically, I guess, not admit to -- basically just acknowledge that he had made the revisions we knew about at least, and I'm not -- This says, "See Exhibit `A,'" and I'm not sure what Exhibit A is.

Q: I think I've got Exhibit A, and we're going to

A: I'm not sure what you're asking.
Q: Okay. Well, and I may not be asking it very well. I'm trying to determine specifically what the Hold Harmless Indemnification Agreement applies to. In the Hold Harmless Indemnification Agreement, it references installation of the stormwater management system and revisions to the proposed grades.
A: Right.
Q: To me, that's kind of a general statement.
A: Right.
Q: And I was asking specifically what that statement was referring to.
A: It's referring to the drainage and the grading at the Rivergate project. It was prompted by the deviations we saw in catch basins 1-G, 2-G, 1-H, and 2-H, but the indemnity agreement was for the entire project.
Q: All right. And who told you the Hold Harmless Indemnification Agreement was for the entire project?
A: It references it here, "At the River Gate [sic] project located in Little River," on Exhibit 10.
Q: Is this reference to installation of the stormwater management system and revisions to the

OCRM?

A: Just because of the difference in impervious area, we would've had to evaluate whether or not that made a difference with respect to the drainage system.

Q: Do you have any opinion as to whether or not those parking pads are having any kind of effect on the ability for water to drain from Rivergate?

A: The times we've been out there after a rain, there's been a puddle next to those concrete pads, so I didn't -- I'm not -- The intent was that it would go off into the grass, and it can't get into the grass with the concrete being higher than, than the pavement. It kind of hits the concrete.

Q: So you have the asphalt driveways going, they head out towards Baker Street?

A: Correct.

Q: At the end of those asphalt driveways, there's a concrete parking pad that sits where there should be grass, correct?

A: Correct.

Q: Is there a difference in elevation between the concrete parking pad and the asphalt roadway?

A: Yes.

Q: And water sits, I guess, at that difference in elevation, water sits at the edge of the asphalt?
A: Yes.
Q: Would that allow water to get down in between the asphalt and the concrete?
A: It could, yes.
Q: What happens if water gets down underneath the asphalt?
A: If water gets under the asphalt and saturates the base material, it loses its structural strength and the asphalt can fail.
Q: Does that also happen where the concrete parking pads come down from the individual buildings, or do you know?
A: I'm not sure.
Q: What is the, if you know, do you know what the usable life for an asphalt driveway would be in a condition like Rivergate? How long do they last, how many years?
A: Typically, geotechnical people tell you asphalt's life is about 15 years.
Q: And after that time, do you have to totally replace the asphalt or is there something that can be done to increase the life of an asphalt roadway?

how would you document that?

A: If we had a written request, we would respond in writing to the request.

Q: But you're saying you don't have any in your file?

A: No.

Q: So, evidently, there weren't any written requests?

A: No. There were none in the file.

Q: Do you believe that your file is complete and accurate?

A: Yes.

Q: And if there were any verbal requests for information, how would you document that?

A: Normally, we would direct them to put it in writing.

Q: Do you recall if your plans specify the installation of a culvert under the driveway at the east outlet from the Rivergate project, onto Baker Street?

A: Under this driveway?

Q: Yes.

A: No, they do not. That was the area we discussed that was supposed to be filled and the water was supposed to sheet flow to Baker Street.

Q: So the reason why a culvert was not designed for that area is because you understood that the ditch was going to be filled?
A: Correct.
Q: And did your design plans call for the installation of eight catch basins along the eastern edge of the property?
A: Yes.
Q: And do you know if those installed?
A: They're -- I don't know if they were installed. They're not visible now.
Q: When you went out to the property after the filing of this lawsuit, did you happen to observe that area?
A: Yes.
Q: And did you observe any of those basins being installed?
A: They're not visually -- You can't see them visually, no.
Q: Are you saying so they could be there and just you can't see them?
A: I don't, I don't know if they're there or not. I can't see them from, from that, from looking at it.
Q: But wouldn't you agree with me that if they're

AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES

This Agreement is made this 14 day of May, 1999 between A B Consulting Engineers, Inc., a South Carolina corporation (hereinafter referred to as Engineer) and Mr. Wayne Winderman. (hereinafter referred to as Owner).

WHEREAS, the Owner intends to develop a multi-family subdivision on 8 acres of land, located on U.S. Highway 17, in Little River, Horry County, South Carolina (hereinafter referred to as the Project); and

WHEREAS, the Owner retained the Engineer to perform certain professional services in connection with the development of the Project.

NOW, THEREFORE, it is agreed between the parties as follows.

I. SCOPE OF SERVICES

The Engineer shall perform all services delineated in the attached Engineering Proposal and prepare any such design calculations, construction drawings, construction specifications, permit applications, maps, forms or other documents, as well as, conduct any such field investigations reasonably required to support the design documents, as outlined below:

A. Design and Construction Drawings including:
   1. Grading and Drainage Plan
   2. Sediment and Erosion Control Plan
   3. Sanitary Sewer System and Pump Station Plans
   4. Water Distribution System Plans
B. Supporting Calculations and Documentation
C. Permit application preparation, submission and follow up

II CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement and the Engineer's Proposal for Engineering and Surveying Services, as well as, the following to be provided by the Owner or Owner's Consultants:

A. Geotechnical Engineering Services
B. Wetlands Consulting and Permitting Services
C. Architectural Design Services
D. Landscaping Design Services.

EXHIBIT
3
2-25-13 Dm

Agreement
May 14, 1999
Page 2

III. RELATIONSHIP OF THE PARTIES

The Engineer accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to utilize the Engineer's skill, efforts and judgment in furthering the interests of the Owner; to perform the Services in an expeditious and economical manner consistent with the interests of the Owner. The Owner agrees to exercise best efforts to enable the Engineer to perform the Services efficiently and in an expeditious manner by furnishing such materials and information required by the Engineer in a timely manner and by making payments to the Engineer in accordance with this Agreement.

IV. FEES FOR SERVICES

The Owner shall pay the Engineer in current funds for the Engineer's performance of the services in this Agreement, to be paid as follows:

Surveying

A. Upon completion of the Boundary Survey
$1,055.00

B. Upon completion of the Topographic Survey
$2,000.00

Engineering

A Upon execution of this Agreement
$1,400.00

B. Upon completion of the design drawings and submission to the various regulatory authorities
$6,500.00

C. Upon receipt of the construction permits
$6,500.00

D. Services during construction shall be billed monthly at an hourly rate of $55.00. Terms for payment shall be net 5 days.

V. CHANGES IN THE SCOPE OF SERVICES

Changes made by the Owner in the Scope of Services, hereinbefore described, and which the Owner and Engineer mutually agree constitute additional work for the Project, shall be completed upon written authorization of the Owner at hourly rates or by written amendment of this Agreement outlining a fixed sum for the agreed changes.

VI. REIMBURSABLE EXPENSES

The Owner agrees to reimburse the Engineer for expenses incurred incidental to the services provided under this Agreement, to include not be limited to the following, exclusive of normal overhead:

A. Permit Fees
B. Travel
C. Telephone / Telecopier Costs
D. Printing / Photocopying Costs
E. Postage / Express Mail

VIII. LIMITATION OF LIABILITY

The Engineer maintains Professional Liability coverage for losses by the Owner resulting from errors and omissions on the part of the Engineer. The Owner agrees to limit the liability of the Engineer to $100,000.00, or 50% of the value of the proposed improvements, whichever is less. The Owner may elect to provide additional liability coverage, which can be made available for an additional fee upon request.

IX. CONTRACT TERMINATION OR SUSPENSION

The Owner may, at his discretion, elect to either suspend or terminate the Contract with the Engineer, upon written notice of such action, to be received by the Engineer 45 days prior to the effective date of this action. The Engineer shall, upon receiving notice, immediately suspend completion of further services, or shall complete that portion of services currently in progress, as directed by the Owner. The Owner agrees to pay the Engineer the lesser of: a) his time, at standard rates, invested in completing agreed services up until receipt of the notice of action, or, b) the fixed fee for completion of that portion of the services which is currently in progress.

The Engineer may, with the consent of the Owner, terminate or suspend his services under this Agreement, upon providing 45 days written notice to the Owner of this action. The engineer shall continue such services as are required to complete that portion of the work currently in progress, or as directed by the Owner.

IN WITNESS WHEREOF, the parties have made and executed this Agreement as of the day and year first above written.

OWNER:
Wayne Winderman

BY: Wayne Winderman

WITNESS

ENGINEER:
A.B. Consulting Engineers, Inc.

BY: Brandon E. Lewis III

WITNESS

12.23.08 000145

STATE OF SOUTH CAROLINA	)	HOLD HARMLESS
	)	INDEMNIFICATION
COUNTY OF HORRY	)	AGREEMENT

KNOW ALL MEN BY THESE PRESENTS that WW & LB DEVELOPMENTCOMPANY, LLC., herein after referred to as OWNER, its assigns and successors hereby agree to protect, defend, indemnify and hold harmless A B Consulting Engineers, Inc., its officers, employees and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses and liabilities of every kind and character arising out of or relating to any claims, liens, demands, obligations, actions, proceedings or causes of action of every kind in connection with or arising out of OWNER'S installation of the stormwater management system and revisions to the proposed grades at the RIVER GATE project located in Little River, SC and adjoining US Highway 17, Eastport Golf Club and Baker Street. The OWNER further agrees to investigate, handle, respond to, provide defense for the same at its sole expense and bear all other costs and expenses related thereto.

SEE EXHIBIT "A" A B CONSULTING ENGINEERS, INC. JULY 10, 2000 CORRERSPONDANCE TO WW & LB DEVELOPMENT COMPANY, LLC. ATTACHED HERETO AND INCORPORATED HEREIN.

WITNESS

WW & LB DEVELOPMENT CO., LLC.
WAYNE WINDERMAN

WITNESS

WITNESS

WW & LB DEVELOPMENT CO., LLC.
LUTHER BELLAMY

WITNESS

EXHIBIT
10
12-25-13 DM

CSD 000145

12.23.08 000143

A
B
Consulting Engineers, Inc.

ENGINEERING • PLANNING

POST OFFICE BOX 538
NORTH MYRTLE BEACH, SC 29597

TEL: (843) 280-5870
FAX: (843) 280-5870

July 10, 2000

Mr. Wayne Winderman
WW & LB Development Company, Inc.
1414 Woodview Road
Yardley, Pa. 19067

Re: River Gate
Little River, SC

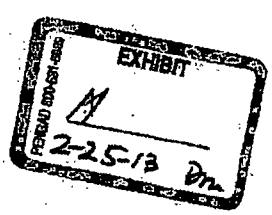
Dear Wayne:

In accordance with our previous conversations, we have been investigating the completed drainage system that you installed with Mr. Luther Bellamy and Mr. Tink Benton at the above referenced project. During our several periodic inspections during construction, it appeared you were initially installing the drainage system per the design plans and specifications. However as is typical with engineer's periodic inspections, we were not able to witness the complete installation of the system and later found that the proposed stone envelopes around the culverts between catch basins 1-"G" & 2-"G" and 1-"H" & 2-"H" were omitted without our consent. In regard to these culverts please find our requirements for correcting these culverts later in this correspondence. Based on our conversations with Mr. Luther Bellamy, Mr. Tink Benton and yourself, it has been represented to us that the remainder of the drainage system has been installed in accordance with the plans and specifications revised 2-10-00. We also understand that you have made some grading modifications to the finished floor elevations. Please be advised our firm is concerned about these revisions which appear to create severe driveway slopes on the south east side of the proposed buildings and you are hereby notified we will not be responsible for problems associated with vehicle negotiation or handicap accessibility on these driveways. To substantiate these facts and positions and to protect our firm from any consequences which may arise from any deviation and or lack of substantial conformance with the plans and specifications for the grading plan and drainage system, we have prepared the attached Hold Harmless Agreement which requires execution and return to our office along with an initialed copy of this correspondence.

The following are our required modifications to the culverts referenced above:

Catch Basin 1-"G" to Catch Basin 2-"G" - Excavate around the entire length of this culvert and verify that the pipe is laid at 0% grade. If the culvert is not installed at the proposed 0% grade this shall be removed and reinstalled at the correct grade. Install 18 - 24 inches of stone on each side and 6 inches of stone on top of the culvert with the entire stone envelope enclosed in the specified geotechnical fabric.

Catch Basin 1-"H" to Catch Basin 2-"H" - Excavate around the entire length of this culvert and install 18 - 24 inches of stone on each side and 6 inches of stone on top of the culvert with the entire stone envelope enclosed in the specified geotechnical fabric. Lower the 8" C.P.P. over flow pipe to the invert of the 15" C.P.P.. Install a 3 1/2" brick wall across the width of Catch Basin 2-"H" to a height 6" above the top of the 15" C.P.P. and install a 2" P.V.C. pipe through the wall at the same invert elevation as the 8" and 15" C.P.P..



CSD 000143

Please contact us regarding your schedule and plans to make the aforementioned corrections to the drainage system. We stand ready to assist you and/or provide clarification of these requirements to resolve these matters. Please notify us when this work will commence so we can provide our inspections of this portion of the drainage system.

Thank you for allowing us to assist you with this project. Attached please find the "Hold Harmless Agreement" which includes this correspondence as Exhibit "A". Failure to return this document to our office will result in our inability to provide final certification of this project to SCDHEC-OCRM.

If you have any questions or require additional information please contact us.

Sincerely,

A B Consulting Engineers, Inc.

Braxton E. Lewis III

OK
Wayne Wendelman
7/28/00

Luther Bellon
C

12.23.08 000115

A
B
Consulting Engineers, Inc.

ENGINEERING • PLANNING

POST OFFICE BOX 538
NORTH MYRTLE BEACH, SC 29597

TEL: (843) 280-5870
FAX: (843) 280-5870

July 25, 2000

Mr. Wayne Winderman
WW & LB Development Company, Inc.
1414 Woodview Road
Yardley, Pa. 19067

Re: River Gate
Little River, SC

Dear Wayne:

As a follow up to our July 10, 2000 correspondence regarding the storm water management system and grading plan at the above referenced project we offer the following:

We understand Chuck & Sons Construction has completed the required modifications to the drainage culverts located between Catch Basins 1-"G" & 2-"G" and Catch Basins 1-"H" & 2-"H". Since these modifications are now complete and you have executed the "Hold Harmless Agreement" to our firm in accordance with our July 10, 2000 correspondence, to the best of our knowledge, information and belief the storm water management system has been installed as intended by our design drawings.

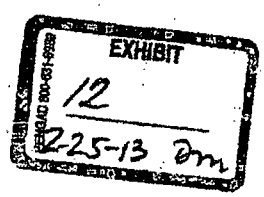
In regard to the grading modifications you have made to the finished floor elevations we have attached two (2) details depicting maximum grade transitions for driveways. These details are enclosed by a "cloud" on the attached sheets and are from "Architectural Graphic Standards" by Ramsey and Sleeper ninth edition. If the driveways are constructed in accordance with these details, passenger vehicular traffic should be able to negotiate access to the garages from the proposed roads.

Thank you for allowing us to assist you with this project. If you have any questions or require additional information please contact us.

Sincerely,

A B Consulting Engineers, Inc.

Braxton E. Lewis III



CSD 000115

12.23.08 000116

NOTE

Each design vehicle in Groups I, II, III, IV, and V represents a composite of the critical dimensions of the real vehicles within each group below. Parking lot dimensions on the parking lot development page are based on these groups and dimensions. For parking purposes, both compact and midsize vehicles are in Group II. Turning dimensions R, R1, and C are shown on the private roads page.

DESIGN VEHICLE

GROUP I		SUBCOMPACTS
L	Length	11'-7" to 14'-8"
W	Width	5'-1" to 5'-8"
H	Height	4'-2" to 4'-7"
WB	Wheelbase	7'-1" to 8'-7"
OF	Overhang front	2'-6"
OR	Overhang rear	3'-9"
OS	Overhang sides	0'-7"
GW	Gross Weight	1620# to 3180#

GROUP II		COMPACTS
L	Length	13'-10" to 16'-4"
W	Width	5'-6" to 6'-8"
H	Height	4'-4" to 4'-8"
WB	Wheelbase	8'-1" to 8'-8"
OF	Overhang front	2'-8"
OR	Overhang rear	4'-3"
OS	Overhang sides	0'-8"
GW	Gross Weight	2300# to 3100#

GROUP III		MIDSIZE
L	Length	15'-0" to 16'-8"
W	Width	5'-7" to 6'-0"
H	Height	4'-2" to 4'-9"
WB	Wheelbase	8'-4" to 9'-6"
OF	Overhang front	2'-10"
OR	Overhang rear	4'-4"
OS	Overhang sides	0'-8"
GW	Gross Weight	2740# to 4000#

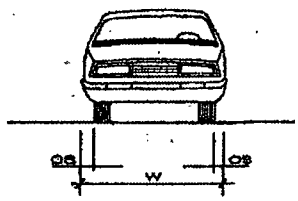
GROUP IV		LARGE CARS
L	Length	15'-2" to 18'-5"
W	Width	5'-8" to 6'-8"
H	Height	4'-7" to 5'-0"
WB	Wheelbase	8'-9" to 10'-1"
OF	Overhang front	2'-11"
OR	Overhang rear	4'-5"
OS	Overhang sides	0'-8"
GW	Gross Weight	3200# to 5300#

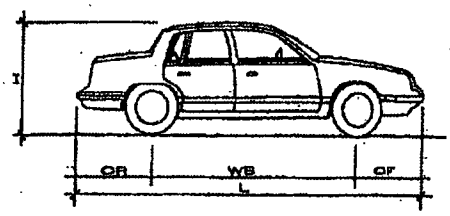
GROUP V		LARGE PICK-UP
L	Length	15'-10" to 20'-2"
W	Width	6'-5" to 6'-9"
H	Height	5'-9" to 6'-4"
WB	Wheelbase	9'-7" to 14'-0"
OF	Overhang front	2'-10"
OR	Overhang rear	4'-4"
OS	Overhang sides	0'-8"
GW	Gross Weight	3600# to 3700#

LARGE VEHICLE DIMENSIONS*

VEHICLE	(L) LENGTH	(W) WIDTH	(H) HEIGHT	(OR) OVERHANG REAR
Intercity bus	45'-0"	9'-0"	9'-0"	10'-1"
City bus	40'-0"	8'-6"	8'-6"	8'-0"
School bus	39'-6"	8'-0"	8'-8"	12'-8"
Ambulance	20'-10¼"	6'-11"	10'-0"	5'-4"
Paramedic van	21'-6"	8'-0"	8'-6"	4'-0"
Hearse	18'-8"	6'-8"	9'-3"	5'-4"
Airport limousine	22'-5¾"	6'-4"	5'-0"	3'-11"
Trash truck	28'-2"	8' 0"	11' 0"	6' 0"
U.P.S. truck	26'-3"	7'-11"	10'-8"	8'-5"
Fire truck	32'-0"	8'-0"	8'-8"	10'-0"

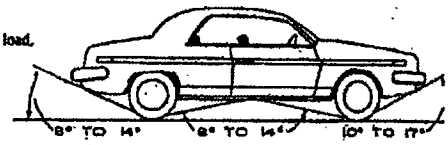
*Exact sizes of large vehicles may vary
For truck and trailer information, see pages on truck and trailer sizes.





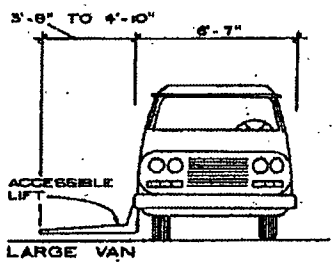
NOTE

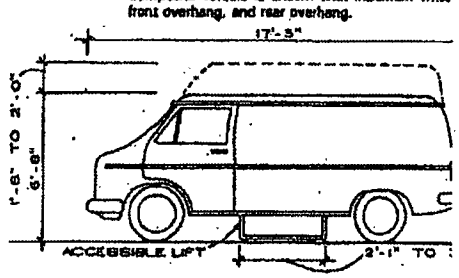
Angles shown below may vary depending on speed, load, tire pressure, and condition of shock absorbers.

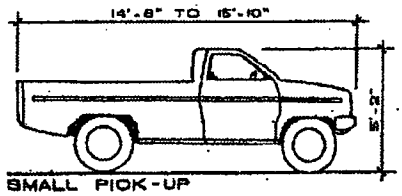


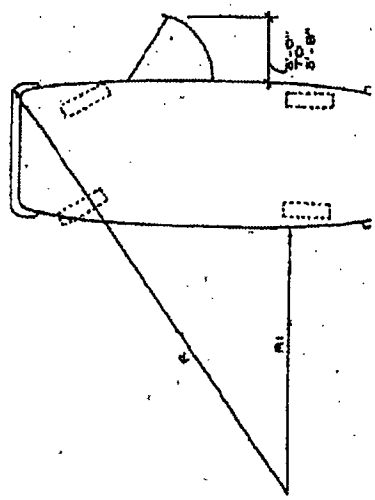
NOTE

Composite vehicle is shown with maximum wheel, front overhang, and rear overhang.









NOTE

For dimensions R and R1 see page on private ro
Accessible parking areas typically require 20 ft x 1

For further parking information, see pages on parkin development and parking garages.

See local codes and standards for parking requirems size, and quantity of parking spaces and number of sp required for persons with disabilities.

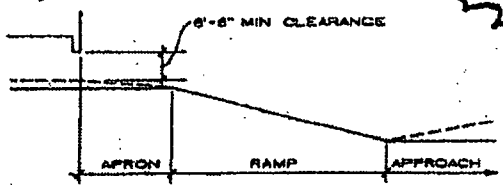
Harold C. Munger, AIA; Wright Munger • Associates Architects, Inc.; Toledo, Ohio
William T. Mahan, AIA; Santa Barbara, California

CSD 000116

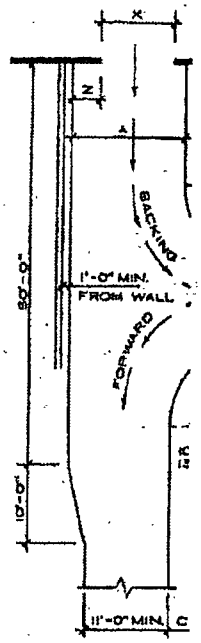
12.23.08 000117

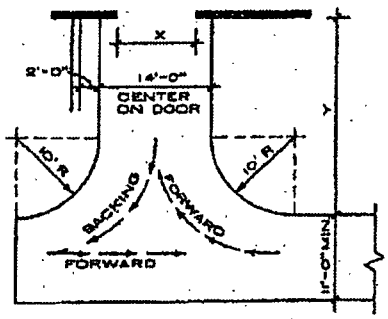
CONCRETE RUNWAYS TO GARAGE

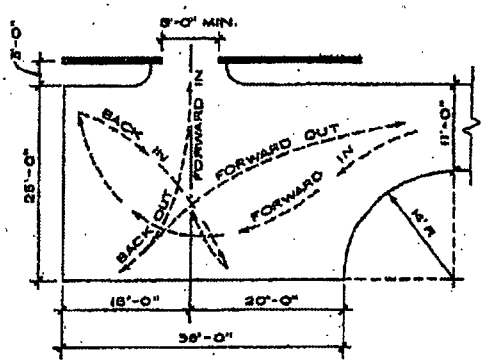
RAMP	APPROACH	APRON
4%	0% to 4%	0% to 2%
5%	0% to 5%	0% to 2%
6%	0% to 2%	0% to 2%
7%	0% to 1%	0% to 1%
8%	0%	0%



ROAD TO GARAGE RAMPS







90° IN—BACK OUT (1 CAR)

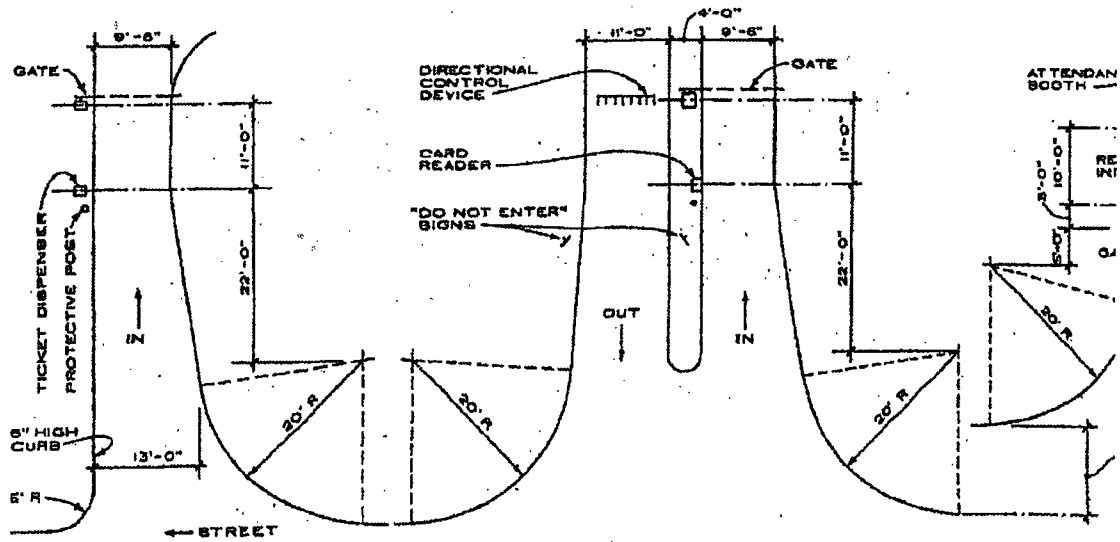
X	8'-9"	9'-0"	10'-0"	11'-0"	12'-0"
Y	26'-0"	24'-6"	23'-8"	23'-0"	22'-0"

NOTE
Three maneuver entrance for single car garage. Employ only when space limitations demand use. Dimensioned for large car.

STRAIGHT IN—BACK OUT

X	9'-0"	10'-0"
Y	26'-0"	25'-0"
Z	3'-4"	3'-1"
A	14'-4"	14'-5"

PRIVATE DRIVEWAYS TO GARAGES



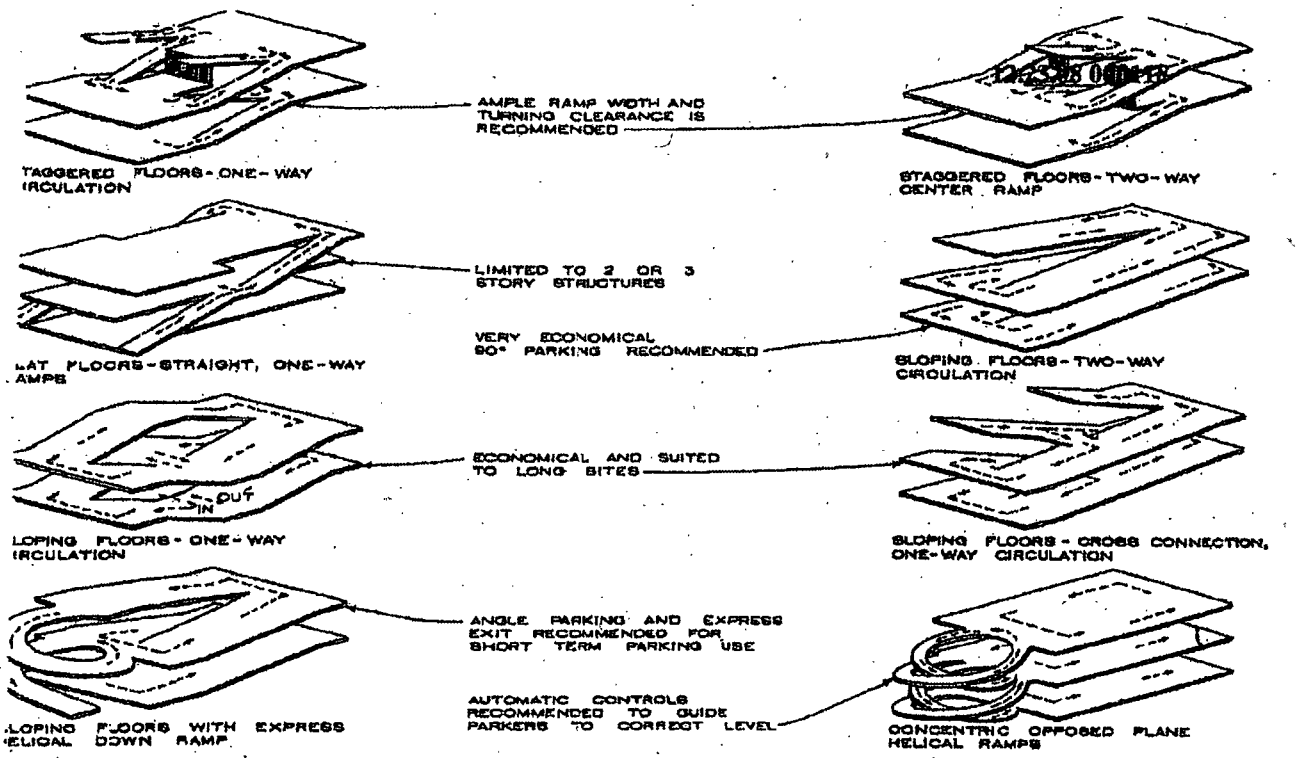
CONTROLLED ENTRANCE

CONTROLLED ENTRANCE - EXIT

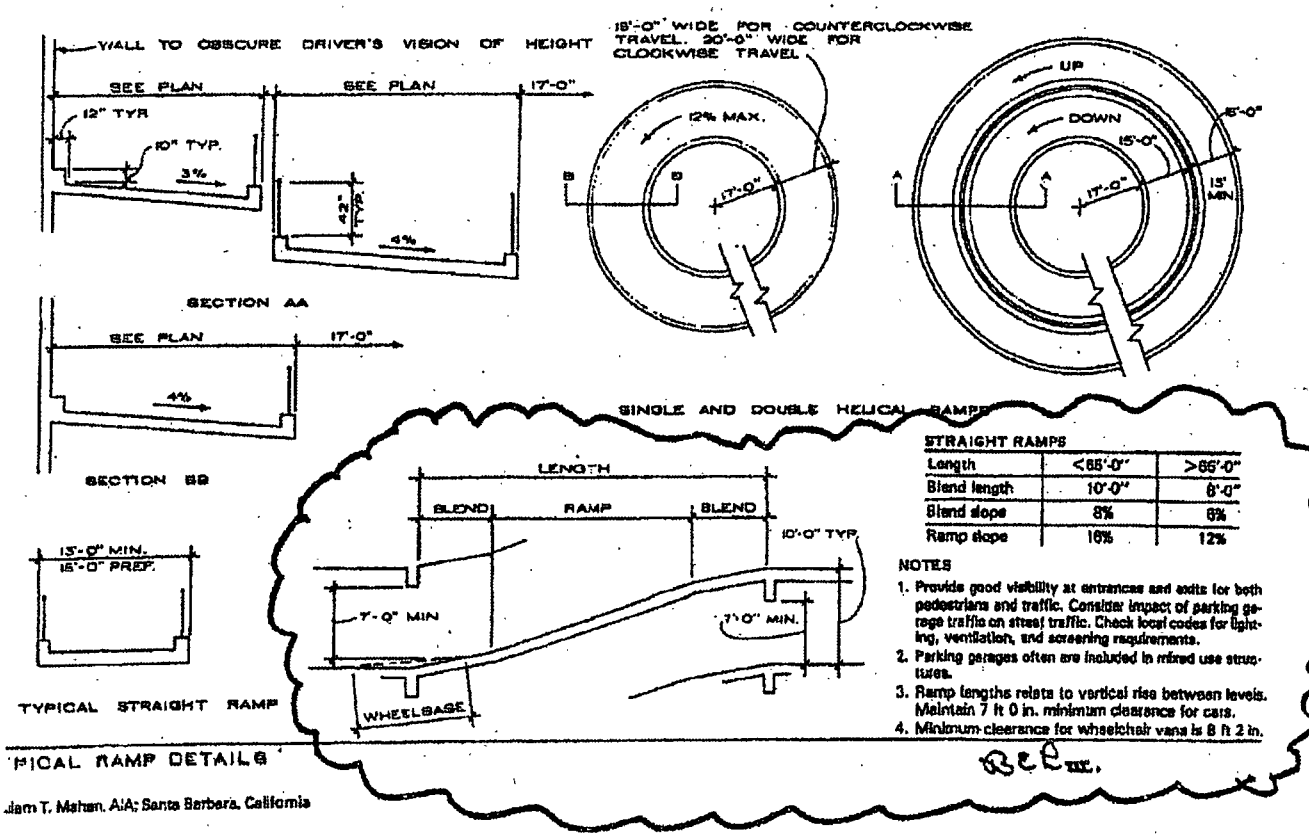
ATTENDED

DRIVEWAYS FOR PARKING FACILITIES

CSD.000117 William T. Mahan, AIA; Santa Barbara, California



PICAL RAMP SYSTEMS



STRAIGHT RAMPS

Length	<65'-0"	>65'-0"
Blend length	10'-0"	8'-0"
Blend slope	8%	6%
Ramp slope	16%	12%

NOTES

1. Provide good visibility at entrances and exits for both pedestrians and traffic. Consider impact of parking garage traffic on street traffic. Check local codes for lighting, ventilation, and screening requirements.
2. Parking garages often are included in mixed use structures.
3. Ramp lengths relate to vertical rise between levels. Maintain 7 ft 0 in. minimum clearance for cars.
4. Minimum clearance for wheelchair vans is 8 ft 2 in.

PICAL RAMP DETAILS

Bell Inc.

liam T. Mahan, AIA; Santa Barbara, California

CSD 000118

AUTOMOBILES, ROADS, AND PARKING 1

STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

COUNTY OF HORRY

Rivergate Homeowners' Association,

Plaintiff(s),

vs.

COPY

CIVIL ACTION NO.
2010-CP-26-3901

WW & LB Development Company, LLC, RWG, Inc., Aiello Associates, Daniels Engineering, Inc., Rivergate Homeowners' Association, Rivergate Homeowners' Association Board of Directors, Wayne Winderman, individually, Salvatrice Foran, Individually, and Gerard Foran, individually, Marcos Soares, Individually and d/b/a M.S. Construction, William C. DeSouza, Individually, James Eason, Individually and d/b/a James Eason & Company, D&D Cleaning and Construction, Inc., Joel's Framing,

(Caption continued on Page 2)

DEPOSITION OF: **JAMES K. DUNN - VOLUME 1**

DATE: Wednesday, January 11, 2012

TIME: 10:16 a.m. through 5:37 p.m.

LOCATION: McAngus, Goudelock & Courie
2411 Oak Street, Suite 401
Myrtle Beach, South Carolina

TAKEN BY: Attorneys for the Defendant(s)

COURT REPORTER: MADONNA M. PERKINS
Registered Professional Reporter
Certified Livenote Reporter

Q. Yes.

A. Well, just to hear, just pay attention, as a concerned homeowner.

Q. Are you the representative for the HOA?

A. No, I'm the representative for me. 10:33AM

Q. A representative of the class?

A. Of the class action suit?

Q. Yes.

A. I signed the class action suit, yes.

Q. Okay. Let's take a look at some of these documents. I have a document here that's Bates stamped 7. It talks about -- it's a letter from you to Wayne Winderman dated May 19, 2005 discussing the formation of the *ad hoc* committee. Are you familiar with that? 10:33AM 10:34AM

A. Uh-huh, it was 2005.

Q. Have you -- I know it alludes to the fact that the *ad hoc* committee met on May 12 of 2005; is that correct?

A. That's what it says. 10:34AM

Q. Okay. Prior to that date, had you and other homeowners met to discuss problems?

A. No.

Q. Okay. So --

A. Well, at his -- 10:34AM

MR. STANLEY: I'm sorry, I'm just trying to see the Bates stamp.

(Mr. Olson joined the meeting telephonically.)

THE DEPONENT: His HOA meeting, when we all met together, there was discussion then after the meeting. And that's what drove this. 10:34AM

MR. O'SULLIVAN: Okay. If we could just pause one second. Whoever just joined in, could they reveal themselves? 10:34AM

MR. OLSON: Clay Olson. I apologize. And I'm going to mute -- I'm going to press mute again in a second unless you need anything else.

MR. O'SULLIVAN: No, that's it.

BY MR. O'SULLIVAN:

Q. Okay. So stuff with homeowners. Any problems prior to the HOA meetings that Winder- --

A. Other than my own that I have given, punch list about to get things repaired. And went to the HOA meeting, like you're supposed to do as a good homeowner, made a special trip and was there. 10:35AM

And that's when you get 50 homeowners irate about the same kind of issues, or other issues. 10:35AM

And I said, Well, we can try to do this, try to take -- or do the right thing and say, I'll try to help or get the information. A lot of it is or was what I would call penny ante stuff, you know, a crack appears in the corner of the drywall or something like that. But to an 80-year-old, that crack is the Grand Canyon. 10:36AM

Q. Yeah. I know there's lots of talks about dogs. But in that letter, you also sent out a letter to homeowners, right? 10:36AM

A. Not in this letter, I don't think.

Q. You reference that you sent a letter out to homeowners.

A. Well, then I did, yes --

Q. Okay. 10:36AM

A. -- who we were. Yeah, here it is, and what we were trying to do.

Q. Okay. And you solicited complaints from homeowners?

A. Yes. 10:36AM

Q. Okay.

MR. O'SULLIVAN: Can we just mark that as 1?

(DFT. EXH. 1, 5/19/05 Letter from Jim Dunn, was marked for identification.) 10:37AM

A. Yes.

Q. And does that appear to be a complaint filed on your behalf dealing with your --

A. Yes.

Q. Okay. So do you remember that differently now? 10:41AM

A. Yes. This lists a lot of the items that I didn't necessarily remember.

And to correct what I said -- or what I led to believe I said, I did file this as the chairman of the general things of the HOA or of the grounds in general, yes. 10:41AM

Q. So you filed that on behalf of the homeowners as a whole?

A. I filed this on behalf of the -- yes, I guess the homeowners. 10:41AM

Q. Okay.

A. As the chairman of the *ad hoc* committee.

Q. Okay. And that complaint that you filed on behalf of the homeowners, that includes issues with standing water and erosion; is that correct? If you look at 97. 10:42AM

A. Yes.

Q. Okay.

MR. O'SULLIVAN: Okay. We're going to 10:42AM

down.)

BY MR. O'SULLIVAN:

Q. Bear with me one second, please.

Okay. I'm going to show you what's Bates stamped as Number 328. I don't know exactly what it is. I'm hoping maybe you could tell me. Do you recognize that? 10:55AM

A. I don't know. This is taken way out of context, but I remember the meeting. That was typical of Wayne. And other people were there, too. 10:56AM

Q. Are you able to tell me where that document was from who wrote it?

A. We sent him a list of the compiled complaints that you probably went through there someplace before you got to this one. That was his response. And so I went to Code Enforcement. 10:56AM

Q. You're saying this is -- Wayne Winderman did this document?

A. No, I'm saying this is taken off of something else. This was probably sent to all of the homeowners. 10:56AM

Q. Okay. Sent to the homeowners by who?

A. (Indicating), by the *ad hoc* committee.

Q. Okay. So this is a document that was 10:57AM

BY MR. O'SULLIVAN:

Q. Okay. I'm going to show you what's Bates stamped 508, and you can correct me if I'm wrong. It appears to me to be an e-mail from Michael Gardner to yourself. And towards the conclusion of the e-mail, it indicates "Rivergate residents desperately need to win this lawsuit and get some money so that we can fix what Wayne and his contractors have screwed up." 11:04AM

What -- in your understanding, what specifically would the residents need money to fix that Wayne had screwed up? 11:05AM

A. The streetlets, not Rivergate Lane, per se, but the side streets, they were constructed and met a poor driveway, when there's eight units down each of those streets; the irrigation system, and a serious drainage problem are the three that come to mind. 11:05AM

Q. Okay. But if I remember correctly -- this is dated May 6, 2008. If I remember correctly, the irrigation system had already been fixed. That was one of the things the *ad hoc* committee had celebrated as one of their accomplishments; is that correct? 11:05AM

A. Yeah. How many times had it been fixed and 11:05AM

from the final fix?

A. That was far.

Q. Okay. And then, "French drains added at the end of the lower lots." Do you know what that was about? 11:11AM

A. (Moves head up and down.)

Q. Okay. Can you tell me what that was about?

A. Flooding.

Q. Okay.

A. And the French drain didn't work. 11:12AM

Q. Okay. And who put in the French drain?

A. Wayne ultimately did.

Q. Okay.

A. It's going to wash that house off into the wetlands. 11:12AM

Q. Okay.

A. And the air-conditioner is about to rust out because of it. Or it is rusted out. It will probably fail. A number of them will probably fail because of drainage problems on that golf course 11:12AM side.

Q. Okay. I'm going to show you Bates 574. It appears to me to be a letter to you from John and Kathy Riley. Can you take a look at that, please?

A. Correct, yeah. 11:13AM

Q. Okay. And it's -- would it be fair to say that's a complaint about some issues?

A. Would I say what?

Q. Is it fair to say that's a complaint about a problem at Rivergate? 11:13AM

A. Yeah.

Q. And I'm assuming they sent that to you because you were the chair of the *ad hoc* committee?

A. I would guess, yes.

Q. Okay. And looking at that letter, can you tell us what they were complaining about? 11:13AM

A. Drainage.

Q. Okay. And receiving that, as the head of the *ad hoc* committee, what would you have done once you received that complaint? 11:14AM

A. Put it with all the rest so you can make a copy and you would have it.

Q. Would you forward that on to anyone, inform anyone that that was an issue?

A. This was probably put in the list of all the compiled complaints that goes back to whatever this document was (indicating,) when he got so mad and left and told us to do whatever we had to do. 11:14AM

Q. Okay. This is more of a procedural question than specifically this one. I mean, you received 11:14AM

complaints from homeowners in your capacity as the *ad hoc* chairperson?

A. I received information from any homeowner that would give it to me.

Q. Okay. 11:14AM

A. And sometimes I tried to solicit it, because they had told me verbally that they had this issue. And I said, I need you to write it down, you know, because there's no record of verbal stuff.

Q. And in some capacity, you would, even if it 11:15AM was compiling a list of them together, you would forward each complaint on to the parties who you believed could fix that; is that correct?

A. Not individually, no.

Q. Well, but, I mean -- 11:15AM

A. Ultimately, yes.

Q. Okay. Yes, that's what I am getting at.

A. Okay.

Q. Okay.

A. What about the other one there, Karen -- at 11:15AM 4307, 17C 4307 Rivergate --

Q. Again --

A. -- driveway and the grade, so steep --

Q. Right. My question is --

A. -- you can't even walk on it. The sidewalk 11:15AM

on the irrigation system.

Q. Okay.

A. Which was an ongoing thing, once a week.

Q. Okay. And my question is then, this being dated March 8, 2004, it certainly appears at that time, and obviously before that meeting to discuss it, drainage had been at issue at Rivergate? 11:23AM

A. Yeah. And continues to be, yes.

Q. Okay.

MR. O'SULLIVAN: I'll mark this as well, please. 11:23AM

(DFT. EXH. 8, 3/8/04 Meeting Minutes, was marked for identification.)

MR. FREEMAN: You're not going to mark the entire set of meeting minutes? 11:24AM

MR. O'SULLIVAN: Just that page.

BY MR. O'SULLIVAN:

Q. All right. Mr. Dunn, this is Bates 840 and 841. I'll just let you take a look at it.

A. This answers your question, who was doing the newsletter. "Dear Sylvia, thank you for your efforts and time you've given to the Rivergate community in the newsletter and the meetings you're responsible for setting up and having." 11:24AM

Q. Right. I think at one time another party 11:25AM

addition to going uphill.

And Speedy told him in front of me, he said, "Wayne, we told you that to begin with this was too steep." Well, he went beet red and blew up and that was the end of the story. It never got fixed. And Karen Travis paid lots of money to dig out the driveway finally. When the Board came about she asked I guess to have -- could she fix it. And she built a retaining wall and put some steps.

Q. She's got the stone retaining wall out there? That is her yard?

A. That is one, yes. The other driveways are just -- the one next door to me was that steep -- well, it wasn't as steep as that one, but it was steep.

Q. But you heard was it Mr. Hernandez himself or --

A. Who?

Q. Do you know who with Speedy had the conversation with Wayne?

A. No. He was Hispanic.

Q. Okay. Do you know Mr. Hernandez?

A. No. Unless that was him there. And I still don't know him.

Q. But there is no question but that Speedy's

representative told Mr. Winderman in your presence that the driveways were too steep and that he had told Wayne Winderman that before construction?

A. Yes. That kind of gets Speedy off the hook, but the truth is still the truth.

Q. Yes, sir. Do you recall when that conversation was?

A. Probably 2004, 2005.

Q. When was the last house built out there, do you recall? Or more specifically, when was the last driveway constructed?

A. The last house was -- is the one in front of mine, I believe. The last house actually hasn't been built because the retaining wall is not there to provide a place to put it.

Q. All right.

A. But I think the last one is the one in front of my house.

Q. When was that constructed?

A. It was going on while we still lived there, so 2006.

Q. Okay. Regarding the slope of the driveways again, are you aware if anybody has fallen as a result of that slope?

A. I'm not aware of anybody, no.

Number 16. Did you talk with Ms. Sirignano about any of those seven items, Mr. Dunn?

A. No, not personally, other than to collect the information.

Q. Okay. And when you collected information such as Exhibit 16, was that in connection with the work of the *ad hoc* -- 01:39PM

A. Did you say Exhibit -- okay, 16.

Q. Exhibit 16.

A. All right. 01:39PM

Q. Is that in connection with the work that you were doing --

A. The *ad hoc*, yes.

Q. All right.

A. I would say so. 01:39PM

Q. So you gathered up punch lists and written documents where people expressed complaints --

A. Yes.

Q. -- as part of the *ad hoc* committee?

A. Yes. 01:40PM

Q. What did you do with them, other than just keep them in a file?

A. We compiled all of it together --

Q. Yes, sir.

A. -- which is in the records, the address and 01:40PM

probably the unit number, and listed similar complaints together. I think we listed them both ways, individually and, you know, if five people had broken windows, we might have compiled it that way as well. Broken windows, five, or water leaks, five or something. 01:40PM

Q. And after you compiled these composite lists of complaints, did you forward that to Wayne Winderman?

A. Uh-huh. And one of the memos, where it was sent, said we would try to work with him and get these things resolved. 01:40PM

Q. Okay.

A. And then another memo where he came and the quotes, he said, Do what you have got to do. 01:40PM

Q. But the initial work of *ad hoc* committee was to gather written documentation from the affected homeowners --

A. Yes.

Q. -- about their various complaints. 01:41PM

A. Correct.

Q. Is that true?

A. Correct.

Q. I want to get you to look at Ms. Sirignano's punch list from 2005. She's got Item Number 4, 01:41PM

"Fill in holes with dirt on side lawn of house caused by erosion due to rainwater runoff from the roof." Do you see that?

A. Yes.

Q. Did you ever personally see that condition? 01:41PM

A. In a number of places, yes.

Q. Okay.

A. This is the golf course side.

Q. These are the folks that back up to the golf course? 01:41PM

A. Uh-huh.

Q. And I'm not sure I understand. Did everybody have gutters and downspouts?

A. On those houses, no. And the ones that did have gutters or downspouts installed them 01:41PM themselves.

Q. Okay. So the houses -- the duplexes at the golf course side did not have gutters and downspouts initially installed?

A. Correct, I think. 01:42PM

Q. And did you observe that rain was running off of their roofs and causing erosion --

A. Yes.

Q. -- adjacent to their homes?

A. Yes. Have you seen the photographs? 01:42PM

Q. I have seen them. But you observed that condition?

A. I took those photographs.

Q. Okay. And was that condition there when you first moved into the neighborhood? 01:42PM

A. I would say yes, because it rained. But if it didn't rain very hard, it wasn't too bad. It still happened, but when it poured down, I mean, it really just --

Q. You saw that condition? 01:42PM

A. When you had the eaves of two different roof slopes come together and the water just coming off of it like a fire hose.

Q. Okay.

A. You could just see the sod lift up and float away. 01:42PM

Q. Okay. Well, right now, I want to focus, if we can, I just want to focus on erosion running off the roof, which she talks about in Item Number 4, "runoff from roof." 01:43PM

A. Uh-huh.

Q. But that was a condition you observed on those duplexes along the golf course.

A. Yes.

Q. Is that true? 01:43PM

Q. And if it wasn't -- if there are some that doesn't have it because they didn't want to pay for it, it still exists in that fashion today?

A. Yes.

Q. All right. I want to turn your attention to Item Number 6 in Ms. Sirignano's Punch List, where it says, "Resod the area of erosion on side of house and rear yard near fence (where the 'river runs by')." She has that in quotes, "River runs by." 01:44PM

Do you know what she's talking about regarding the river that runs by? 01:44PM

A. Do you see the pictures?

Q. Is there -- I mean, do you have this particular condition photographed? 01:44PM

A. Yes.

Q. Okay.

MS. BURTON: Do you have them handy, Mr. Stanley?

(Off-the-record conference.) 01:46PM

(DFT. EXH. 17, Photographs Taken During a Rainstorm, was marked for identification.)

BY MS. BURTON:

Q. Mr. Dunn, let me hand you three pages of 01:47PM

photographs that I've marked as Exhibit Number 17 to your deposition. And before you talk about them, can you tell me who took those photographs?

A. I did.

Q. You did. And when did you take those photographs? 01:47PM

A. Well, usually my camera has the date set up, but fortunately it didn't. I don't -- it was during a rainstorm.

Q. That narrows it down. 01:48PM

A. That narrows it down. 2005, 2006.

Q. Do you have -- tell me how those photographs are maintained? I mean, do you have a negative or are they digital? Do you just have --

A. They're digital. 01:48PM

Q. They're digital?

A. A Kodak digital camera, yes.

Q. Do you still have them in an electronic format?

A. Uh-huh, I think he has got them on a CD. 01:48PM

Q. Okay. So we could tell, perhaps, from the electronic version when they were taken? That was my only question.

A. Or at least put into my system, yes.

Q. Were these photographs that we've marked as 01:48PM

Exhibit 17 taken on one particular day or a series of days?

A. This was one -- one particular day, if I remember.

Q. All right. Tell me -- 01:49PM

A. And it says below, View from Cochran and -- we call her Madame Butterfly, but Melanson.

Q. Melanson. I don't know where --

A. They live in the last house on the --

Q. Show me where that is, please, on Exhibit 13. 01:49PM

A. -- which is way below where Gina lives. It's these two houses.

Q. 4350 --

A. That's Melanson, and this is Cochran (indicating). 01:49PM

Q. 4350 is Melanson and 4348 is Cochran?

A. Right.

Q. All right.

A. And the view is looking towards 17, looking up where the water is coming from. 01:49PM

Q. Okay. So this is between the rear of the homes and the golf course, correct?

A. Correct.

Q. And I'm going to have to look with you, the 01:49PM

very top photo on Page 1, the trees we see, I gather would be on the golf course side?

A. These? Yes.

Q. And we are looking at the back of their homes. 01:50PM

A. Yes.

Q. And we see a large amount of standing water; is that right?

A. What did you call it?

Q. Standing water. 01:50PM

A. No.

Q. Moving water?

A. That's the river.

Q. That's the river?

A. That's the river. 01:50PM

Q. Was that kind of discussed in the neighborhood, that there was a river that runs through it?

A. It's not a discussion; it's a fact. They all know it. 01:50PM

Q. But, I mean, did you-all call it something? Did everybody go, Oh, yeah, that's the river?

A. I think they called that the river.

Q. Okay. And the bottom picture shows the same water; is that true? 01:50PM

A. Yes.
Q. Just maybe more of an angle behind the house?
A. Yes, so you could see farther up the way.
Q. And that water, is that coming -- 01:50PM
originating from the golf course and draining toward Rivergate or is it draining from Rivergate?
A. It's draining off of these houses; it's the runoff of these houses and lots in Rivergate.
Q. Okay. So it's from Rivergate draining 01:50PM
toward the golf course?
A. Yes. There's a -- well, you can see kind of an embankment to the left --
Q. Yes.
A. -- toward the golf course, you can see where 01:51PM
the water...
This is the French drain that was discussed earlier.
Q. At the very top? You're showing me an area on the hill between -- 01:51PM
A. No. This is Cochran's house. This was where the French drain was put in.
Q. Adjacent to their homes?
A. Between the houses. This is the air-conditioner that's rusting away, but you can't 01:51PM

see it now because there is so much standing water there.

Q. Okay.

A. It doesn't drain. They put in a French drain trying to get it to drain away. 01:51PM

Q. Who was "they"?

A. It was Winderman, finally.

Q. So Mr. Wayne Winderman installed a French drain between the homes.

A. Trying to help correct that problem. 01:51PM

Q. Did it have any impact?

A. No, as you can see.

Q. Okay. Did this condition ever change?

A. Of that standing water like that?

Q. Yes, sir, in that location behind the golf course homes. 01:51PM

A. No.

Q. So if we went out there -- it's raining right now, if we went out there today, you would expect to see a similar condition? 01:52PM

A. You would be up, probably to your ankles, in mud.

Q. So that condition is the same today as it was back in the past?

A. Exactly. 01:52PM

Q. And did the homeowners complain to Wayne Winderman about that condition?

A. Yes.

Q. Did they complain on multiple occasions about that condition? 01:52PM

A. I don't know that.

Q. Did they complain about that condition back in 2005?

A. I don't know that.

Q. Okay. Was that condition addressed by the *ad hoc* committee that you were the chairman of? 01:52PM

A. I don't recall; I don't know.

Q. Okay. What was your purpose in taking the photographs we've marked as Exhibit 17?

A. Evidence of the river running in the back. 01:52PM

Q. Were the photographs provided to anybody?

A. To Stacy Stanley. Other than that, I don't think so. Well, DHEC, it might have been for DHEC, but they were about useless, because --

Q. Did you provide them to LLR? 01:53PM

A. I don't think so.

Q. Did you provide them to Horry County?

A. No, I don't think so.

Q. Okay. How do you know -- and you'll have to help me a little bit -- how -- what do you know 01:53PM

there, yes.

Q. Okay. Cochran and Melanson?

A. Melanson.

Q. Okay. And the last photograph of Exhibit 17, is that in the same location? 01:55PM

A. Yes.

Q. Okay. So the pictures of Exhibit 17 were all designed to show the water behind the golf course homes and, particularly, in the area of Cochran and Melanson duplex? 01:56PM

A. Yes, because their's is the last house where the bigger problems are.

Q. And when you say "the last house," you're talking about toward the rear of Rivergate?

A. The end of Rivergate. 01:56PM

Q. Okay. And that condition existed in 2005 and exists today, to your knowledge?

A. Absolutely, yes.

Q. All right.

A. It hadn't rained in some time. And Monday, I went by, because I was over this past weekend, and they were talking about air-conditioners rusting out and probably going to have to replace them. So I just listened, since I'm really not doing any of that. And then I went back Monday and 01:56PM 01:56PM

A. Yes.

Q. Okay. Tell me about the condition at your home of the driveway.

A. You know how the driveway comes out and flairs out into the street, both flair-outs broke and collapsed because of poor compacting of the soil. 02:02PM

Q. So did it look like the earth underneath the corners had settled?

A. Absolutely. 02:03PM

Q. Okay.

A. That's why it would give.

Q. Okay.

A. If there had been rebar up in it, it wouldn't have given; or if the soil had been compacted properly, it wouldn't have done it. 02:03PM

Q. When did you first see that problem with your own driveway?

A. Probably within a year.

Q. A year of you're moving in? 02:03PM

A. Within the year, yes.

Q. So that would be sometime in 2005?

A. Probably after the first freeze or frost or something, when ground heaves.

Q. Okay. But we are talking about a freeze or 02:03PM

frost sometime within the first year of your residency?

A. Yes.

Q. Is that true?

A. Yes. And I'm only assuming what might have caused it, but it cracked; the cracks still there. 02:03PM

Q. Okay. So that condition still exists; is that true?

A. Yes.

Q. Did you ever complain to anyone about the condition of your driveway? 02:03PM

A. Yes.

Q. To whom?

A. To Donna.

Q. So to Ms. Dawson? 02:03PM

A. Uh-huh.

Q. What was her response?

A. So what? I don't recall.

Q. No --

A. I don't know. 02:04PM

Q. No substance to the response?

A. No substance. That's not covered, that's not warranty, that's not my problem, that's --

Q. Did you complain ever about that condition to Mr. Winderman? 02:04PM

trucks. Both times we were told that the trucks would be redirected."

Did you observe issues with the roads that you attributed to construction traffic?

A. I'm not sure what you're asking me, but you're asking me if there was damage to the streets or roads based on construction traffic? 02:05PM

Q. Yes, sir.

A. And there was.

Q. So you observed what kind of problems? 02:06PM

A. Well, on Rivergate Lane proper is a good Horry County street, okay?

Now, probably assuming that the big truck, concrete trucks and all that coming through and all were damaging it, and maybe they did. I know that 02:06PM the water company had to come out and repair some broken pipes and all because of maybe settlement setting, but it was their responsibility and they fixed it. And they didn't say that it was due to anything heavy going over it, like construction 02:06PM equipment.

However, when you get off of Rivergate Lane to these little streetlets, the pavement is about this thick (indicating). And there's pictures. And so when the concrete truck goes down this — 02:06PM

that little streetlet that we call them -- then there's damage. They were inadequate -- that would be an understatement, "inadequate"; it's a poor excuse to call it a street. It would have been better off if it had been dirt. 02:07PM

Q. So I just want to make sure I understand it. On Rivergate Lane, it's a big road --

A. Rivergate Lane proper?

Q. Yes, sir.

A. None. 02:07PM

Q. -- you didn't see any damage that you thought was caused by trucks?

A. No.

Q. On the streetlets, which I think have been labeled A, B, C -- 02:07PM

A. Correct.

Q. -- you did observe damage to the roads?

A. Yes.

Q. And when we say "damage," we're talking about, like, potholes, broken asphalt? 02:07PM

A. Broken curb in some cases where they ran over the curb, where it wasn't compacted, I'm assuming. Heavy trucks parking on it and when the pavement was hot, or it had rained heavily and the ground was saturated due to the damming under -- 02:07PM

due to damming of the driveways between houses, the water would go under the driveway and lift the actual asphalt and crushed it, and then when a truck ran over it, it even broke up more.

Q. Okay. And when we are talking about --

A. And there are some pictures of some of that.

Q. When those are -- when are talking about trucks, we are talking about some kind of construction-type truck?

A. Yeah. 02:08PM

Q. Not the UPS man.

A. Not the UPS man.

Q. Okay. Have any of the problems with the streets been repaired?

A. No. 02:08PM

Q. So it's still there today?

A. Absolutely.

Q. So there's potholes --

A. They're only worse. Well, there's not actually any potholes that I know of. 02:08PM

Q. We're talking about broken asphalt, low places, things like that?

A. Yes.

Q. Was that ever, to your knowledge, discussed with Wayne Winderman? 02:08PM

A. Yes.
Q. Did you discuss it with Mr. Winderman?
A. It was in the list, I'm sure.
Q. Okay. So in some of the transmittals to him from the *ad hoc* committee, it was mentioned? 02:09PM
A. I'm sure.
Q. Was it mentioned in the homeowners meeting that you went to in 2005?
A. I don't recall.
Q. Was it complained of to either Horry County Building Codes or to LLR? 02:09PM
A. Yes.
Q. Okay. So that issue was raised --
A. Numerous times.
Q. -- numerous times and was never addressed? 02:09PM
A. Not as far as a code, because -- from what I got from Horry County is those streets were treated as driveways like you would put to your house. They were only narrow enough or wide enough for one car, which classifies it as a driveway, and there's 02:09PM no requirements for a driveway.
Q. I see.
A. So he got away with it.
Q. So they said --
A. But there's eight units down through there 02:09PM

at this later and understand what picture we were looking at.

COURT REPORTER: Are you saying Susann Huff, like Susann --

THE DEPONENT: Susann Huff, H-u-f-f. 02:13PM

COURT REPORTER: There's two different ones, though, right?

MR. STANLEY: I think it's Hutt.

MS. BURTON: Hutt.

MR. FREEMAN: When you were saying 02:13PM Huff, you were meaning Hutt.

THE DEPONENT: I told you at the beginning, I can't hear my own words.

(Off-the-record conference.)

(PLF. EXH. 19, Group of Photographs Numbered 1 through 25, was marked for identification.)

BY MS. BURTON:

Q. Mr. Dunn, I have marked a group of photographs collectively as Exhibit Number 19 to 02:13PM your deposition. I will tell you that at the top -- I have handwritten a little number so that if you refer to one of the photographs, if we could refer to it by number, that way, when all of these lawyers are reading the deposition later, we have 02:14PM

some chance of knowing which one you were looking at.

I want you, please, sir, to tell me first who took those photographs.

A. Yes. 02:14PM

Q. Who took them?

A. I took them.

Q. When did you take them?

A. I hate that my camera didn't have the date. But if you look back in the records and see when 02:14PM they were building the last row of houses on the last streetlet that goes into Baker Street, there's an illegal street going into Baker Street, this one (indicating).

Q. Are we talking about I? 02:15PM

A. Yes.

Q. So it's when they're building which houses, sir?

A. Obviously mine was here.

This answers some of the other questions. 02:15PM 1 and 2.

Q. Slow down now. Let's -- I want to slow down. I'm just trying -- right now, all I want to do is try and figure out approximately when you took the photographs. 02:15PM

A. When these houses were built.
Q. Which one is "these"?
A. That one (indicating).
Q. So 4343 and 4345 --
A. Correct. 02:15PM
Q. -- that are the last houses on I toward Baker Street, on the side of Baker Street; is that correct?
A. Correct.
Q. All right. Now, I want to go back. Before 02:15PM
you talk about every photograph, we were looking at Exhibit Number 18, and you said that you knew it was Susann Hutt's memo, and you knew where the ditch running through the backyard was, and you
thought there was a picture of that ditch in the 02:16PM
photographs.
A. Yes.
Q. Can you find the picture or pictures of that ditch in the photographs?
A. Yes. 02:16PM
Q. Great. Which one is it?
A. Number 19.
Q. Okay. I want to talk about a different issue at this moment. I know you want to show me a bunch of things, but Number 19 shows an area where 02:16PM

there's no grass.

A. This is where they tried to fix it.

Q. Okay. And that's somewhere behind --

A. That's standing in the street, looking up this way (indicating). 02:17PM

Q. So it's street B?

A. Street B, looking behind 27B--

Q. Okay.

A. -- in her backyard.

Q. Okay. And you said now, on this Exhibit 13 where there's a Rivergate sign, that's actually a bank now? 02:17PM

A. That's a bank, yes.

Q. So we are looking at an area between the back of 27B and what is now the bank property? 02:17PM

A. Correct.

Q. Okay. What was the condition that you photographed and observed, please?

A. What was the condition I photographed and observed? 02:17PM

Q. Yes. What was the problem?

A. That it was washing out and the grass wouldn't grow. And this is after they fixed it.

Q. Was that a low place?

A. It's just the water -- this is downhill, 02:17PM

now, from 17 --

Q. Yes, sir.

A. -- and the water coming off of the back of these houses --

Q. Yes, sir. 02:17PM

A. -- is washing down through here; and it just kept eroding and eroding and eroding.

Q. Was there a gully or swell or anything built there, or was it basically a flat area that was washing? 02:18PM

A. I'm not sure how to answer. But it had a patio that was flat. And then the ground kind of went -- rolled off into the gully or ditch or backyard. And then you had all of this property on the other side of the bank -- at that time the bank was not there -- and all of that water off of that driveway and parking lot and all -- used to be a place where the gambling boats, where you parked and then they came and got you. 02:18PM

Q. Okay.

A. -- that water came into there --

Q. Okay.

A. -- and came down.

Q. So was there a low spot kind of behind Ms. Hutt's home where all the water was collecting? 02:18PM

A. No, it just ran down through there.
Q. I see.
A. It was just like the other river --
Q. So there was another --
A. -- except it was not as extreme -- 02:18PM
Q. Okay.
A. -- is the only thing that came off of the two units and the water from the -- what now is the bank property.
Q. Did that condition -- did you observe that 02:19PM condition back in 2005?
A. Yes.
Q. Was there any repair made to that condition?
A. Well, you can see what they tried to repair it to, that is, after they attempted. What they 02:19PM did was make the ditch a little deeper, put some sod in there and then have it come out a little bit farther into the yard.
And all this water is what would run off into 25B and 25A of these houses, as well as what 02:19PM came off of the street and went in this direction.
Q. So that water would cross over Streetlet B into the backyards of 25A and --
A. This is their driveways, this is their front door, just right on in (indicating). 02:19PM

asphalt street going to Baker.

Q. And this is on the construction side?

A. This is standing on Baker, looking at this street. And here's the other view looking back toward Rivergate from Baker. 02:24PM

Q. Okay. At the side, the asphalt is crumbling?

A. Yes.

Q. Okay, keep going.

A. And the runoff into the wetlands. 02:25PM

Q. Okay.

A. This is the runoff from this side of the house to the Baker Street side of Units 14. And in the ditch, that's the county's; I took this for them. And Horry County Highway or Department of 02:25PM Highways, whoever's responsible for this street and these ditches, had then come out and told them that the culvert was plugged or whatever, that the water was standing and mosquitoes and things.

So they probed, and they said there's no 02:25PM culvert. And they also this was an illegal connection to Baker.

Q. Okay. Slow down a minute.

The county or the department, Highway Department, whoever it was that you talked to -- 02:26PM

A. Yes.
Q. -- said that there is no culvert underneath I?
A. Correct.
Q. Underneath I, so the ditch just backs up on -- 02:26PM
A. Baker.
Q. -- on 14?
A. Well, it's not on 14.
Q. Well, it's over here. 02:26PM
A. This is kind of misleading because here's 14C. This is --
Q. With the white picket fence?
A. Right. It actually might be 14A. You can't see C because it's further down. But I'm standing 02:26PM on Streetlet I, taking a picture of the ditch that's actually the county's, it's not on Rivergate, but it's actually on the county's --
Q. Side?
A. -- side. 02:26PM
Q. Okay. Along Baker Street?
A. Right.
Q. And there's no culvert running under I --
A. Correct.
Q. -- to carry the water downstream? 02:26PM

A. Correct.

Q. What did the county folks tell you about street I, please?

A. That it was an illegal connection to Baker Street. 02:27PM

Q. So there was not, whatever permit or whatever was actually required to actually hook I into Baker Street?

A. Correct, that I know of.

Q. What did they say they were going to do about that? 02:27PM

A. That's what I asked them.

Q. And?

A. Well, they picked up their shovels and got in their trucks, and that's the end of the story. 02:27PM

Q. So the county never undertook any action, to your knowledge, about this illegal connection?

A. Yeah.

Q. Was the water backed up in the ditch along Baker Street ever fixed? 02:27PM

A. No.

Q. Was a culvert ever installed under Streetlet I?

A. No.

Q. So that condition exists today. 02:27PM

A. Exactly.
Q. Okay, keep going.
A. And when it fills up, guess where it goes? Right over top I on into the wetland side.
Q. Okay. 02:27PM
A. That's 4. This is, again, looking from Baker Street back up I.
Q. Okay.
A. That's 5. And this is looking across the wetlands to the house behind, behind 12B toward the 02:28PM waterway. The wetlands are here, and this is a home behind it.
Q. So Picture 6 is looking back across the wetlands?
A. Across the wetlands. 02:28PM
Q. Okay, keep going.
A. And more of the same.
Q. On 7?
A. On 7.
Q. Yes, sir. 02:28PM
A. I guess that's the wetlands or -- and there's the back side, looking from Baker Street toward the Cochran's and Melanson's house. And you can see the wetlands here.
Q. On the left-hand side? 02:29PM

wetlands.

Q. So what is it made of?

A. I don't know, but they paid to have it put in.

Q. Who put it in? 02:30PM

A. The HOA. The people had to pay to fix the mistake.

Q. Do you know what contractor constructed it?

A. I haven't actually been over to see it.

Q. Do you know when it was constructed? 02:30PM

A. Past couple years.

Q. Okay. Fairly recently?

A. Yes.

Q. All right, keep going.

A. You can see there's no backyard. 02:30PM

Q. Not much.

A. Not much.

More damage to concrete, trash.

Q. Is that on Streetlet I?

A. Streetlet I. All this is on Streetlet I, 02:31PM yeah.

This -- this is 10. And you can see where the county's ditch and highway we were talking about back on a previous picture, where the water was standing and there was no culvert to go under 02:31PM

I, and this is the grounds next -- Rivergate grounds next to 14A and C.

Q. Okay. So it's part of Rivergate, and it's a ditch that's running along Baker Street on the Rivergate property? 02:31PM

A. Yes.

Q. All right.

A. And all this water from all of these houses comes this way and can't get across I, because I is a little bit higher, the street is a little bit 02:31PM higher than all this ground, so it just accumulates there.

Q. Okay.

A. There was, supposedly, some sort of catch basin put in here that ended up having to be dug up 02:31PM and done correctly because -- and you heard Luther's testimony about this ditch and having to dig it up, when they asked him if it had been filled with rocks and things. And that's all I know about it. But it's supposed to catch this 02:32PM water, but obviously -- or dispense the water somehow like a septic system, but it doesn't work.

Q. And that's the continuing condition today?

A. This is an ongoing condition.

Q. All right. 02:32PM

Q. I see. All right.

A. See, here's the brick block retaining wall. That's more. That's actually in the wetlands, but it's coming from their backyard.

Q. Okay. 02:36PM

A. That's 14.

And this is behind some of those houses along the golf course of various attempts by someone to kind of put in rocks or whatever to enhance the creek or the river. 02:36PM

Q. Okay.

A. So there would be white water rapids instead of just madly flowing water.

Here's -- well, between -- I don't know which two houses, but between some of these houses 02:36PM along the golf course are the water standing.

And in this case -- well, you can see the air-conditioning unit, it's not submerged or anything, but what creates the problem.

And then the air-conditioner unit here, you 02:37PM can see a -- I guess they had a natural gas or a propane gas fireplace put in. And you can see the air-conditioner tilted from where it's settled, and the propane tank, how it's propped up, to try to keep it from going away. 02:37PM

Q. Okay.

A. Here's an example of erosion off of the points of the house, or the eaves of the house, and where the homeowners tried to do something to prevent it from eroding away. 02:38PM

Q. Do you know whose that house is?

A. No.

Q. Okay. But that's --

A. But I would be willing to -- this is a good example of having the ground too high, which is a code violation. It's supposed to be so many inches from the -- from the ground level to the vinyl -- or to the foundation. It's too easy for termites or whatever, and this is what causes water intrusion. If it's on the lower side and the water hits there a couple of inches deep, it's going in the house. 02:38PM 02:38PM

Here's a good example of an air-conditioner -- attempts to keep it from sliding off of the ground. 02:38PM

Q. Is that the same house?

A. No, it's a different house. Well --

Q. They've got a propane tank; that's why I'm asking.

A. I know they're numbered, but -- no, this is 02:38PM

not the same house. They both have gas tanks for fireplaces, but there you can see how much slope there is in the ground.

Q. Do you know whose house is shown in Exhibit 18? 02:39PM

A. Do I know whose house?

Q. Yes, sir. Okay.

A. No, but it wouldn't take but three and a half minutes to find out, when you start down the street, because it's very obvious, you can see it. 02:39PM

Now, we are back to Susann's backyard, where we started out.

Q. Okay. Tell me what picture that was, number, please?

A. What number? 02:39PM

Q. Yes, what number when you said --

A. 19.

Q. Thank you.

A. Another attempt to fix a standing water problem or slow down the water from running down on 02:39PM the Baker Street side.

Q. Where is that picture, 20, taken?

A. When?

Q. Where? Where is it?

A. I know it's on Baker Street. I believe it's 02:40PM

along in here (indicating).

Q. Along --

A. Along 18, beside 18C, between 18 and 16, looking towards 17.

Q. Along Baker Street? 02:40PM

A. It's on the Rivergate property, but it's on the Baker Street side.

Q. Okay.

(Off-the-record conference.)

BY MS. BURTON: 02:41PM

Q. Keep going.

A. An example of the streetlets. And there is a requirement in Horry County, or in South Carolina, I believe, that you have to have two parking places for each homeowner. So if you have 02:41PM a house without a garage, guess where he puts the parking places? In front of the house in front of you and in front of yours.

So that's the parking pad for a house -- to meet a code requirement for a house that doesn't 02:41PM have a garage.

Q. So it's the end of a streetlet?

A. It's at the end of the streetlet.

Q. And it's the parking for the house we see --

A. More than likely on this side, yes. 02:42PM

Q. On the upper right?
A. Well, I can't really tell.
Q. Okay.
A. Because I see a driveway here and it looks like maybe one here, but that's the parking pad for somebody's -- 02:42PM
Q. Somebody's home?
A. Somebody's home.
Q. Okay.
A. And it might be this one, I don't know. 02:42PM
Q. But there's no code problem that you're aware of with that being done that way?
A. Am I?
Q. Yes.
A. I know that there's a code that you have to have two parking places for each home. So if you don't have a garage or a driveway, that's his way of getting two parking places. 02:42PM
Q. Okay. Now, are we looking toward Baker Street in this picture? 02:42PM
A. Yes, we are looking at my house.
Q. That's what I thought.
A. But that wasn't taking so much for the parking places. Look at the street, the erosion and the sand and all. 02:42PM

Q. Where is that coming from, do you know?
A. Well, there's probably another picture I'll show you.
Q. Okay. And we are looking at, just for purposes of the deposition, Picture 21, right? 02:43PM
A. Picture 21.
Q. Thank you. Okay.
A. And the drainage system. Do you see the drain there in this street? As-built.
Do you want to know where this sand is coming from? That's the parking pad for that house and all the erosion underneath the driveway and the sidewalk. I could not find the soil by sticking my 36-, 37-inch-long sleeves under that hole. 02:43PM
Q. Which house is shown in 22, do you know? 02:43PM
A. Not right off, no, but it's on -- I think we are in this area right here. Might be 18.
Q. In the 18s? So we're looking --
A. See, that's a single house with no garage.
Q. So are we looking at where the parking pad abuts the home? 02:43PM
A. Yes.
Q. All right.
A. This is -- when they didn't build quads and they put this parking pad there, this created a dam 02:44PM

for any water that came this way. So this filled up with water. There was the weak spot. So the water goes underneath here and erodes out.

Q. And ends up in the street?

A. And ends up in the street. 02:44PM

Q. Okay.

A. That's the other side of this hole on the house side, where before we were looking at it this way, now we are looking at it this way. And that goes underneath the sidewalk and down into the 02:44PM street.

Q. Okay.

A. And this is further down from another picture where we were looking at the rocks. I think that there might be another section, pile of 02:44PM rocks in there to slow down the water flow on Baker Street coming down through here.

Q. Okay. So Picture 24 is along the rear of Rivergate on Baker Street?

A. I think so, yes. 02:44PM

Q. And you took the picture to show a lack of grass and the fact that there's rocks?

A. Erosion and a lack of grass because it washes everything away when it rains.

Q. Okay. 02:45PM

A. And then this is up towards 17, looking down the opposite direction.
Q. Looking down Baker Street toward I?
A. Looking down, yes, but still on Rivergate, yes. 02:45PM
Q. Okay.
MS. BURTON: Do we need to take a break?
MR. STANLEY: Yes, take a break, five minutes. 02:45PM
(A recess transpired from 2:45 p.m. through 2:52 p.m.)
BY MS. BURTON:
Q. Mr. Dunn, we went through Exhibit 19, which was the photographs that you took. 02:54PM
A. Uh-huh.
Q. And I don't want to, but I guess we could. I was trying to identify when you took the photographs.
A. Uh-huh. 02:54PM
Q. And we've pulled up the disk that Mr. Stanley sent to us and clicked on Properties for the first photograph.
A. Yeah.
Q. And it indicates that -- 02:54PM

A. Date taken, 8/25/2005.

Q. -- it was taken on August 25th of 2005, or at least loaded onto a computer on that date, I'm not sure which.

Does that sound about right, that the photos were taken in August? 02:54PM

A. Doesn't look cold, doesn't look hot, but it says it's the date taken.

Q. Yes, sir. Does that seem right to you?

A. Yes. 02:54PM

Q. Were all of the photographs in Exhibit 19 taken on or around the same date in 2005?

A. Probably so.

Q. All right. So the conditions that are shown in the photographs existed in 2005, and many of those conditions exist today? 02:54PM

A. Yes.

Q. All right. Thank you.

A. Well, the construction of this property is finished, and the seawall has been built behind them, and I don't know whether this street was ever -- I don't think the street was ever repaired; they just probably whacked off some of it and put some dirt out there and sod. 02:55PM

Q. But some of the drainage problems that you 02:55PM

show in your --

A. All still exist.

Q. If you would, she keeps giving us the evil eye, if you would let me just finish my question before you answer. I know you anticipate what my question's going to be, but it's hard. 02:55PM

A. I'm sorry.

Q. If you would, just slow down just a hair for me.

A. Yes, ma'am. And I'll try. 02:55PM

(DFT. EXH. 20, 5/8/05 E-mail sent from Susann Hutt, was marked for identification.)

BY MS. BURTON:

Q. Mr. Dunn, let me hand you a document I've marked as Exhibit Number 20 to your deposition which is Bates stamped 335. Can you identify Exhibit 20? 02:55PM

A. There's our girl again, Susann Hutt, H-u-t-t, telephone number. She's stating what I found. 02:56PM

Q. Is that a memo that Ms. Hutt prepared relating to her home and concerns that she had?

A. No. She's just talking about the streetlet that connects to Baker and no culvert under it 02:56PM

and...

I'm not sure what she means, "...there has been placed a culvert running under yard from the home to the middle of the yard with a grate placed over..." 02:57PM

She might be talking about the pit that was supposed to be built there or was built and wasn't properly done. It's supposed to be like a septic tank for all of the storm water before you get to I Streetlet. 02:57PM

Q. On the Baker Street side?

A. On the Baker Street side.

Q. All right. Did Ms. Hutt provide this memorandum to you as part of your work on the *ad hoc* committee? 02:57PM

A. I guess so, if it was in my file.

Q. All right.

A. I don't know what all the -- it's got 8/5/05, was the date, anyway. "Couldn't find who to send to." 02:58PM

(DFT. EXH. 21, Rivergate *Ad Hoc* Homeowner Committee Update, was marked for identification.)

BY MS. BURTON:

Q. Let me hand you a document I've marked as 02:58PM

Exhibit 21.

MR. O'SULLIVAN: Can you tell us what the Bates stamps are?

MS. BURTON: Yes, I'm sorry. It's 341 through 351. 02:58PM

MR. STANLEY: This may already be an exhibit.

MS. BURTON: I think part of it may be.

MR. STANLEY: Oh, part of it? Okay.

BY MS. BURTON: 02:59PM

Q. If we can, Mr. Dunn, the first two pages of Exhibit Number 21 appear to be some sort of memo or minutes related to the Rivergate *Ad Hoc* Homeowner Committee; is that accurate?

A. Yes. 02:59PM

Q. And who prepared these minutes?

A. Probably Margaret Horan.

Q. Oran?

A. No. H-o-r-a-n, Horan.

Q. Okay, Horan. 02:59PM

MR. STANLEY: Second page.

THE DEPONENT: Yeah. Oh, committee members. This is incriminating, isn't it?

BY MS. BURTON:

Q. It is. 03:00PM

I need some background from you. As I understood your previous testimony, you attended a homeowners association meeting in May of 2005 that was held by Wayne Winderman; is that true?

A. Yes. 03:00PM

Q. And at that meeting, various homeowners spoke up and expressed frustrations; is that true?

A. At that meeting, yes.

Q. How did it come about that an *ad hoc* committee of homeowners was formed? 03:00PM

A. How did it come about? I think I said this earlier. Well, I'll try to get it -- I wouldn't say that I was the youngest one there, but maybe the most capable one there. And after he left, just a general discussion. And my wife asked me, 03:01PM she said, "What are you going to do about it?"

And I said, "What can I do about it?"

She said, "You'll find out something. You'll do something about it. It's not right for people 80 years old to be told and treated this 03:01PM way, and if these issues are true" -- and we've had some with ours, you know, in not getting the punch list done and all that. This was a side conversation with her.

I said, "Do you know how much work and how 03:01PM

much involvement this would be?"

She said, "It's still not right."

And I don't know who suggested it, a committee to get together, whether she did or I did or somebody else did. And of those people there, these people all more or less stepped up. There was a lot of other people there as well, that stepped up and said that they would work. And they appointed me the committee chairman. 03:01PM

Q. Was this initial discussion about a committee -- and I understood you and your wife talked about it -- but did y'all meet after the homeowners meeting and everybody said, I'm unhappy, and the idea came up? 03:02PM

A. They were still there at the meeting. It was his meeting, and he had left after probably five minutes, and -- or ten minutes or something. Because people wanted him -- it didn't matter what his agenda was, if you don't address issues, the issues will address you. And the issues are addressing him right now, today. 03:02PM

Q. So the meeting broke up after -- when Mr. Winderman left, the homeowners continued to talk and decided to have an *ad hoc* committee? 03:02PM

A. Pretty much so, yes. 03:02PM

Q. And the folks that are on Page 2 of Exhibit Number 21 are folks that said, I'll participate, I'll help?

A. Yes.

Q. And you were one of them? 03:03PM

A. Yes.

Q. And you got nominated somehow to be the chair of this group?

A. Unfortunately.

Q. All right?

A. Or fortunately, depending on your viewpoint.

Q. Okay.

A. And this was a follow-up, May 12th to July 20th of what we had done, because I'm looking at the dates of when that was held to the date this 03:03PM was printed. And it talks about the orange wires or yellow wires, Santee Cooper straightening leaning pools and fixing them and et cetera, et cetera, et cetera, et cetera.

Q. Okay. So between the time *ad hoc* committee 03:03PM was formed on May the 12th and when this memo of July the 20th was prepared, the *ad hoc* committee had actually gotten some stuff accomplished?

A. Absolutely.

Q. Okay. 03:03PM

A. That's what it says.

Q. I want to ask you just about a couple of specific items.

A. Okay.

Q. Under the list of "Other items that have been or are being addressed," the fourth one down talks about a modified French drain that was installed between the last two units on the golf course? 03:04PM

A. Uh-huh.

Q. What do you know about that item?

A. We talked about it. It's one of the photographs. That's between the Cochran house and the one above it.

Q. All right. Is that something that the *ad hoc* committee got accomplished? 03:04PM

A. Maybe.

Q. That's why I asked, because it's in this memo, so I'm a little confused about that.

A. Well, things started happening. Now, whether it was because we were an *ad hoc* committee, or because we were putting on pressure, or because we repeatedly kept asking, things did get -- happened. Now, some of them we made happen, like the wires, calling Santee Cooper. 03:04PM 03:05PM

Q. Okay. The French drain, isn't that something that the *ad hoc* committee actually hired somebody to do --

A. No.

Q. -- it's something that Wayne Winderman -- 03:05PM

A. No, we spent no money doing anything.

Q. You have got to let me finish my question.

A. I'm sorry.

Q. -- it's something Wayne Winderman had done after the *ad hoc* committee was formed? 03:05PM

A. I would guess so.

Q. To address the problem on those houses along the golf course near the wetlands, correct?

A. Yes.

Q. The next item on that list says, "Requested Horry County Public Works to review drainage issues along Baker Street where it connects to Rivergate." 03:05PM

A. Correct.

Q. Did you actually have the contact with Horry County Public Works? 03:05PM

A. Yes.

Q. And are those the folks you told me earlier that said there was no culvert under Streetlet I?

A. Correct.

Q. And they're the folks that said Streetlet I 03:06PM

was illegally connected to Baker Street?
A. Correct.
Q. All right. And that was all work that you personally did, right?
A. I personally, or we personally. 03:06PM
Q. Okay.
A. Most cases, me.
Q. Okay. Turn in Exhibit Number 21, please, sir, to the page that's Bates numbered at the bottom 346. 03:06PM
Are you there?
A. Uh-huh.
Q. Is that a letter that Mr. Winderman sent on behalf of the Rivergate homeowners association to you on behalf of the *ad hoc* committee? 03:06PM
A. It's a letter that he sent to me as chairman of the *ad hoc* committee I guess, yeah.
Q. Okay.
A. It says, "Dear Committee."
Q. Dated July 6, 2005? 03:07PM
A. Yes.
Q. In the very first sentence he says, "I am in receipt of your ten-page letter dated June 21, 2005."
A. Yes. 03:07PM

Q. Was that a letter that you prepared to Mr. Winderman to address various issues in the development?

A. Yes. That's the compiled list of everybody's issues that we solicited from them in their own handwriting, and we compiled it. And all of their issues are separately, somewhere in all these files, but it was compiled. 03:07PM

And that's the letter that Don Miller says we're being -- or maybe not being. What was his words? I don't remember, but... 03:07PM

Q. Too mean?

A. Huh?

Q. Too mean? Too nitpicky?

A. Too mean. Adversary -- 03:08PM

Q. Okay.

A. -- rather than patting him on the back and telling him what a good job he was doing.

Q. Okay.

A. If you're doing a good job, you get patted on the back and told. If you're not, you don't. 03:08PM

Q. In the second paragraph of Mr. Winderman's letter, he writes, "We have made inspections of drainage issues and will address the same as quickly as possible." 03:08PM

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. **To insure that you have received and read the enclosed material.**
2. **Update your mailing address if different than Rivergate and your home and cell phone numbers.**
3. **We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.**

✓ I/ we do Support. **____ I/ we do not Support.**

Print name/s Terry and Marianne Branscome
Unit Number 6-B if you know it.
Unit Address 4294 Rivergate Lane, Little River SC 29566
Home Phone 663-0726
Cell Phone 421-6051 if you have one.
Home e-mail bajaterry@sccoast.net if you have one.
Work e-mail _____ if you have one.
Mailing Address if different _____

Owner/s
Signature Terry Branscome **Date** 7/27/2005

Signature Marianne Branscome **Date** 7/27/2005

Remember;
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ 50.00

ENCLOSURES; 3
1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article–"Transition from Developer to Owner: Taking Charge" by Henny L Kass

File: Rivergate
Origin: Jim Dunn
7/20/2005 0856

Rivergate Ad Hoc Home Owner Committee Up Date ✓

Please return this page to any committee member for the following reason.

1. **To insure that you have received and read the enclosed material.**
2. **Update your mailing address if different than Rivergate and your home and cell phone numbers.**
3. **We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.**

X I/ we do Support. **____ I/ we do not Support.**

Print name/s GUNSTEN PATRICIA AND ALAN
Unit Number 218 **if you know it.**
Unit Address 4277 **Rivergate Lane, Little River SC 29566**
Home Phone 663 4277
Cell Phone 902 9907 **if you have one.**
Home e-mail _____ **if you have one.**
Work e-mail _____ **if you have one.**
Mailing Address if different _____

Owner/s Signature Patricia A Gunsten **Date** 7/25/2005

Signature _____ **Date** __/__/2005

Remember;
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort.
Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ 20.00

ENCLOSURES; 3
1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article –"Transition from Developer to Owner: Taking Charge" by Benny L Kass

File: Rivergate
Origin: Jim Dunn
7/20/2005 0855

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. To insure that you have received and read the enclosed material.
2. Update your mailing address if different than Rivergate and your home and cell phone numbers.
3. We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.

X I/ we do Support. ___ I/ we do not Support.

Print name/s W RAYMOND BUCKS
Unit Number 34 if you know it.
Unit Address 4262 Rivergate Lane, Little River SC 29566
Home Phone 663-0019
Cell Phone ___ if you have one.
Home e-mail BUCKSRAY@NETZERO if you have one.
Work e-mail ___ if you have one.
Mailing Address if different 4300 LONDONDERRY ROAD
SUITE 203
HARRISBURG PA 17112

Owner/s Signature W Raymond Bucks Date 7/31/2005

Signature ___ Date __/__/2005

Remember;
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ ___

ENCLOSURES; 3
1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article – "Transition from Developer to Owner: Taking Charge" by Benny L. Kass

File: Rivergate
7/20/2005 Origin: Jim Dunn
0852

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. To insure that you have received and read the enclosed material.
2. Update your mailing address if different than Rivergate and your home and cell phone numbers.
3. We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.

✓ I/ we do Support. ____ I/ we do not Support.

COCHRAN

Print name/s BYRON LAURIE, GERRY
Unit Number 28B if you know it.
Unit Address 4225 Rivergate Lane, Little River SC 29566
Home Phone 443-422 5
Cell Phone _____ if you have one.
Home e-mail _____ if you have one.
Work e-mail _____ if you have one.
Mailing Address if different _____

Owner/s
Signature Laurie Cochran Date 7/ /2005

Signature Byron Cochran Date 7/ /2005

Remember;
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ 10.00

ENCLOSURES; 3
1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article –"Transition from Developer to Owner: Taking Charge" by Benny L Kass

File: Rivergate
Origin: Jim Dunn
7/20/2005 0851

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. **To insure that you have received and read the enclosed material.**
2. **Update your mailing address if different than Rivergate and your home and cell phone numbers.**
3. **We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.**

✓ I/ we do Support. **____ I/ we do not Support.**

Print name/s Robert C. Sanger
Unit Number 15 B **if you know it.**
Unit Address 4315 **Rivergate Lane, Little River SC 29566**
Home Phone 663-4315
Cell Phone — **if you have one.**
Home e-mail RCSanger@Fmr.Com **if you have one.**
Work e-mail — **if you have one.**
Mailing Address if different Same

Owner/s Signature Robert C Sanger **Date** 7/26/2005

Signature _____ **Date** 7/26/2005

Remember;
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ 10.00

ENCLOSURES; 3
1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article –"Transition from Developer to Owner: Taking Charge" by Benny L Kass

7/20/2005 File: Rivergate Origin: Jim Dunn 0860

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. **To insure that you have received and read the enclosed material.**
2. **Update your mailing address if different than Rivergate and your home and cell phone numbers.**
3. **We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.**

____ I/ we do Support. **____ I/ we do not Support.**

Print name/s Jane Collins
Unit Number 153 **if you know it.**
Unit Address 4317 **Rivergate Lane, Little River SC 29566**
Home Phone 843-663-0674
Cell Phone 577-71-2746 **if you have one.** 619-929-6612
Home e-mail _____ **if you have one.**
Work e-mail JANEC@ASHW.COM **if you have one.**
Mailing Address if different _____

Owner/s Signature Jane Collins **Date** 7/25/2005

Signature _____ **Date** __/__/2005

Remember;
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ 15.00

ENCLOSURES: 3
1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Wunderman
3.) 3 page article –"Transition from Developer to Owner: Taking Charge" by Benny L Kass

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. To insure that you have received and read the enclosed material.
2. Update your mailing address if different than Rivergate and your home and cell phone numbers.
3. We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.

✓ I/ we do Support. ____ I/ we do not Support.

Print name/s James & Millie Sutphin
Unit Number 190 if you know it.
Unit Address 4337 Rivergate Lane, Little River SC 29566
Home Phone 843-4337
Cell Phone _____ if you have one.
Home e-mail sutphinj@sccoast.com if you have one.
Work e-mail _____ if you have one.
Mailing Address if different P.O. Box 478
Little River, SC 29566

Owner/s
Signature James E Sutphin Date 07/28/2005
Signature Mildred L. Sutphin Date 07/28/2005

Remember;
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ 10.00

ENCLOSURES: 3
1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article –"Transition from Developer to Owner: Taking Charge" by Benny L Kass

7/20/2005 File: Rivergate Origin: Jim Dunn 0848

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. To insure that you have received and read the enclosed material.
2. Update your mailing address if different than Rivergate and your home and cell phone numbers.
3. We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.

__X__ I/ we do Support. ____ I/ we do not Support.

Print name/s Robert W. Voyt
Unit Number 23 C if you know it.
Unit Address 4259 Rivergate Lane, Little River SC 29566
Home Phone 843-663-4259
Cell Phone 843-333-8[illegible] if you have one.
Home e-mail Revbob@sccoast.net if you have one.
Work e-mail ____ if you have one.
Mailing Address if different ____

Owner/s Signature Robert W. Voyt Date 7/12/2005

Signature ____ Date ___/___/2005

Remember;

In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ _____

ENCLOSURES: 3

1.) 2 pages ~ 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article –"Transition from Developer to Owner: Taking Charge" by Benny L Kass

File: Rivergate
Origin: Jim Dunn
7/20/2005 0847

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. **To insure that you have received and read the enclosed material.**
2. **Update your mailing address if different than Rivergate and your home and cell phone numbers.**
3. **We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.**

✓ **I/ we do Support.** ___ **I/ we do not Support.**

Print name/s Donald + Nita Bolden
Unit Number 18 **if you know it.**
Unit Address 4228 **Rivergate Lane, Little River SC 29566**
Home Phone 843-663-4228
Cell Phone _____ **if you have one.**
Home e-mail _____ **if you have one.**
Work e-mail Smn3342000 eyahoo.com **if you have one.** Smn3342000 eyahoo.com
Mailing Address if different _____

Owner/s Signature Donald L Bolden **Date** 7/20/2005

Signature Nita Bolden **Date** 7/20/2005

Remember;
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ 25.00
ck 2208

ENCLOSURES; 3
1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article – "Transition from Developer to Owner: Taking Charge" by Benny L Kass

Comments: That Renters must Master Deed Requirements Re: age, duration, pets.

File: Rivergate
Origin: Jim Dunn
7/20/2005
0846

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. **To insure that you have received and read the enclosed material.**
2. **Update your mailing address if different than Rivergate and your home and cell phone numbers.**
3. **We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.**

__✓__ **I/ we very much Support.** ____ **I/ we do not Support.**

Print name/s Wilfred & Patricia Race

Unit Number 26 **if you know it.**

Unit Address 4236 **Rivergate Lane, Little River SC 29566**

Home Phone (843) 663-4236

Cell Phone (843) 602-4155 **if you have one.**

Home e-mail wprace@sccoast.net **if you have one.**

Work e-mail ____ **if you have one.**

Mailing Address if different ____

Owner/s Signature Wilfred B Race **Date** 7/25/2005

Signature Patricia L Race **Date** 7/25/2005

Remember;

In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ 35.00

ENCLOSURES: 3

1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article –"Transition from Developer to Owner: Taking Charge" by Benoy L Kass

File: Rivergate
Origin: Jim Dunn
7/20/2005 0845

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. **To insure that you have received and read the enclosed material.**
2. **Update your mailing address if different than Rivergate and your home and cell phone numbers.**
3. **We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.**

__✓__ I/ we do Support. **____ I/ we do not Support.**

Print name/s JEAN Phipps
Unit Number _____ **if you know it.**
Unit Address 4117 **Rivergate Lane, Little River SC 29566**
Home Phone _____
Cell Phone 843-467-7268 **if you have one.**
Home e-mail JeanMBSC@SCCoast.Net **if you have one.**
Work e-mail _____ **if you have one.**
Mailing Address if different _____

Owner/s Signature Joan Phipps **Date** __/__/2005

Signature _____ **Date** __/__/2005

Remember;
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ Reimb of Paper (Computer)

ENCLOSURES; 3

1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article –"Transition from Developer to Owner; Taking Charge" by Benny L Kass

File: Rivergate
Origin: Jim Dunn
7/20/2005 0844

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. To insure that you have received and read the enclosed material.
2. Update your mailing address if different than Rivergate and your home and cell phone numbers.
3. We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.

✓ I/we do Support. ___ I/ we do not Support.

Print name/s GINA SIRIGNANO
Unit Number 2-A if you know it.
Unit Address 4246 Rivergate Lane, Little River SC 29566
Home Phone 1063-0532
Cell Phone 843-222-3826 if you have one.
Home e-mail GINASIRI2@aol.com if you have one.
Work e-mail _____ if you have one.
Mailing Address if different _____

Owner/s Signature Gina Sirignano Date 7/23/2005

Signature _____ Date ___/___/2005

Remember;
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ 10.00

ENCLOSURES; 3
1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article –"Transition from Developer to Owner: Taking Charge" by Benny L Kass

7/20/2005

File: Rivergate
Origin: Jim Dunn
0839

Rivergate Ad Hoc Home Owner Committee Up Date ✓

Please return this page to any committee member for the following reason.

1. **To insure that you have received and read the enclosed material.**
2. **Update your mailing address if different than Rivergate and your home and cell phone numbers.**
3. **We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.**

✓ I/ we do Support. **___ I/ we do not Support.**

Print name/s Gina Savoca
Unit Number 250 **if you know it.**
Unit Address 4245 **Rivergate Lane, Little River SC 29566**
Home Phone 663-4245
Cell Phone — **if you have one.**
Home e-mail ginasav@sccoast.net **if you have one.**
Work e-mail — **if you have one.**
Mailing Address if different —

Owner/s Signature Regina K Savoca **Date** 7/24/2005

Signature _____ **Date** __/__/2005

Remember;
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ 20

ENCLOSURES: 3
1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article –"Transition from Developer to Owner: Taking Charge" by Benny L Kass

7/20/2005

File: Rivergate
Origin: Jim Dunn
0838

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. **To insure that you have received and read the enclosed material.**
2. **Update your mailing address if different than Rivergate and your home and cell phone numbers.**
3. **We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.**

X I/ we do Support. **___ I/ we do not Support.**

Print name/s Sylvia Lindsay
Unit Number 18 D **if you know it.**
Unit Address 4305 **Rivergate Lane, Little River SC 29566**
Home Phone 663-4305
Cell Phone 457-6407 **if you have one, not**
Home e-mail lindsay@sccoast **if you have one.**
Work e-mail _____ **if you have one.**
Mailing Address if different _____

Owner/s Signature [signature] **Date** 7/26/2005

Signature _____ **Date** __/__/2005

Remember;
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ 10.00

ENCLOSURES; 3
1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article –"Transition from Developer to Owner: Taking Charge" by Benny L Kass

File: Rivergate
7/20/2005 Origin: Jim Dunn
0837

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. **To insure that you have received and read the enclosed material.**
2. **Update your mailing address if different than Rivergate and your home and cell phone numbers.**
3. **We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.**

✓ **I/ we do Support.** ___ **I/ we do not Support.**

Print name/s DAVID R. & JUDITH K. SMITH
Unit Number 20-B **if you know it.**
Unit Address 4289 **Rivergate Lane, Little River SC 29566**
Home Phone 663-4289
Cell Phone 238-5823 **if you have one.**
Home e-mail reed@scsupport.net **if you have one.**
Work e-mail _____ **if you have one.**
Mailing Address if different _____

Owner/s Signature David R. Smith **Date** 7/24/2005

Signature Judith K. Smith **Date** 7/24/2005

Remember;
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ 1000

ENCLOSURES: 3
1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article--"Transition from Developer to Owner: Taking Charge" by Benny L Kass

File: Rivergate
Origin: Jim Dunn
7/20/2005 0835

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. To insure that you have received and read the enclosed material.
2. Update your mailing address if different than Rivergate and your home and cell phone numbers.
3. We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.

X I/ we do Support. ____ I/ we do not Support.

Print name/s Billy & Linda Herring
Unit Number 16C if you know it.
Unit Address 4519 Rivergate Lane, Little River SC 29566
Home Phone 910-893-4489
Cell Phone 910-822-6308 if you have one.
Home e-mail _____ if you have one.
Work e-mail _____ if you have one.
Mailing Address if different P.O. Box 644
Buies Creek, NC 27506

Owner/s
Signature William B Herring Date 7-14-2005
Signature Linda N. Herring Date 7-14-2005

Remember;
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort. Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ 100.00

ENCLOSURES; 3
1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article –"Transition from Developer to Owner: Taking Charge" by Benny L Kass

File: Rivergate
Origin: Jim Dunn
7/20/2005 0834

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. **To insure that you have received and read the enclosed material.**
2. **Update your mailing address if different than Rivergate and your home and cell phone numbers.**
3. **We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.**

✓ **I/ we do Support.** ____ **I/ we do not Support.**

Print name/s Todd & Teresa Barfield
Unit Number 4335 **if you know it.**
Unit Address ____ **Rivergate Lane, Little River SC 29566**
Home Phone 663-4335
Cell Phone 843-283-5607 **if you have one.**
Home e-mail ____ **if you have one.**
Work e-mail [illegible] **if you have one.**
Mailing Address if different 3925 Mossy Rock Rd
Greensboro NC 27406

Owner/s Signature [signature] **Date** 7/31/2005

Signature [signature] **Date** 7/31/2005

Remember;
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

Amount Donated $ 100. **to The Committee**

ENCLOSURES; 3
1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article – "Transition from Developer to Owner: Taking Charge" by Benny L Kass

File: Rivergate
Origin: Jim Dunn
7/20/2005 0833

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. **To insure that you have received and read the enclosed material.**
2. **Update your mailing address if different than Rivergate and your home and cell phone numbers.**
3. **We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.**

WE I/ we do Support. **____ I/ we do not Support.**

Print name/s John & DEE Horton
Unit Number 28A **if you know it.**
Unit Address 4223 **Rivergate Lane, Little River SC 29566**
Home Phone 663-4223
Cell Phone 385-6847 **if you have one.**
Home e-mail NONE **if you have one.**
Work e-mail NONE **if you have one.**
Mailing Address if different PO Box 569
Little River SC
29566

Owner/s Signature John R Horton **Date** 8/18/2005

Signature _____ **Date** 8/18/2005

Remember;
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ 100.00

ENCLOSURES; 3
1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article –"Transition from Developer to Owner: Taking Charge" by Benny L Kass

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. **To insure that you have received and read the enclosed material.**
2. **Update your mailing address if different than Rivergate and your home and cell phone numbers.**
3. **We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.**

✓ I/ we do Support. **____ I/ we do not Support.**

Print name/s EDNA HENSLEY
Unit Number 16-F **if you know it.**
Unit Address 4313 **Rivergate Lane, Little River SC 29566**
Home Phone (843) 663-4313 or (804) 739-2599
Cell Phone (804) 874-2599 **if you have one.**
Home e-mail ELMH4232@aol.com **if you have one.**
Work e-mail N/A **if you have one.**
Mailing Address if different 13641 SPRINGRUN RD.
MIDLOTHIAN, VA. 23112

Owner/s Signature Edna M. Hensley **Date** 8/17/2005

Signature _____ **Date** __/__/2005

Remember;
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ 25.00 EA.

ENCLOSURES; 3
1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article –"Transition from Developer to Owner: Taking Charge" by Benny L Kass

7/20/2005

File: Rivergate
Origin: Jim Dunn
0831

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. **To insure that you have received and read the enclosed material.**
2. **Update your mailing address if different than Rivergate and your home and cell phone numbers.**
3. **We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.**

✓ **I/we do Support.** ____ **I/we do not Support.**

Print name/s George & Carolyn Albury
Unit Number 208 **if you know it.**
Unit Address 4281 **Rivergate Lane, Little River SC 29566**
Home Phone 843-663-4281
Cell Phone 910-907-3001 **if you have one.**
Home e-mail n/a **if you have one.**
Work e-mail n/a **if you have one.**
Mailing Address if different _____

Owner/s Signature George H Albury **Date** 8/16/2005

Signature Carolyn R Albury **Date** 8/16/2005

Remember;

In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ N/A

ENCLOSURES; 3

1.) 2 pages – I0 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article –"Transition from Developer to Owner: Taking Charge" by Benny L Kass

File: Rivergate
Origin: Jim Dunn
7/20/2005 0830

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. **To insure that you have received and read the enclosed material.**
2. **Update your mailing address if different than Rivergate and your home and cell phone numbers.**
3. **We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.**

✓ I/ we do Support. **___ I/ we do not Support.**

Print name/s John & MATTHEW FITZPATRICK
Unit Number 8-B **if you know it.**
Unit Address 4224 **Rivergate Lane, Little River SC 29566**
Home Phone 843-663-1002
Cell Phone — **if you have one.**
Home e-mail TF1002@SCCOAST.NET **if you have one.**
Work e-mail — **if you have one.**
Mailing Address if different —

Owner/s Signature John M. Fitzpatrick **Date** 8/27/2005

Signature Mildred Fitzpatrick **Date** 8/27/2005

Remember;
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort.
Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ 50.00 ck

Jack Dallis 50.00
Betty Dunn 30.00
Ethel Patterson 25.00
4330 #100

ENCLOSURES; 3
1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article – "Transition from Developer to Owner: Taking Charge" by Benny L Kass

9/30/05

7/20/2005 File: Rivergate Origin: Jim Dunn 0829

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. To insure that you have received and read the enclosed material.
2. Update your mailing address if different than Rivergate and your home and cell phone numbers.
3. We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.

✓ I/ we do Support. ____ I/ we do not Support.

Print name/s John F Klise
Unit Number _____ if you know it.
Unit Address 4235 Rivergate Lane, Little River SC 29566
Home Phone 663-4035
Cell Phone _____ if you have one.
Home e-mail JK42350@earthlink.net if you have one.
Work e-mail _____ if you have one.
Mailing Address if different _____

Owner/s Signature John F. Klise Date 8/22/2005

Signature _____ Date ___/___/2005

Remember;
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ 10.00 Cash

ENCLOSURES: 3
1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article –"Transition from Developer to Owner: Taking Charge" by Benny L Kass

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. To insure that you have received and read the enclosed material.
2. Update your mailing address if different than Rivergate and your home and cell phone numbers.
3. We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.

__✓__ I/ we do Support. ____ I/ we do not Support.

Print name/s MICHAEL DI MARTINO
Unit Number 24A if you know it.
Unit Address 4247 Rivergate Lane, Little River SC 29566
Home Phone 663-1277
Cell Phone 843-602-1277 if you have one.
Home e-mail COUGAR4247@AOL.COM if you have one.
Work e-mail _____ if you have one.
Mailing Address if different _____

Owner/s Signature Michael Di Martino Date 09/28/2005

Signature _____ Date __/__/2005

Remember;
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ _____

ENCLOSURES; 3
1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article –"Transition from Developer to Owner: Taking Charge" by Benny L Kass

9/20/2005 File: Rivergate Origin: Jim Dunn 0827

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. To insure that you have received and read the enclosed material.
2. Update your mailing address if different than Rivergate and your home and cell phone numbers.
3. We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.

✓ I/ we do Support. ___ I/ we do not Support.

Print name/s ROBERT KRUPCZYK
Unit Number 7A if you know it.
Unit Address 4316 Rivergate Lane, Little River SC 29566
Home Phone 663-5819
Cell Phone 807-0711 if you have one.
Home e-mail N/A if you have one.
Work e-mail N/A if you have one.
Mailing Address if different ___

Owner/s Signature Robt Krupczyk Date 9/25/2005

Signature ___ Date ___/2005

Remember;
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ ___

ENCLOSURES; 3
1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article –"Transition from Developer to Owner: Taking Charge" by Benny L Kass

9/20/2005 File: Rivergate Origin: Jim Dunn 0826

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. To insure that you have received and read the enclosed material.
2. Update your mailing address if different than Rivergate and your home and cell phone numbers.
3. We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.

✓ I/ we do Support. ____ I/ we do not Support.

Print name/s Susan J Hutt
Unit Number 278 if you know it.
Unit Address 4229 Rivergate Lane, Little River SC 29566
Home Phone 663-4229
Cell Phone — if you have one.
Home e-mail Shutt.1@juno.com if you have one.
Work e-mail — if you have one.
Mailing Address if different N/A

Owner/s Signature Susan J Hutt Date 09/28/2005

Signature _____ Date __/__/2005

Remember;
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort. Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

Amount Donated $ misc. Mailing The Committee
Copies
Lawsuit contribution

ENCLOSURES; 3
1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article –"Transition from Developer to Owner: Taking Charge" by Benny L Kass

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. To insure that you have received and read the enclosed material.
2. Update your mailing address if different than Rivergate and your home and cell phone numbers.
3. We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.

✓ I/ we do Support. ____ I/ we do not Support.

Print name/s Chris & Maria Sarratt

Unit Number ____ if you know it.
Unit Address #311 Rivergate Lane, Little River SC 29566
Home Phone ____
Cell Phone 457-3778 if you have one.
Home e-mail CSARRATT@SCCOAST.NET if you have one.
Work e-mail ____ if you have one.
Mailing Address if different ____

Owner/s Signature [signature] Date 9/26/2005

Signature [signature] Date 9/26/2005

Remember;
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ 100.00

ENCLOSURES; 3
1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article – "Transition from Developer to Owner: Taking Charge" by Benny L Kass

File: Rivergate
7/20/2005 Origin: Jim Dunn
0824

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. To insure that you have received and read the enclosed material.
2. Update your mailing address if different than Rivergate and your home and cell phone numbers.
3. We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.

✓ I/we do Support. ___ I/we do not Support.

Print name/s Jerome & Maryann Bykowski
Unit Number _____ if you know it.
Unit Address 4300 Rivergate Lane, Little River SC 29566
Home Phone 724-437-4043
Cell Phone 724-331-6698 if you have one.
Home e-mail Jerb1@atlanticbb.net if you have one.
Work e-mail _____ if you have one.
Mailing Address if different _____

Owner/s Signature Jerome L Bykowski Date 10/1/2005
Signature Mary Ann Bykowski Date 10/1/2005

Remember;
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ 50.00 cc

ENCLOSURES; 3
1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Windermann
3.) 3 page article –"Transition from Developer to Owner: Taking Charge" by Benny L Kass

File: Rivergate
7/20/2005 Sign: Jim Dunn
0823

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. To insure that you have received and read the enclosed material.
2. Update your mailing address if different than Rivergate and your home and cell phone numbers.
3. We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.

✓ I/ we do Support. ____ I/ we do not Support.

Print name/s Ronald and Jennifer Galosky
Unit Number 14 A if you know it.
Unit Address 4327 Rivergate Lane, Little River SC 29566
Home Phone 410 644 1122
Ron's Cell Phone 4435271637 if you have one.
Home e-mail GaJoSki@juno.com if you have one.
(one)
Work e-mail _____ If you have one.
Mailing Address if different 3655 Coolidge Avenue
Baltimore, Maryland
21229

Owner/s Signature [signature] Date 1/19/2006

Signature Jennifer C. Galosky Date 1/19/2006

Remember;
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort.
Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee
Amount Donated $ 20.00 (paid cash to Jim Dunn)

ENCLOSURES: 3
1.) 2 pages – f0 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article – "Transition from Developer to Owner; Taking Charge" by Benny L. Kass

File: Rivergate
1/1/2006 Origin: Jim Dunn
0822

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. To insure that you have received and read the enclosed material.
2. Update your mailing address if different than Rivergate and your home and cell phone numbers.
3. We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.

____ I/ we do Support. ____ I/ we do not Support.

Print name/s Bettye Gum
Unit Number _____ if you know it.
Unit Address 4295 Rivergate Lane, Little River SC 29566
Home Phone 843-249-2286
Cell Phone _____ if you have one.
Home e-mail _____ if you have one.
Work e-mail _____ if you have one.
Mailing Address if different _____

Owner/s Signature _____ Date ___/___/2005

Signature _____ Date ___/___/2005

Remember;
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort. Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ 25.00 CB

ENCLOSURES; 3
1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article –"Transition from Developer to Owner: Taking Charge" by Benny L Kass

File: Rivergate
8/29/2005 Origin: Jim Dunn
0821

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. To insure that you have received and read the enclosed material.
2. Update your mailing address if different than Rivergate and your home and cell phone numbers.
3. We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.

✓ I/ we do Support. ____ I/ we do not Support.

Print name/s ERIKA EAGAN
Unit Number 4318 B if you know it.
Unit Address 4318 Rivergate Lane, Little River SC 29566
Home Phone 663-4318
Cell Phone _____ if you have one.
Home e-mail _____ if you have one.
Work e-mail _____ if you have one.
Mailing Address if different _____

Owner/s Signature Erika Eagan Date 12/07/2005

Signature _____ Date __/__/2005

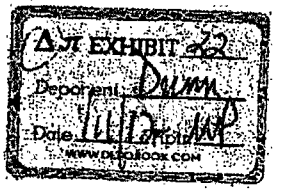
Remember;
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort. Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ 20.00

ENCLOSURES; 3
1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Windermun
3.) 3 page article –"Transition from Developer to Owner: Taking Charge" by Benny L Kass



File: Rivergate
Origin: Jim Dunn
7/20/2005 0820

issues -- to assisting the association in its day-to-day activities. A community association is not only a mini-democracy, it is also a business, and must function in that capacity as well. Your association has many owners; your annual budget may very well be as large -- if not larger -- than many commercial businesses in the Washington metropolitan area.

- **Physical Inspection of the Property:** The board should consider hiring an engineer to inspect the complex as soon as possible. The engineer should determine whether there are any warranty defects or problem areas which should be called to the attention of the developer. The engineer can also help the board determine the proper level of reserves that are needed for future repairs. This is known as a "reserve analysis study." The professional engineer determines the useful life of the major components in the complex (eg. the roof, elevator, and other common areas), and the projected cost to replace at the end of its life. On an annual basis, sufficient funds should be placed in reserve, so that when the component wears out, there will be enough money in reserve to pay for its replacement. Otherwise, each owner will be faced with a large special assessment. There used to be a commercial on TV which stated: "pay now or pay later."

Turnover of developer control is the most important aspect in determining the future success of a community association. It is not often understood by developers. Indeed, some developers do not want to encourage active participation by the new board for fear that this new board will be too conscientious in reviewing the developer's activities.

Good dialogue among unit owners, the developer and board goes a long way toward creating a successful association. It's hard work to be on a Board of Directors, but the home your just purchased is your investment and you certainly want to protect it as best you can.

Published: March 8, 2004

Reprinted from the Washington Post with permission from the author

You can take the lead and arrange for a meeting of the owners. Have it in the social hall, a nearby church or school, or even in someone's home. Once you learn who is interested in taking an active role in the association, contact the developer and ask for a preliminary meeting for the purpose of asking your questions and raising any of your concerns. You and your group should try to pin the developer down as to when control will be turned over. You should also discuss the level of cooperation which the developer will give you during transition. Find out whether the developer intends to be helpful, or will just "wash his hands" and walk away. Some developers will even front some seed money so that the "rump" association will be able to hire an attorney to assist them at the earliest possible time.

At some point in time, the developer will have to schedule a meeting of owners. The purpose of the meeting will be for the owners to elect a new board of directors. I find it curious that owners are often asked to vote for members of a board that will control their own destiny without having any information on who these prospective members are or what they stand for. If possible, a notice should be circulated to all of the owners advising them that there will be a meeting before the election, at which time people can campaign for seats on the board. In my opinion, a community association is a mini-democracy. We have political campaigns for government officials; we should also have campaigns for directors of community associations.

Once the owners are in control, there are four mandatory steps that must be taken by the new Board:

- **Audit the Books:** An independent auditor or a certified public accountant must examine the association's books. It is important for members of the new board to satisfy themselves (and the owners they represent) that during the time the developer was in control of the association, all moneys collected and all expenses paid have been properly accounted for. Keep in mind that while the developer is in control of the association, the developer also has access to the association funds. Often, this access is unlimited. You want to make sure that funds which should have been paid by the developer are not inadvertently (or purposely) paid out of association proceeds.

Developers handle the question of payment of fees for the homes they still own in different ways, but the developer must be held accountable for all its legitimate obligations. Additionally, in many instances the developer, while serving as a board member, may have allowed many owners to become seriously delinquent in paying their association fees. The new board must establish a comprehensive collection policy that will be applied uniformly. I am a strong believer in a "zero tolerance" policy when it comes to delinquencies.

- **Select a Management Company:** The new board must decide whether to retain the existing management company -- which had been selected by the developer -- or select a totally independent management company. The association may decide to forego hiring such a company and become "self-managed", but I personally do not recommend this. An association containing a large number of homes needs formal and professional management.

- **Retain Legal Counsel:** The association should retain a lawyer knowledgeable about community association laws. The lawyer will have to handle a wide variety of issues, ranging from developer problems -- such as warranty and other transition

Transition From Developer To Owner: Taking Charge

by Benny L. Kass

Question: I am an owner in a new homeowner's association and am interested in seeing our association get off on the right start. I have been told that in a few months we will be going through a developer transition and owners will be invited to run for election to the Board. I am concerned that as newcomers, we may not be as informed about our responsibilities during this transition process. What really is involved in running a new Association? Should I run for election to the Board?

Answer: Service on a community association Board of Directors is a thankless job. The hours are long and there is no pay. But if you want to make sure that your investment (your home) will not be wasted, you may want to seriously consider putting your name on the election ballot.

When a builder develops a community association, whether it is a condominium or a home owner association, until a certain percentage of the units are sold, the developer retains control of the association. This means that the developer's representatives are on the Board of Directors of the Association. All fees and assessments are (or should be) deposited into your association's bank account, but the developer -- through the Board -- controls the funds, sets the budget and makes the rules.

At some point in time, however, the developer is obligated to turn over control of the association to the owners. Some states have laws spelling out when control must be turned over; and most association legal documents also spell out this requirement.

Transition between developer control and owner control of an association is perhaps the most important aspect of any community association. If done properly, your association will be off to a good start; if done poorly, it will take you a long time to get back on track. And, unfortunately, some associations never succeed.

A community is generally governed by an association, through an elected Board of Directors. Although many owners do not understand this, when the very first home in a complex is sold, the association is already in existence. The developer usually selects the first board of directors, which controls the association until turnover of control is accomplished. In general, the laws in the surrounding jurisdictions require that control be turned over to the owners within so many years after the first sale, or when a certain percent of the homes have been sold, whichever comes first. The turnover requirement should also be spelled out in your association's governing documents.

Unfortunately, many developers do not understand the importance of working with owners so that they will be able to manage the association themselves. It is not good practice, in my opinion, for a developer merely to announce one day that a meeting will be held, at which time the owners will elect a new board of directors. Owners are new to the complex and do not know one another. They are reluctant to vote someone into office without knowing who that person is or what that person stands for.

Billboard sign has been granted an irrevocable easement to the front property. Developer has not been collecting rent and this area is being maintained pursuant to that Agreement. The HOA has no rights to that easement agreement that was put in place prior to the dedication of any land to the HOA. That portion of the land will be excluded from the Hoa accordingly.

We will talk to the contractors concerning speeding.

In conclusion, Rivergate has never looked better as the we have received numerous compliments on the project and its appearance. We will work together to address issues as they arise to preserve the value and quality of life at Rivergate which continues to escalate and rise in value.

Very Truly Yours,

Wayne Winderman
Manager of HOA

Conclusion of what? Rivergate? Whispering Woods? or Condo's on Marsh.

Upon conclusion of construction, we will have an engineer inspect the site for any repairs needed on the roadways

TOO LONG Time

We will have our engineer inspect the walkways for compliance to normal and acceptable engineering standards. when?

We review the sprinkler system including ongoing maintenance issues within the next month and provide a report. NO REPORT

We will review the clean out pipes for compliance with code.

We will inspect retaining wall in 4223. ?

Trimming of grass along roadway not part of current contract. This can be added next year at an additional cost if the homeowners desire the same.

Concerning issues of management, we have found dealing with Atalaya to be inadequate. The contractors they have recommended have been far inferior then those now in place. Rivergate has never looked better. However, Atalaya was not responsible for hiring the current lawn maintenance company. Further, we have not received timely accounting reports nor are there adequate controls over spending in place. We have removed Atalaya as the Manager at Rivergate. Attached is the latest financial statements that only provide information to April 2005. Atalaya has not fulfilled its obligation to provide timely accounting information. We encourage the committee to review the statements on a monthly basis.

whose opinion

Rivergate sign is solely up to the discretion of the developer.

Please refer to Atalaya concerning accounting issues and reserves.

The issue of the courtyards is strictly at the discretion of Developer. Any issue of impact on community is completely unfounded as all units continue to sell quickly at much higher prices.

Developer has provides its obligation to the community as pool is now in operation. Any improvements is the responsibility of the HOA.

Power washing of units is the responsibility of the HOA and not in the current year's budget.

Developer has provided its obligation in the construction of the Front Entrance to Rivergate.

rec'd 7-11-05
4:15 P.M per
Judy Medlin
from office
Committee

RIVERGATE HOA
519 CLARENDON COURT
YARDLEY, PA 19067
215-321-0114

July 6, 2005

Rivergate Hoa Ad Hoc Committee
Jim Dunn
Little River, SC

Dear Committee;

I am in receipt of your ten page letter dated June 21, 2005. Many of the items are interior issues that are not part of the HOA committee. There has been a County re-inspection of the houses that were all previously approved for code violations. The county has prepared a list which is attached and these items will all be corrected within 30 days. Please note that your committee will not be recognized for any other purpose then to address legitimate concerns of the HOA.

at Jim Dunn's request

We have made inspections of drainage issues and will address the same as quickly as possible. I

Concerning the clubhouse please refer to the master deed as to when the developer is required to turn over the clubhouse. Also note, that there are no charges to the HOA for the clubhouse at this time.

Concerning the various issues raised on the the Townhouses and Condo's. Please refer to the HOA Agreement concerning the Developers rights to grant easements and to develop their property. The easements have been granted for access from and to all the Phases as permitted in the HOA Agreement.

Concerning issues of Maintenance they will be fairly addressed. There will be a fee charged for the maintenance of irrigation, road maintenance and reasonable regulations will be put into place restricting loitering on the Phase 1 property. There will be no use of the clubhouse or front pool afforded the Phase 2 homeowners. Phase 2 will have its own pool. If the Committee would like to provide a suggestion as to a reasonable allocation and the accrual of a reserve to be charged to Phase 2, we would be more then happy to consider the same in an open manner. The Committee is free to inquire as to County Maintenance of Roadway.

File: Rivergate
Origin: Jim Dunn
0346

In addition to the foregoing, no gas or charcoal grills may be located within a UNIT or LIMITED COMMON ELEMENTS nor shall any other cooking devices be located, maintained or used on any LIMITED COMMON ELEMENT or COMMON ELEMENT (including decks, porches or patios notwithstanding whether same is part of a UNIT, the COMMON ELEMENTS or LIMITED COMMON ELEMENTS), except for grills provided by the Association and specifically designated for such use by ASSOCIATION. Further, the ASSOCIATION may promulgate additional rules and regulations regarding the use and storage of grills and cooking devices.

XVII.

CONDOMINIUM TO BE USED FOR LAWFUL PURPOSES, RESTRICTION AGAINST NUISANCES, ETC.

No immoral, improper, offensive or unlawful use shall be made of any UNIT or of the COMMON ELEMENTS or LIMITED COMMON ELEMENTS, or any part thereof, and all laws, zoning ordinances and regulations of all governmental authorities having jurisdiction of the CONDOMINIUM shall be observed. No Owner of any UNIT shall permit or suffer anything to be done or kept in his UNIT, the COMMON ELEMENTS or LIMITED COMMON ELEMENTS, which will increase the rate of insurance on the CONDOMINIUM, or which will obstruct or interfere with the rights of other occupants of the building or annoy them by unreasonable noises, and no Owner shall undertake any use or practice which shall create and constitute a nuisance to any other Owner of a UNIT, or which shall interfere with the peaceful possession and proper use of any other UNIT, COMMON ELEMENTS or LIMITED COMMON ELEMENTS.

XVIII.

RIGHT OF ENTRY INTO UNITS IN EMERGENCIES

In case of any emergency originating in or threatening any UNIT, regardless of whether the Owner is present at the time of such emergency, the Board of Directors of the ASSOCIATION or any other person authorized by it, shall have the right to enter such UNIT and the LIMITED COMMON ELEMENTS for the purpose of remedying or abating the cause of such emergency, and such right

No UNIT or any portion thereof may be submitted to a plan of interval ownership or any form of timesharing. Provided however, nothing herein shall be construed as limiting the right of any Owner of any UNIT from renting or leasing his or its UNIT.

XVI.

USE OF COMMON ELEMENTS SUBJECT TO
RULES OF ASSOCIATION

A. Subject to the terms and provisions of this Master Deed, the use of COMMON ELEMENTS by the Owner or Owners of all UNITS, and all other parties authorized to use the same, shall be at all times subject to such reasonable rules and regulations as may be prescribed and established governing such use, or which may hereafter be prescribed and established by the ASSOCIATION.

In addition to the rules and regulations promulgated by ASSOCIATION, the property is hereby restricted such that the only pets which are permitted within the Horizontal Property Regime including the UNITS, the COMMON ELEMENTS are companion pets such as birds, domesticated cats, fish, dogs and other small mammals. Further, non-owners, such as renters or guests of owners, may not have any pet within the Horizontal Property Regime which weighs more than twenty (20) pounds. Under no circumstances are exotic cats, non-human primates, reptiles, horses or other farm livestock or zoo type animals permitted within the Horizontal Property Regime. Pets must be on a leash or carried when on any COMMON ELEMENTS. Further, the Board of Directors of the Association may restrict pets to certain designated areas within the COMMON ELEMENTS and may further establish rules regulating pets within the COMMON ELEMENTS. It shall be the Owner's obligation to dispose of waste material from pets. The Board of Directors of the ASSOCIATION shall have the right to order the removal of any pet which, in the Board's sole discretion, is considered a nuisance, and the same shall be done without compensation to the Owner. In such event, the Board shall give written notice thereof to the pet owner, and the pet shall immediately thereafter be permanently removed from the Horizontal Property Regime. A pet not on a leash shall be deemed a nuisance. A pet which makes excessive noise shall be deemed a nuisance. Failure to properly dispose of the waste material from a pet shall be deemed a nuisance.

The property is hereby further restricted such that no commercial use vehicles, oversize trucks, trailers, campers, mobile homes, boats, watercraft or unregistered, abandoned or inoperable motor vehicles are permitted within the COMMON ELEMENTS or LIMITED COMMON ELEMENTS. Provided however, boats and other watercraft may be stored within Garage UNITS as long as such boats and other watercraft are completely enclosed within such Garage UNIT and the door to same is kept closed except when entering and exiting the Garage UNIT. Further, no mopeds, motorcycles, motor bikes or unregistered "dune buggies" may be operated, located, stored or maintained upon the property.

File: Rivergate
Origin: Jim Dunn
0344

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. **To insure that you have received and read the enclosed material.**
2. **Update your mailing address if different than Rivergate and your home and cell phone numbers.**
3. **We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.**

____ I/ we do Support. **____ I/ we do not Support.**

Print name/s _____
Unit Number _____ **if you know it.**
Unit Address _____ **Rivergate Lane, Little River SC 29566**
Home Phone _____
Cell Phone _____ **if you have one.**
Home e-mail _____ **if you have one.**
Work e-mail _____ **if you have one.**
Mailing Address if different _____

Owner/s
Signature _____ **Date** __/__/**2005**

Signature _____ **Date** __/__/**2005**

Remember;
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ _____

ENCLOSURES; 3
1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article –"Transition from Developer to Owner: Taking Charge" by Benny L Kass

7/20/2005

File: Rivergate
Origin: Jim Dunn
0343

night and early AM. As a test, if you think yours is not working place some pie pans with a few rocks to keep them from blowing away. Check each morning for brown water. Please provide some written records on your unit for the committee.

Some have asked what is happening to unit 13 that's under construction. It is too close to the unit next door. The current plan is to remove a minimum of 21 inches from that side of the unit.

Rivergate Property Restrictions

See pages10 and 11 Use of common elements subject to the rules of association. See page 11 Condominium to be used for lawful purposes, restriction against nuisances, etc. (See Attached)

When you purchased your unit you agreed to these restrictions and must adhere to them. Please read page 10 and 11 very carefully and take the necessary action to correct any out of compliance issues that you have.

The Pool

There are rules for using the pool and they must be obeyed for you own safety.
No pets or glass in the pool area. Keep in mind this is an adult community. Visitors with children are welcome but please be considerate of adult residents.

Other Items

There were additional items listed, not code violations, but of concern to the homeowners of a workmanship nature that have not been addressed by our Developer. They still need to be resolved and it seems we will have to pursue another avenue for these items.

Please review the attached copy of Wayne Winderman's letter dated July 6, 2005 addressing other issues raised by various home owners.

Wayne also forward copies of all HOA financial data for committee review.
There are two items that each home owner should be made aware of.

1. It appears that we are under insured.
2. Based on industry standards for condo HOA's, we do not have adequate moneys in reserve.

These items to be reviewed for clarification and action taken if needed to protect everyone's interest.

If you have issues in or around your unit that have not been addressed please contact a committee member for clarification or assistance in the matter.

Committee Members

Mike DeMartino	**663-1277**
Jim Dunn	**663-4325**
Margaret Horan	**663-4275**
Susann Hutt	**663-4229**
Bob Krupczyk	**663-5219**
Eddie Medlin	**663-4321**

Rivergate Ad Hoc Home Owner Committee Up Date

A meeting was held on May 12th of the Rivergate home owners. There were a number of owner concerns and issues which remained unresolved. A home owner ad hoc committee was formed after the meeting in hope of establishing a line of communication with the Developer and the Committee with an eye toward resolving some of these issues.

The Committee sent a letter to each owner requesting that they submit their concerns. The issues were then compiled, uncensored, and the list was sent to the Developer. We asked that he review the issues and hopefully respond to a request for a face to face meeting with the Committee. A few days later, Jim Dunn, the committee chairman, received a call from Wayne Winderman, the developer, to the effect that he was unable to meet with the committee but would give the list of concerns to his attorney for further review. When asked how long this review would take, the Developer was non-committal and responded in a curt and terse manner; "It will take as long as it takes" – end of conversation.

Our Chairman contacted the Horry County Code Enforcement Division and gave them a copy of the list given to the Developer. During the last week of June, two members of the Enforcement Division met with the Chairman and then over a number of ensuing days conducted an extensive inspection to verify the listed issues and found, at least, 23 different code violations. The violations were presented to the Developer and he was given 30 days or to the end of July to correct them. At this point some additional items were added to the list by Wayne Winderman.

Other items that have been or are being addressed;

HTC has removed the orange wires that were Time Warner CTV wire and buried their black CTV and phone wire.

Santee Cooper has a work order to straighten the leaning and loose street light poles and remove the bugs in the lamps. This should start as time permits the week of July 17th. They also replaced the rusty utility covers.

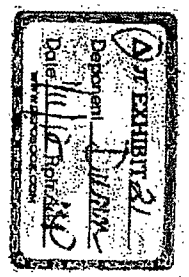
A quote was requested from Coastline Pest Management Inc to include fire ant, mole cricket and other insect treatment in the common areas. The cost will need to be evaluated.

A modified French drain has been installed between the last two units on the golf course. There is a very serious drainage problem there between these homes and the back of the last home. Also the sewage drain/clean out pipes at several homes were cut down to ground level.

Requested Horry County Public Works to review drainage issues along Baker Street where it connects to Rivergate.

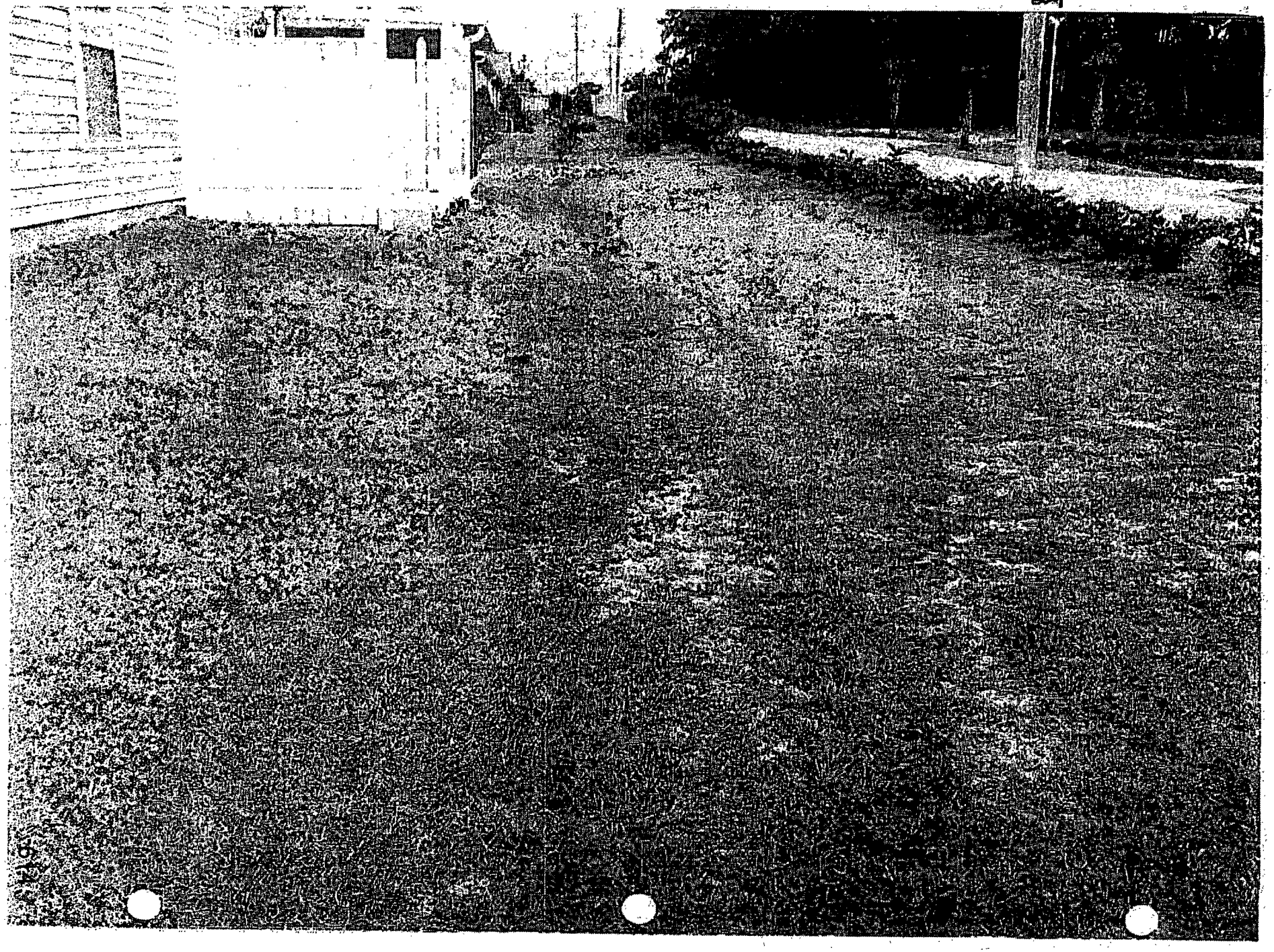
Requested the grass along the side streets be edged. It was edged one time. Was advised that was not in the contract. Don't understand why side streets were not included.

The sprinkler system, some work was performed. Rain sensor installed, two more timers installed to better separate watering needs. There appears to be some leaks and damaged heads that need to be repaired. Some sprinklers still not working. The system runs at



7/20/2005

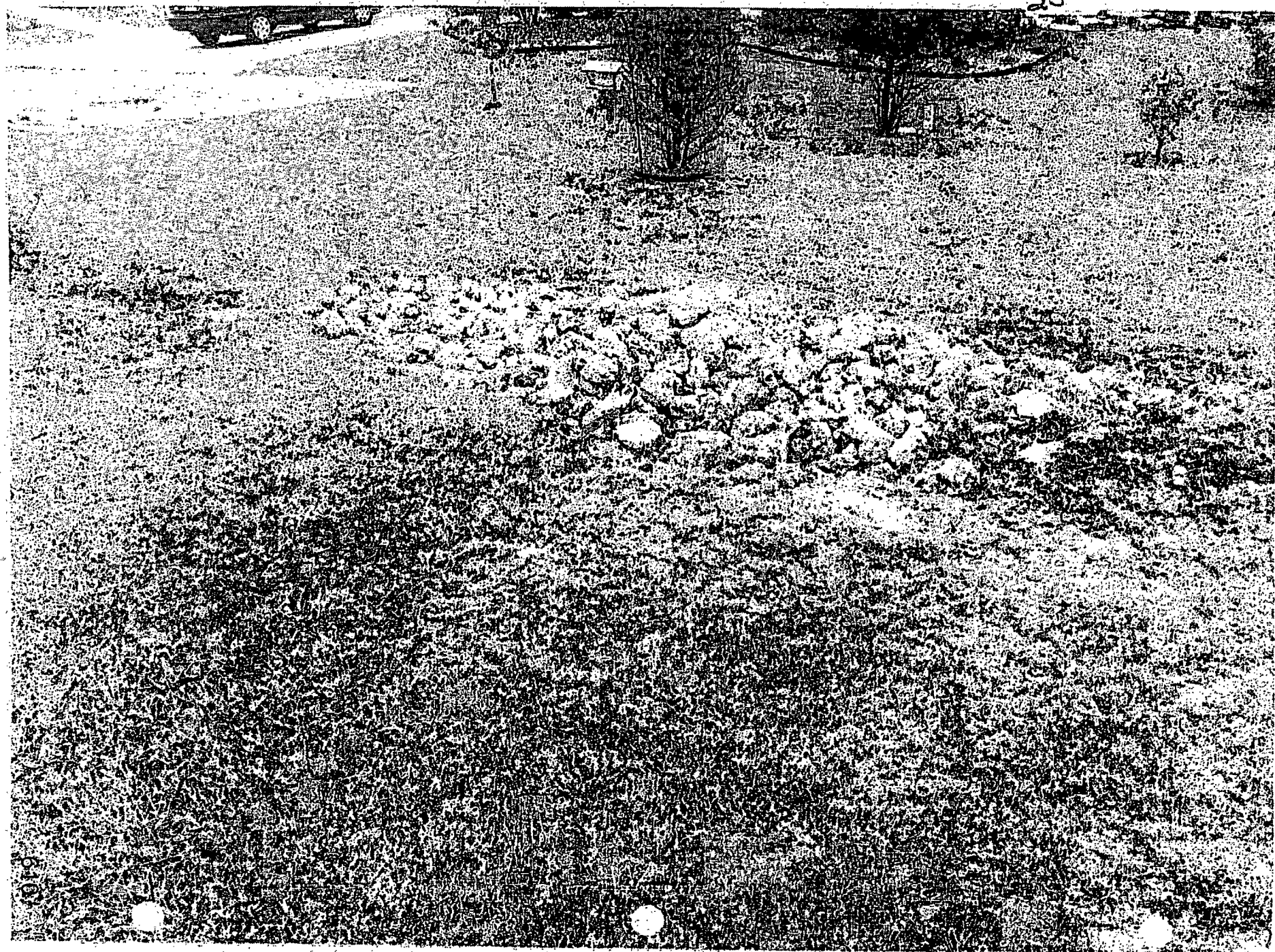
File: Rivergate
Origin: Jim Dunn
0341

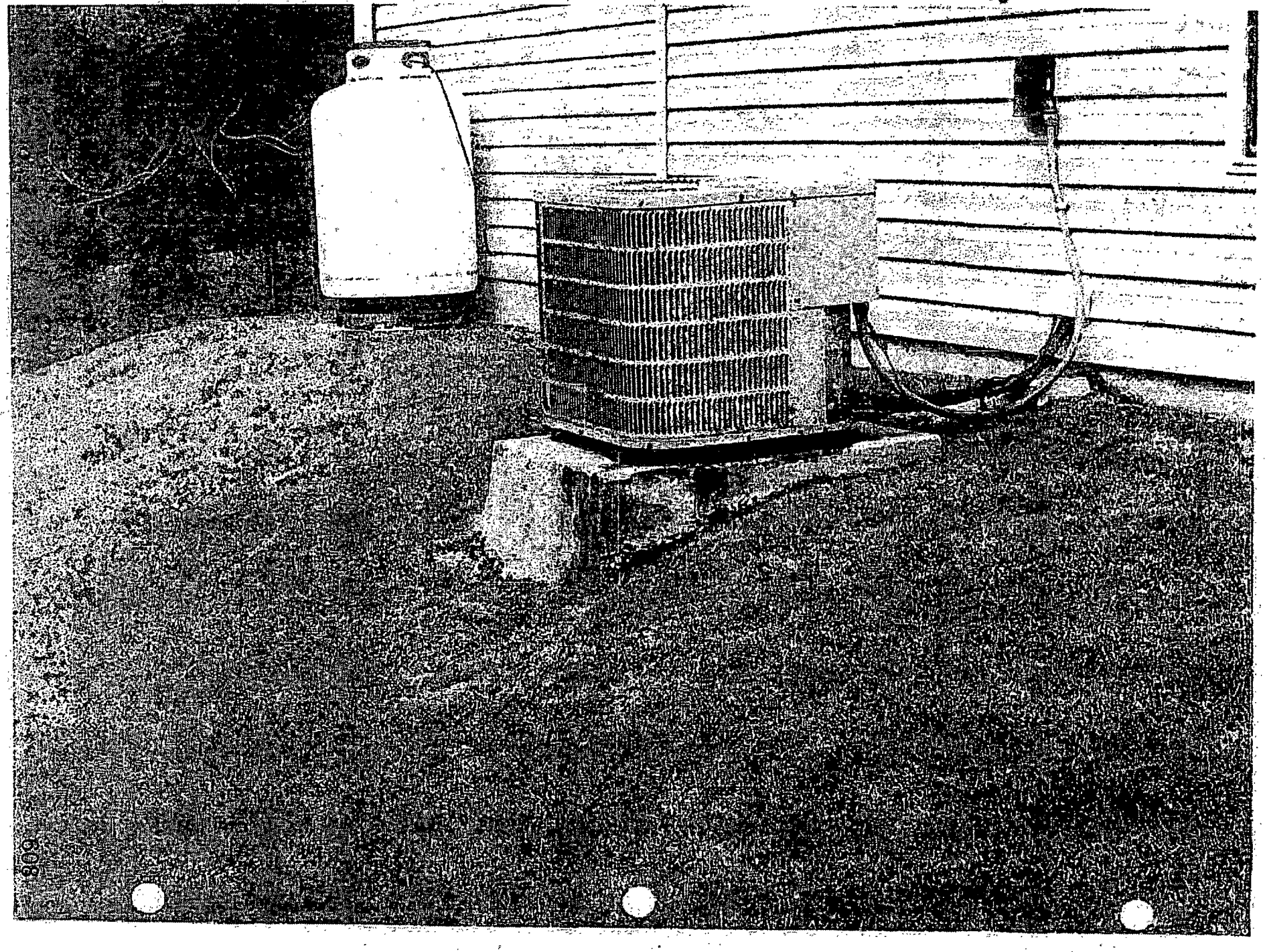


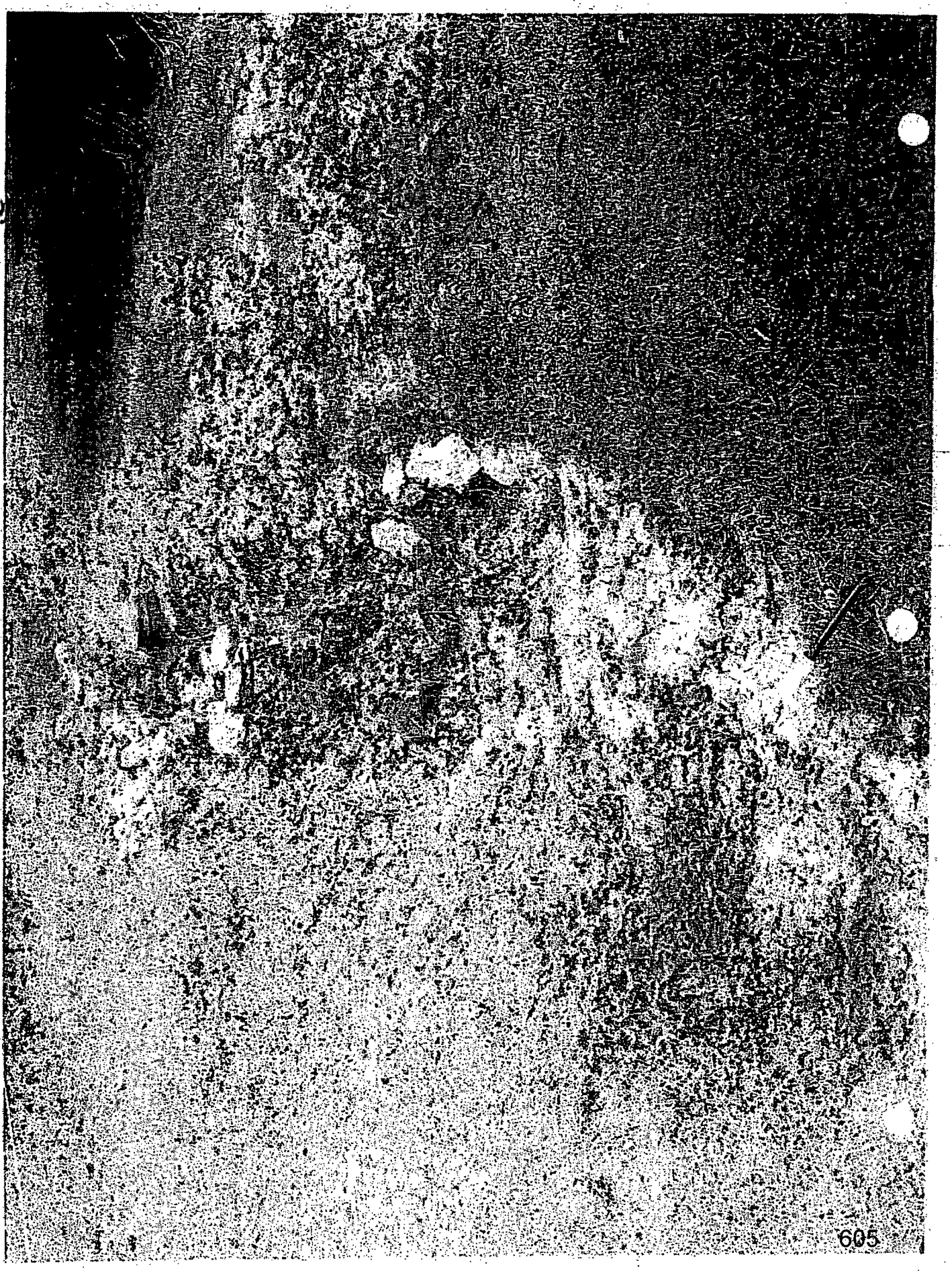
23

WASTE
INDUSTRIES

21
611







604

609

PEPSI

597

562

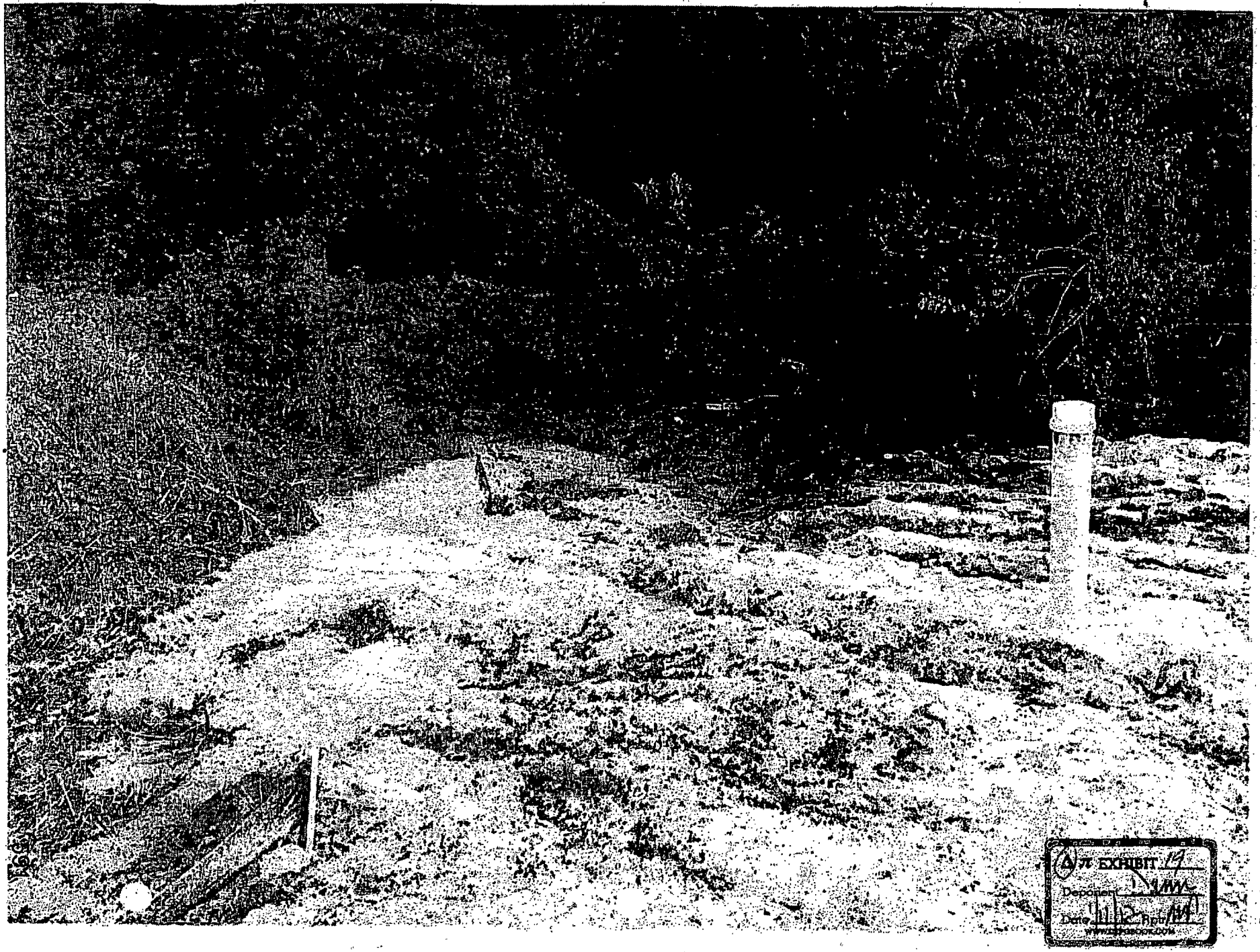
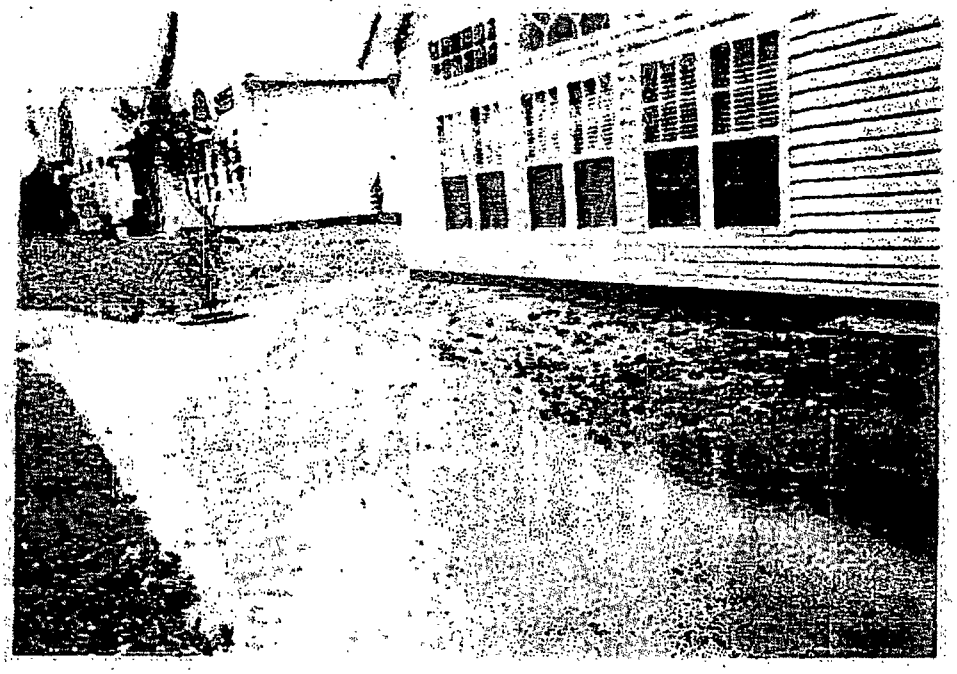


EXHIBIT 19
Deponent
Date
www.LitigationX.com



File: Rivergate
Origin: Jim Dunn
0003

File: Rivergate
Origin: Jim Dunn
0002

View on Cedrus + McCracken Property

EXHIBIT 17
Deponent
Date 11/12 Rptr

File: Rivergate
Origin: Jim Dunn
9001

April 5, 2005

PUNCH LIST for 2-A

4246 Rivergate Lane
Gina Sirignano

due to cracked foundation

1. **Broken Ceramic Tiles in Living Room & Dining Room..** (now widely cracked....problem has existed for over 1 year... the builder had asked me to wait 4 months before calling him...which I did...he never responded.

2. **3 Screens Missing : one in master bath, one in front main bathroom, one in upstairs loft window ....they were never installed when I purchased house.**

3. **Exterior Roof Tiles Above Garage have lifted (allowing water to enter inside).**

4. **Fill in holes with dirt on side lawn of house caused by erosion due to rainwater run-off from roof.**

5. **Install Gutter on side of house to eliminate rainwater erosion.**

6. **Re-sod the area of erosion on side of house and rear yard near fence (where the "river runs by")**

7. **Replace Dead Palm Tree and Bushes on Front Lawn**

***NOTE: ABOVE ITEMS #4, 5, 6, 7 HAVE BEEN TAKEN CARE OF BY ME, THE OWNER. I HAVE ATTACHED INVOICE BILL THAT I PAID. I WOULD LIKE REIMBURSEMENT.**

8. Promised Trees in rear yard by fence

EXHIBIT 46
Deponent Dunn
Date 11/12 Rpr MD

File: Rivergate
Origin: Jim Duhn
0165

also stated adding a line item to the budget and a direct charge to any owner specifically requesting the service, that it would not be fair to charge owners who do not need this service.

A question was posed on the maintenance of the exterior of the homes and were they going to be power washed. Mrs. Watts noted that she would recommend that the power washing is necessary annually; however it is not a budgeted item.

One owner noted wanting to make deck improvement. It was noted that alterations require approval by the Board. The question was posed, who is the Board. Mr. Winderman noted he has been lax in enforcing the rules noting that many want to take an area and make it their own. The Master Deed was provided to everyone at closing. He has allowed owners to have their personal expression without harming the project. He also noted that Mary Alice was correct that Atalaya was hired due to action, a process by owners in court. He also stated he was thankful that Atalaya was hired; he had not hired a property manager because he thought that all property managers would rake the owners over the coal. This has taken a burden off of his shoulders. Mr. Winderman noted he would welcome owners committees' to work with Atalaya, and that he really does not want to manage the Association. He further stated that he is not an egomaniac wanting to feel like he has to control it, only having the owners' best interests at heart from day one. He also noted he did not want the fees to increase and he encourages owners to come forward and work with Atalaya and make it their own because he does not need to control it.

The question was posed what constitutes a board of directors. Mrs. Watts explained the classes of membership. Mr. Winderman agreed to give control to the owners stating he would amend the documents tomorrow, provided that they do not run up the fees. Discussion took place regarding the transition of the project and putting a board in place.

A question took place regarding the budget and any excess funds at year end and a lengthy discussion ensued.

It was noted that the entrance needed some additional illumination.

Discussion took place regarding an updated owners list and the possibility of a newsletter. Mrs. Watts noted that a social committee would be great for submitting information for a news letter and organizing social events among the membership.

The statement was made that a reserve account is very important.

There being not further discussion the meeting was adjourned at 4:30 pm.

seeded, however something needed to be done with regard to the grading. Mr. Winderman noted water drains down hill and he can not do any thing in the wetlands area, however he would address the drainage problems at Rivergate. He further noted that this area has occasional rain storms that are so heavy at times the water can not drain off quick enough, because the water tables in the area are high.

An owner commented, on behalf of the owners she is delighted that Atalaya is at Rivergate and for those that do not know they should know that the management company is at Rivergate by court order due to action by a group of ten owners that took over a year's time and much personal expense of those owners. This was done because they were not getting things that were promised. The question was also posed regarding when the pool would be put in. Mrs. Watts replied proposals were being obtained for the pool.

Another owner noted that people have a habit of parking on the grass which breaks sprinkler heads. It was noted that some rules and regulations needed to be presented and enforced. It was further noted that the worker should not block driveways.

An owner asked about sod beside the clubhouse. Mr. Winderman noted that the area would be seeded.

It was also noted that the clubhouse needed gutters. Mr. Winderman stated that he was looking into that.

An owner asked for a time frame on the pool. Mr. Winderman stated he was working diligently and quickly on that. He also noted an increase in fees to take care of the pool.

An owner noted waiting on the pool and amenities for three years and paying one quarter percent increased interest rate due to the amenities not being completed.

The question was posed about the cost of a pool whereby it was noted that the stated the cost of labor alone would be three to five hundred dollars a week plus chemicals and maintenance/repair needs. Mr. Winderman stated that he was talking with the attorneys about the use of the pool being optional by membership.

An owner noted that the back entrance should be used by the construction crews rather than the front entrance.

Mr. Winderman noted that he had allocated the costs differently than the norm and documents; for example the cable is the same for all units, however, the landscaping is not and other expenses should be based on statutory value. Therefore an adjustment will be made in the budget based on statutory values.

A question was posed regarding the irrigation of the grounds. Mr. Farmer noted that the irrigation is on and run at four am on Monday, Wednesday and Friday.

A question was posed regarding the insurance. It was noted that the values were raised ten percent and the deductibles would remain the same.

An owner posed the question about cleaning the gutters, referencing a letter from Mr. Winderman stating that gutter cleaning was not a budgeted item. She further noted that the letter stated that only those owners along the golf course would need this service. It

File: Rivergate
Origin: Jim Dunn
0743

RIVERGATE HOMEOWNERS ASSOCIATION, INC.

2004 ANNUAL MEMBERS' MEETING

MARCH 8, 2004

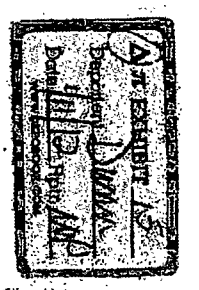
Mr. Winderman opened the meeting at 3:00 pm, welcoming those present. Mr. Winderman stated that an account of the Association finances for 2003 was handed out and it included all entries for the year. He encouraged all owners to look at the information stating that most all homeowners were up to date on their fees noting the information includes all entries and checks received for fees and insurance. He stated that if any one did not agree with something he would be happy to answer any questions that it is likely that from time to time a mistake could be made.

Mr. Winderman noted advancements at Rivergate and that the sales were good and the values were up.

Mr. Winderman stated that he recognized not being here all of the time and with the Association large enough professional management was needed and hired Atalaya Property Management. Mr. Winderman noted that he and Donna were very comfortable with the new company, having checked it out carefully, also noting Donna having previous knowledge of Lisa Watts on another project. Mr. Winderman introduced Lisa Watts of Atalaya. He also noted a new landscaper, a decrease in insurance and a decrease in the monthly fees. He stated his goal was to work hard and continue to improve the project that it should be built out in the next eighteen months.

At this time Mr. Winderman turned the floor over to Mrs. Watts whereby she introduced herself and Mrs. Terri Parker, financial assistant. Mrs. Watts noted that as part of its management strategy they would like for Rivergate to be an enjoyable and worry free environment for its owners. She also provided information on contacting the Management Company for general questions and also for emergencies.

Mrs. Watts introduced Chris Farmer with Plantation Landscapes and asked him to address the membership regarding his plan for Rivergate. Mr. Farmer stated that he has begun work to get some things in need under control, noting the drainage around some buildings and beginning to put out fresh pine straw. He further noted he has started, but not yet completed a check of the irrigation system and that any owner noting a leak or missing head could contact management to point out these areas. Mr. Farmer noted replenishing the pine straw and issues regarding pine straw versus red mulch. Mr. Farmer noted he would cut the grass, edge and blow once a week. He noted the crepe myrtles were trimmed and some of the new plants needed to grow before pruning. In reply to a question posed, Mr. Farmer stated that a plant replacement would need to be implemented for original plants that have died. One owner asked if red mulch could be substituted once a year for the twice a year refurbishing of pine straw. Discussion among the membership took place with regard to mulch versus pine straw and the pros and cons of each were noted. It was noted that some owners wanted mulch. A decision was made to follow the current pattern and utilize mulch and pine straw of individual owner choice. It was noted that dollar weed is prevalent along Baker Street and needs to be treated. It was further noted that the seeding along Baker Street was not competed. Mr. Winderman noted that the company that hydro seeded guarantees their work for one year and would address that problem. It was also noted that the ditch by the golf course was



File: Rivergate
Origin: Jim Dunn
0742

EXHIBIT 16
Deponent Dunn
Date 1/11/12 Rptr
www.depopool.com

RIVERGATE NEWSLETTER
OCTOBER 2007

HOA MEETING REMINDER!!!

HOORAY! HOORAY!!

WE ARE HAVING OUR FIRST VERY OWN BOARD ELECTON 2 PM, THURSDAY, NOV. 1, AT BOULINEAUS. (NOT AT THE CHURCH)
WE NEED YOU THERE FOR A QUORUM. ATALAYA (LISA) WILL BE THERE TO HANDLE THE TRANSITION. ALSO, PLEASE SEND IN YOUR PROXY, EVEN IF YOU ARE ATTENDING THE MEETING. (JUST IN CASE YOU DON'T MAKE IT.)

IMMEDIATELY AFTER THE ELECTION ATTORNEY STACY STANLEY WILL CONDUCT ANOTHER MEETING TO BRING US UP TO DATE ON THE PROGRESS WITH OUR LAW SUIT AGAINST THE DEVELOPER. THIS MEETING IS ONLY FOR THE PARTICIPANTS OF THE CLASS ACTION SUIT, BUT THERE IS STILL TIME FOR YOU TO COME ABOARD. IF YOU ARE ONE OF THE 18 UNITS WHO HAVE NOT JOINED IN WITH US AND WOULD LIKE TO BE A PART OF THIS PLEASE CALL STANLEY LAW FIRM TO ENROLL. FROM THE 80 UNITS OF RIVERGATE ONLY 18 HAVE NOT JOINED US.

WE WILL BE USING THE CLUBHOUSE FOR ANNOUNCEMENTS, COMMITTEES, ETC, AND THE "SECRET CODE" FOR THE DOOR WILL BE GIVEN TO YOU AT THE MEETING., RATHER PRINTING IT IN THIS NEWSLETTER.

NEWSLETTER EMAIL ADDRESS – RIVERGATELR@JUNO.COM (small case please)

PLEASE ATTEND THE MEETING----WE NEED YOU!!

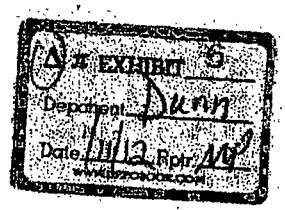
File: Rivergate
Origin: Jim Dunn
0501

Response to my letter & lists:

Wayne came to my house within the week during his "quarterly visit".

Within 3 minutes, he had ridiculed everything thus far shown to him. I told him that this meeting was going exactly as I expected. He headed for the door, stating that "we were all crazy and that he was done with me....Just do what you have to do" he yelled from the street when I told him that I wasn't done with him.

I then called the Horry County Code Enforcement Office. Fortunately, most of my complaints were code violations and he was given 10 days to repair. He was furious! He tried to the very end to resist but things were done on the last day.



Rev. date:

Outline directions to site of property involving dispute. Directions should be to a specific reference point in your area to allow the investigator to proceed directly to the location. Attach a map or on the back of this page, draw a sketch using highway and road numbers, names and other landmarks.

Traveling north from N. Myrtle Beach on Hwy 17 Bus Rivergate is on the north side of Eastport golf course. Before you get to Bolger St. in Little River SC

9/19/2005
Date

(Jim) James K. Dunn
Complainant Signature

Sworn to before me this 19 day of September, 2005

Notary Public
State of South Carolina

My Commission expires: My Commission Expires May 18, 2014

Elizabeth Ann Ayers

Return completed form to:
SC Department of Labor, Licensing and Regulation
Office of Investigation and Enforcement
Post Office Box 11329
Columbia, South Carolina 29211-1329
Telephone: (803) 896-4470
Fax: (803) 896-4656

C. Have you hired an attorney to assist you in this matter? Yes ☐ No ☒
If answer is yes, please provide name and address.

Name of Attorney _____ Name of Firm _____

Mail Address _____ City _____ State _____ Zip Code _____

Phone: ( ) _____

D. Explain your complaint specifically. List items needing correction. Describe events in the order in which they occurred. Attach additional sheets if necessary.

See attached memo and photo at various issues

#1 Rivergate At the Home Owner Committee Up Date
6 pages.

#2 Rivergate At the Home owner Committee Landscaping Update
1 Page

#3 Little River Water & Sewerage
1, page

#4 John Beaver, Horry County Attorney
1, page

Nine pages of photography, Wachesaw Landing parking, standing water, Stolen Water, erosion,

Wayne Winkerman, manager & Developer is the only member of HOA. Does not enforce Bylaw, Does not manage or take care of issues or complaints.

#5 10/6/05 The following have reported leaks in garage #4321, 4229, 4289, 4297 and 4261 also is leaking in front bedroom

II. Additional Information Regarding Dispute Resolution

A. Does your contract contain an arbitration clause? Yes ☐ No ☐ unknown
B. Have you and Licensee/Respondent begun arbitration concerning this construction? Yes ☐ No ☒
C. Have you begun a civil action concerning the items in Your complaint? Yes ☐ No ☒

File: Rivergate
Origin: Jim Dunn
0097

EXHIBIT 2
Deponent Dunn
Date 11/12 Rptr UP

DIVISION OF LEGAL SERVICES
OFFICE OF INVESTIGATION AND ENFORCEMENT

COMPLAINT FORM

For Consumer Complaints Against:
Residential Builders, Residential Specialty Contractors and Home Inspectors

Please complete and return to this office for review in order to determine if this complaint falls within the scope of the statutory authority of the Residential Builders Commission. Please answer all questions so that your complaint can be processed as soon as possible. Failure to answer all questions could result in delays in processing and/or request for additional information. You will be notified of receipt of your complaint and how it will be handled.

Your Name: (Complainant)
Dunn James K.
Chairman of Water Hoa
Last First M.

4375 Rivergate Lane
Mailing Address

Little River SC 29566
City State Zip Code County

843 663-4225 / 843 424-2965 cell
Home Phone Day Time Phone

Same

Address of Property Involving Dispute

Complaint Against: (Licensee/Respondent)
Winberman, Wayne
Last First M.

Lbla LLC Development
Company Name

619 Clarendon Court
Mailing Address

Yardley PA 19067
City State Zip Code

(215) 321-0114 —
Day Time Phone License #

I. Facts Regarding Your Complaint:

A. About your agreement:
(1) Did you enter into: written contract ☒ verbal agreement ☐
(2) Is a copy of your contract attached to this complaint? Yes ☐ No ☒
(3) Total cost for work to be performed: $ Unknown

B. Work performed for: New Construction ☒ Repair/Remodeling ☐ Home Inspection ☐
(1) Is a copy of your building permit attached (if applicable)? Yes ☐ No ☒
(2) If new construction, has Certificate of Occupancy been issued? Yes ☒ No ☐
(3) What is approximate age of the home? 1 year
(4) If repairs or remodeling, date work started _____ date work completed _____

Rev. date:

File: Rivergate
Origin: Jim Dunn
0098

grading.

Q. Okay. Do you know -- has anybody told you of any defect or deficiency in the plans that AB Consulting Engineers supplied?

A. Do I know of any defect or deficiency in what they supplied? 05:25PM

Q. Yes.

A. No.

Q. Do you know whether the contractor followed the plans that AB Consulting prepared? 05:26PM

A. Do I know if they followed the plans?

Q. Yes.

A. Yes, I know they did not follow the plans.

Q. And how do you know that?

A. Because the houses aren't per the plans. 05:26PM

Q. Okay.

A. And I'm talking about the buildings and all. I'm not talking about the sewer lines or anything --

Q. Okay.

A. -- which created a lot of the problems.

Q. You attended, I think, the deposition of Mr. Bellamy?

A. Yes.

Q. Did you talk with Luther Bellamy when you 05:26PM

occurred, Mr. Dunn?

A. No.

Q. You said it was while Mr. Winderman was still --

A. He was still -- 05:24PM

Q. -- on the board?

A. Yes.

Q. So prior to November of '07?

A. So it was sometime during the *ad hoc* committee. 05:24PM

Q. Okay.

A. I think she lives at 25D, but I'm not -- I know it's facing down.

Q. Okay. Do you know, Mr. Dunn, whether the grading that occurred on the project was graded in 05:25PM accordance with the plans and specifications?

A. Do I know that?

Q. Yes.

A. No, I don't know that, but I wouldn't think so. 05:25PM

Q. Have you ever asked or been told by anybody that what's graded out there is not what was on the plans prepared by my client, AB Consulting Engineers?

A. I don't know what the plans were for 05:25PM

It should have been an HOA covered thing. But Wayne was in charge of the HOA. And she wasn't going to put up or wait on him to fix it, or even take the time.

Q. Do you remember which Gina it is -- 05:23PM

A. She still lives there.

Q. -- or where she lives?

A. It's up to closer to the top of the street.

Q. I'm not sure where Exhibit 13 is. It's not going to be over there, I don't think. 05:23PM

A. Yes, it is.

Q. Oh, it is?

A. This is a reverse random filing. I'm not going to remember where it is. But there's a list of homeowners somewhere in here that has all of 05:23PM them. You've got them by unit number, by name and everything --

Q. Okay.

A. -- backwards, forwards. So when they call and say 14D, who is 14D? Or they say, you know, 05:24PM 4325, who's 4325? Or they say their last name, then you got it.

Q. But it's a Gina who had this problem?

A. It might be 25D.

Q. Do you remember about when this problem 05:24PM

A. I'm aware of sewerage water systems but not drinking water. I don't know of any problems with the water supply.

Q. Okay. Let's talk about the sewer that was installed. And you have those as-built sewer drawings that we looked at at the very, very beginning. 05:21PM

Are you aware of any problems of the operation of the sewer system?

A. Yes. 05:22PM

Q. Okay. What are the problems you're aware of?

A. One is it -- one of the Ginas. And that might have been her water supply, not the sewer, come to think of it. But it broke the pipes, ground settling, maybe due to compaction or compacting of soil or the lack of compaction. 05:22PM

But she paid out of her own pocket, and I encouraged her to give the bill and the information to Stacy. And I don't think that she did. And I followed up with her to see if she did. And she more or less said, no, if I remember correctly. 05:22PM

But she had an emergency problem with water. And now that I think, I think it was the water supply. But it was on the outside of the house. 05:23PM

ad hoc committee for homeowners to provide information about their problems?

A. Yes.

Q. Okay. Would you have gotten this information from the Hortons sometime in 2005 so it could be added to compilation of homeowners' issues? 05:20PM

A. Yes.

Q. All right. We have talked, you and I, at some length about drainage problems? 05:20PM

A. At some length.

Q. Are you aware of any drainage problems, other than the ones we have discussed already today, out at Rivergate?

A. We have -- no. 05:20PM

Q. Okay. Are you aware of any erosion problems that we have not already discussed today, out at Rivergate?

A. No.

Q. Okay. Are you aware of any problems with the water system that was installed at Rivergate? 05:21PM

A. What water system?

Q. The water.

A. Drinking water system?

Q. Yes, sir. 05:21PM

(DFT. EXH. 41, Handwritten Notes by James Dunn, was marked for identification.)

BY MS. BURTON:

Q. Let me hand you Number 41, which is Bates numbered 1023. 05:11PM

A. This is some of my writing and notes.

Q. Okay. Well, good, you can identify it. You prepared these notes?

A. I can recognize my scribbling. 05:11PM

Q. This is your document?

A. Yes.

Q. What was the purpose of this list?

A. To address these issues, that I don't forget about them. 05:11PM

Q. Okay. When did you prepare the list?

A. Someday. Before -- probably during the *ad hoc* committee's life.

Q. So somewhere between 2005 and 2007?

A. Yes, but probably closer to 2005 because of what the issues are. 05:12PM

Q. Okay. So some of the listed issues makes you think it would have been early in the life of the *ad hoc* committee?

A. Right. 05:12PM

A. Yes.
Q. Okay. Including --
A. It also says that 74 residents met out of the 80.
Q. Okay. So almost everybody went to the meeting? 05:01PM
A. Almost unanimous, except for Donna and a couple buddies.
Q. Okay. And in the newsletter, there is a discussion about various drainage items that y'all had talked about in the November meeting; is that right? 05:02PM
A. Yes.
Q. Okay. Is it fair to say, Mr. Dunn, that by November of 2006, most everybody who lived out at Rivergate had heard about the drainage problems out in Rivergate? 05:02PM
A. Had heard about? Yes.
Q. Okay. Well, we know that 74 of them heard about the stuff discussed in the homeowners meeting in November, don't we? 05:02PM
A. Right.
Q. And the few that didn't go to that got a newsletter where it was discussed yet again, didn't they? 05:02PM

numbered 557 through 560.

Is this a newsletter that was distributed to the homeowners at Rivergate in November of '06?

A. It was not a newsletter I distributed, no. I never wrote newsletters. 05:00PM

Q. I didn't ask if you distributed it. Was it distributed to homeowners in Rivergate?

A. Yes.

Q. Who prepared the newsletter?

A. Probably Sylvia Lindsay. Yep. "Committees please contact me at SylviaLindsay@juno.com [sic]. 05:00PM

Q. Okay. And you would have gotten a copy as a member of *ad hoc* committee and a homeowner, I take it?

A. I would have gotten it as member of the -- homeowner, yes. 05:01PM

Q. Okay. And, in fact, in the very first part of the newsletter, it talks about the meeting that we just talked about in November of 2006.

A. Okay. 05:01PM

Q. Is that right?

A. Yes.

Q. Okay. And in the newsletter, there's a report of the various things that were discussed in that November 2006 meeting. 05:01PM

much water in them that no more water can go down because the pipe is not big enough to handle it.

Q. Okay. So have you seen water backed up next to the catch basin?

A. Yes. 04:59PM

Q. Okay. And then you pointed to your --

A. I've seen the catch basin covered with water.

Q. Under water?

A. Under water. 04:59PM

Q. Okay. On your street --

A. On my street, I have physically seen that.

Q. Okay. Slow down for me; let he finish my question.

On Street H, you have seen water over top your catch basin? 04:59PM

A. Yes.

Q. And the catch basin is actually under water?

A. Yes.

(DFT. EXH. 37, November 2006 Rivergate Newsletter, was marked for identification.)

BY MS. BURTON:

Q. Let me hand you a document I've marked as Exhibit Number 37, Mr. Dunn, which is Bates 05:00PM

there.

And I can remember a comment -- I wish I could remember -- of the water being up above the tires on her car in the driveway.

Q. You pointed to Streetlet F? 04:58PM

A. I think it's this one (indicating).

Q. G?

A. G.

Q. Okay. On street --

A. No, no. We are looking at the -- I think it's here (indicating). 04:58PM

Q. F?

A. Yes, I think.

Q. Okay. On Streetlet F, is there a catch basin at the end of the street? 04:58PM

A. Yes.

Q. I'm talking about a square box --

A. Yes.

Q. -- where water can go into a catch basin?

A. Yes. 04:59PM

Q. Have you seen water backing up out of the catch basin, or it's just not getting to the catch basin?

A. I don't recall any of it backing up. But I can imagine they're all connected, so there's so 04:59PM

A. I don't think -- it just goes right on down, yes.

Q. Have you ever observed a condition where water was backing up out of any of the storm water catch basin boxes? 04:57PM

A. Yes.

Q. You have seen that condition?

A. Yes.

Q. Where have you observed that condition?

A. At the end of streetlets. 04:57PM

Q. At the end of every streetlet?

A. No, I didn't say "every." I couldn't see them all, but I could see down my streetlet and see it backed up.

Q. So down H? 04:57PM

A. Down H. And here (indicating). I think this is where -- I can't remember her name -- of them talking about water actually standing in the streetlet, and I mentioned earlier about actually sandbagging their doors because there was no place, 04:57PM the water was not going down the drain. It was backing up in the streets, into the garages. Because the garage on the lower side, the driveway is level with the street, in some cases slightly below on the lower side, so the water would go 04:58PM

issues?

A. Yes.

Q. The next paragraph talks about John Riley.

A. Uh-huh.

Q. And it says, after several periods, "The last heavy rain you could see the water just flowing down Rivergate and he sent a letter to Horry County about this, the water doesn't go into any of the drains due to the grade being above street level and it settles down at the bottom." 04:55PM 04:56PM

Do you see that?

A. Yes.

Q. Do you know what that refers to?

A. Not specifically, but I can imagine.

Q. What do you imagine it refers to then? 04:56PM

A. That the drains are up in the curbs; and when the water goes down the street, the streets aren't crowned, to force the water to go to the drains.

Q. Okay. So there's some curb inlets; is that right? 04:56PM

A. Not on the streetlets, but there's curb on Rivergate Lane proper.

Q. Okay. And the water doesn't get to the inlets because the street is not sloped properly? 04:56PM

Q. And are we talking about behind 43- --
A. Yes, absolutely.
Q. If you'll just let me finish --
A. I don't recall saying that, but they do need to be built and they were built. 04:54PM
Q. Okay. Behind 4343 --
A. All the way across, as far as I know.
Q. Okay. So you thought they needed to be built back in '06, and they have been built since then? 04:55PM
A. Yes, and paid for by the homeowners association, not by Wayne Winderman or the developer or whomever else.
Q. Okay. The next paragraph says, "Ultimately, we should hire an attorney; unfortunately, they cost money, but with this many people, it won't cost that much; but we need to get this on record legally that these streets are this way, we have this storm drainage problem, and any other big item that's going to cost a lot of money, because if you don't do it, it will reach a fiasco." 04:55PM 04:55PM
Do you see that?
A. Yes.
Q. Did y'all discuss the need to hire an attorney because of the street and storm drainage 04:55PM

streetlets, because the drains into the streetlets aren't sufficient to carry off the water.

Q. Where do the Mulherns live?

A. Oh, I didn't realize that's what you were looking for (indicating). 04:53PM

Q. So they live on 4343 on Streetlet I?

A. Yes, 12A.

Q. And they were getting -- as you understood it, they had flooding and washout where Baker Street intersects Streetlet I? 04:54PM

A. Uh-huh.

Q. Is that correct?

A. Yes.

Q. They brought this up in the 2006 meeting?

A. Yes. 04:54PM

Q. Okay. The next paragraph, which is a single sentence says, "Jim said retaining walls need to be built."

A. Yes.

Q. Did you say that? 04:54PM

A. It's written there. I can't deny that I didn't say it, I don't recall.

Q. Okay. Do you recall being of the opinion that retaining walls needed to be built somewhere?

A. Yes. 04:54PM

homeowners meeting?

A. Yes.

Q. All right. Turn over to the next page, please, of Exhibit Number 36. At the very top, Mr. Dunn, it says that, "Jeri and Jim Mulhern have similar issue with flooding and washout at their corner at Baker Street." 04:52PM

A. Yes.

Q. "At one time in the spring after very heavy rain the water was up to the sidewalk." 04:53PM

A. Yes.

Q. Do you know what the Mulherns were complaining about at the homeowners meeting in 2006?

A. Yes. 04:53PM

Q. What was it?

A. There was no place for the water to go, and it just stands in the street. That was a common problem on the streetlets. Their house was the one that had a lot of the photographs of where they were building and constructing and I had pictures of the debris. 04:53PM

Q. I'm trying to find our map, I apologize.

A. I've seen water. Of course, people were almost ready to sandbag their front door on the 04:53PM

A. The last paragraph, yes. "...deal with Wayne and believe what he says, he's got news for them!" -- meaning he's got news for the person that believes Wayne. "He got into a fight for two" -- probably a word discussion, not a fight -- 04:51PM
"...middle of street... has cave-ins on the side of his property..."

So what's your question?

Q. Okay. My question is, Mr. Bucks apparently says at the meeting that he has cave-ins on the 04:52PM
side of his property.

A. (Moves head up and down.)

Q. Do you know what he's talking about?

A. (Moves head up and down.)

Q. What is it? 04:52PM

A. Water coming off the roof, washing it away.

Q. Coming off the roof and washing the soil away from the --

A. The soil, yes.

Q. Did you see that condition at Mr. Bucks' 04:52PM
home?

A. I have seen what he's talking about. That's referring to his air-conditioner. It might be one of the photographs of an air-conditioner.

Q. Okay. So he brought that up in this 04:52PM

meeting.

A. Oh, no way.

Q. Okay. Did Donna Dawson attend the meeting?

A. I don't recall, but she might have.

Q. Okay. During the meeting, were the various concerns that we've talked about before discussed in the meeting? 04:48PM

A. Ask that again.

Q. Okay. That probably wasn't a very good question. 04:48PM

You and I have talked about a variety of issues that homeowners had, particularly related to drainage.

A. Yes.

Q. Were those discussed in the meeting? 04:48PM

A. I would imagine some.

Q. On the first page, the page numbered 1365, in the second paragraph, it says that "Jim Dunn told everyone that he and the *ad hoc* committee has done a lot of work in the community" -- and then it lists the things -- "the yellow lines were eliminated." 04:48PM

And the one I want to ask you about is, "Sewer lines were put in the ground where they belong." What does that mean? 04:49PM

anything.

(DFT. EXH. 36, 11/4/06 Minutes of Rivergate Homeowners Meeting, was marked for identification.)

BY MS. BURTON: 04:46PM

Q. Let me hand you a document I've marked as Exhibit 36, Mr. Dunn. And it's Bates numbered 1365 through 1368.

A. Is this the meeting from -- we knew the date. We did keep minutes. 04:47PM

Q. So the agenda that we looked at before was for this '06 meeting; is that right?

A. Yes. It states it on...

Q. And you attended and participated in this meeting? 04:47PM

A. Yes.

Q. And all of the homeowners would have been invited?

A. Absolutely, yes.

Q. Okay.

A. And most showed that were, you know, local. We tried to have it -- this was probably on a Saturday, so that people out of town could come and give them plenty of notice so they could get there.

Q. Okay. Did Mr. Winderman attend this 04:47PM

A. Do I see what?
Q. That there are certain people assigned to present --
A. Yes, okay.
Q. And I assume you got Number 4, Purpose of the Meeting. Do you see that? 04:41PM
A. Yes.
Q. And it looks like you and Marge got Report of LLR visits?
A. Yes. 04:41PM
Q. And then other things were assigned to other speakers.
A. Yes.
Q. Would that have been the November 4, 2006 meeting? 04:41PM
A. Could have been.
Q. Okay. Let me ask you this. After the reports were mailed in to LLR in late 2005, early 2006, did LLR conduct any investigation?
A. Any invest- -- no. 04:41PM
Q. Did they come out to Rivergate?
A. They was out there two times.
Q. Twice?
A. Andrew, I'm pretty sure, two times, Andrew Dempsey. He was assigned to us from LLR in 04:42PM

A. Yes.
Q. And you maintained them in your files?
A. Yes.
Q. And produced them to us in this lawsuit?
A. Yes. 04:30PM
Q. Thank you.
MR. STANLEY: Let's just take five minutes if you don't mind and we'll continue on.
(A recess transpired from 4:30 p.m. through 4:40 p.m.) 04:30PM
(DFT. EXH. 35, 11/4 HOA Agenda, was marked for identification.)
BY MS. BURTON:
Q. Mr. Dunn, let me handed you a document I've marked as Exhibit 35 to your deposition, which is Bates numbered Page 12. Can you tell me what that document is, please, sir? 04:40PM
A. It is -- we had a -- well, it was an HOA meeting November 4th. It doesn't say what year. That's bad. 04:40PM
Q. Do you know who prepared this agenda?
A. No.
Q. It assigns certain topics to people, it looks like to me, to talk about. Do you see that? 04:40PM

Mr. Winderman, to LLR, to Right Way?
A. And to Donna.
Q. And to Ms. Dawson; is that right?
A. Correct.
Q. Okay. 04:29PM
A. Just trying to get it fixed.
Q. Okay.
A. Whatever it takes.
Q. All right.
A. I don't remember this form, though. But I 04:29PM
filled out one.
Q. Okay. You just don't know who made the form up?
A. Yes, I don't know.
Q. Okay. 04:29PM
A. And there's no attachments to any of them. Well, there is to some.
Q. I think Mr. Riley has a punch list attached to his.
A. Yeah, Ray Bucks has something, but anyway... 04:29PM
Q. In any event, the homeowners provided you with a copy of the their complaints --
A. Yes.
Q. -- to Right Way Group. That's accurate, isn't it? 04:29PM

A. I really don't remember.

Q. Okay. But in any event, the *ad hoc* committee, in 2005, did encourage homeowners to send complaints also to Right Way Group?

A. (Moves head up and down.) 04:28PM

Q. Is that accurate?

A. Yes.

Q. And you have some of those complaints in your file, which I've marked as Exhibit 34. Did you just get a copy of these, or did you also 04:28PM assist those homeowners by mailing them to Right Way Group?

A. I don't remember that, either.

Q. Okay. Do you know how you got a copy of the forms? 04:28PM

A. No, I don't know.

Q. Okay. Would it be fair to say that the complaints folks made to the Right Way Group are the same sort of complaints that you and I have discussed at great length that had been made to the 04:28PM *ad hoc* committee, had been made to LLR and now are being made to Right Way Group?

A. Before, after or during, yes.

Q. Okay. But you were expecting the same sort of complaints to be made to various people: To 04:29PM

MS. BURTON: Mr. Stanley, I will tell you, like the other exhibit, what you have includes more than just the Dunn documents. What I've marked is just the documents that bear his Bates number. 04:26PM

MR. STANLEY: Okay.

MS. BURTON: And these are -- I can't promise every number, I think they start at 152, and it's the complaints to Right Way Group that Mr. Dunn had in his file. 04:26PM

(Off-the-record conference.)

BY MS. BURTON:

Q. Mr. Dunn, I think you testified earlier that not only did you encourage folks to file a complaint with LLR, but you also encouraged them to complain to Right Way Group, Inc.; is that true? 04:27PM

A. Yes.

Q. And there's a form, if you look at the first page of Exhibit 34, that's filled, at least in the first instance by Mr. Riley, in December of 2005 -- 04:27PM

A. Yes.

Q. -- is that a form that you created?

A. I don't remember.

Q. Do you know who created the form to give to the homeowners to send to Right Way? 04:27PM

part, talked about Karen Travis having problems with her driveway.

A. She probably called on the phone, and my wife talked with her, is how that happened.

Q. Oh, and then your wife took notes? 04:25PM

A. And there's Eileen Grossman, who was the tenant who rented from Karen Travis.

Q. Okay.

A. Here she talks about where she wants to tear it up and cut her expense to keep her tenant and 04:25PM eliminate chronic injury or a lawsuit. It talks about Karen wanting to tear up her steep driveway and pay for it out of her own money or at her expense, to keep her tenant happy and eliminate an injury or a lawsuit to her. 04:26PM

Q. Okay.

A. Which is in the complaint.

Q. The driveway was in the complaint?

A. The driveway, yes.

(DFT. EXH. 34, Various Letters to Right Way Group, Inc., was marked for identification.)

BY MS. BURTON:

Q. Let me hand you some documents I've marked as Exhibit 34. 04:26PM

A. Yes.
Q. Can you tell me where it is, please?
A. It's behind 4308. They live on the golf course, on the upper end up there.
Q. Okay. So it's the river? 04:24PM
A. It's the river.
Q. Okay. Did you respond in any way to this e-mail letter from the Rileys?
A. Probably not, no.
Q. So you would have just taken it in as 04:24PM information?
A. Yes.
Q. Did you pass it along to anybody else?
A. It's compiled in the list of issues to Winderman. 04:24PM
Q. Okay. Well, previously it had been in that list, hadn't it?
A. If it wasn't put in there because we had it here, it was put in there because they included it in their LLR or in their complaints when I asked 04:25PM for the complaints.
Q. Okay. There's handwritten notes on this exhibit. Can you tell me who wrote those?
A. Those are my wife's notes.
Q. Okay. And she talks about, in the bottom 04:25PM

A. I almost received none by e-mail. They went to Margaret Horan --

Q. Okay.

A. -- or they were written and hand-delivered.

Q. Okay. But if you did get something by e-mail, which we can see from this document -- 04:23PM

A. In this case, yes.

Q. -- then you would print it out --

A. You now have a copy of it and it goes in the file. 04:23PM

Q. But you have not gone back through your e-mail accounts to make sure that everything was printed out?

A. No.

Q. All right. In this document, Mr. Dunn, the Rileys talk about some issues during a rainstorm in October of 2005? 04:23PM

A. Yes.

Q. And they talk about a "drainage trench in the rear of our property that has serious erosion problems." 04:24PM

A. Uh-huh.

Q. Do you know the location that these folks are complaining about, having an erosion problem in 2005? 04:24PM

Q. And you've produced them to us, and they've got your name and Bates number on them; is that true?

A. Yes.

Q. And at the time they brought them to you, did you review the types of things they were complaining about, did you look at their form, or you just kept a copy? 04:21PM

A. I probably just made copies.

Q. Okay. 04:21PM

A. I might have looked at some, but probably more to make sure that they were filled out, that LLR would accept them.

Q. Okay.

A. But I just made copies for backup. 04:21PM

Q. So you would keep a copy?

A. Yes.

(DFT. EXH. 33, 10/10/05 E-mail from John and Cathy Riley, was marked for identification.) 04:21PM

BY MS. BURTON:

Q. Okay. Mr. Dunn, let me hand you a document I've marked as Exhibit 33. Is Exhibit 33 a letter you received from John and Cathy Riley?

A. Yes. 04:22PM

H. Medlin?

A. Edie.

Q. Edie? I thought it was Eddie.

A. Well, she's really Edie.

Q. It's a guy, isn't it? 04:16PM

A. I'm sorry, yes, this is Eddie Medlin. I'm thinking of somebody else, sorry.

Q. That's okay.

Did you encourage Eddie and Julee Medlin to file a complaint with LLR? 04:17PM

A. Eddie was on the *ad hoc* committee, but yes.

Q. Okay. Next one in our stack is prepared by Joan Swallow?

A. Yes.

Q. And is she somebody that you encouraged to file a complaint with LLR? 04:17PM

A. Yes.

Q. Now --

A. To save time, I encouraged all these people, anybody. 04:17PM

Q. Now, you mentioned earlier there were documents you hadn't seen before. And you looked at that carpet invoice, but I think if you look at Ms. Swallow's complaint on the second page, her complaint appears to relate to carpet, and she want 04:17PM

MS. BURTON: Well, they are not in order, so we can go through them. I mean, if they're in chronological order in the exhibit, but that doesn't mean --

COURT REPORTER: Are we on the record? 04:10PM

MR. STANLEY: No, not on the record.

(Off-the-record conference.)

BY MS. BURTON:

Q. I gather, because you produced a number of LLR complaints in the documents, that some of the 04:11PM homeowners provided you with a copy of what they had sent?

A. Actually, after they got them, I asked them to bring them to me, and I would make copies for them and a copy for myself, and I would mail their 04:11PM LLR form.

Q. Do you think that you kept a copy of every LLR complaint made by a Rivergate homeowner?

A. Of those who turned them in to me. I don't recall some of these I was looking through. Some 04:12PM of these were done prior to, or there's other information with them. Now, you know, this might have all been in one folder of complaints.

Q. Okay.

A. And so that's -- it might make it look like 04:12PM

Q. And you strongly encouraged them to do it?
A. To get it documented, yes.
Q. Okay. Did you obtain the form to do that and provide it to the homeowners?
A. Yes, this form (indicating), yes. 04:08PM
Q. Okay. So you got the form, you encouraged people to file a complaint, gave them the form if they needed it; is that right?
A. Yes.
Q. And if they had questions about how to fill out the form, you tried to provide answers to that, too; is that right? 04:08PM
A. Tried to help them, yes. But I could not fill out the form, and I could not write the complaints, but I would try to help them. 04:08PM
MR. STANLEY: Stephanie?
MS BURTON: Yes.
MR. STANLEY: Some attorneys are asking, this is not part of Mr. Dunn's documents, correct? 04:08PM
MS. BURTON: Yes, it is.
MR. STANLEY: This is?
MS. BURTON: Yours is --
THE DEPONENT: These are copies of --
MS. BURTON: I took out -- Stacy, just 04:09PM

A. No.
Q. And construction started back up?
A. Yes.
Q. Okay.
(DFT. EXH. 32, LLR Complaint Form and Additional Documents, was marked for identification.) 04:07PM
BY MS. BURTON:
Q. Let me hand you a stack of documents I've marked as Exhibit Number 32. 04:07PM
MS. BURTON: And, Stacy, there's more in there than -- I pulled out everything that wasn't produced just by him, although I had everything in there, just so you know why yours is bigger. 04:07PM
BY MS. BURTON:
Q. And let me ask you this, Mr. Dunn. After the *ad hoc* committee was formed --
A. Yes.
Q. -- did it encourage the homeowners, if they had concerns, to file a complaint with South Carolina LLR? 04:08PM
A. Did I encourage them to do that?
Q. Yes.
A. Yes, ma'am, strongly. 04:08PM

A. Right.

Q. Okay. Was it presented to Mr. Winderman sometime in 2005?

A. Yes, I would say immediately. There's some Certified letters and all were -- either this is one he didn't sign for, or if he did -- no, he got this one. I don't know whether we had Donna fax it to him, and he was to come down and go over the issues. 03:55PM

And I was at Code Enforcement when he called me and told me he didn't have time to be bothered by me. And after a few discussions, I said, "Well, I'm available anytime, I'm retired, I'm here. Whenever you can get to it." And he basically told me he didn't have time for me and hung up. 03:55PM 03:56PM

And we were sitting with three or four guys from Code Enforcement. And one of them is the supervisor or superintendent, and he said, "Well, he'll have time for me tomorrow."

Q. That he would? 03:56PM

A. Have time for him tomorrow. He said, "I'll see you at 8:00."

He came down, and we were going around to all of these places, looking at all of these items, and which ones were Code Enforcement issues. 03:56PM

Q. Maybe a subsequent draft?

A. I would say so, since she's got 5/27 on it and it says, "Updated 6/13." But this doesn't have a date on it, so...

Q. It just says, "Updated 6/13/05," right? 03:54PM

MS. BURTON: And I'm sorry you guys, but it's Bates Number 1066 through 1075.

BY MS. BURTON:

Q. And it has handwritten notes, "Presented to Wayne, no response, then given to County Code 03:54PM Enforcement. Most issues resolved through Code Enforcement."

Do you see that handwritten --

A. Yes.

Q. Who wrote that? 03:54PM

A. Looks like my wife's writing. I'm pretty sure.

Q. Was this document, Exhibit 30, actually presented in this format to Mr. Winderman?

A. No, not with editorial comments, no. 03:54PM

Q. Was the document presented to Mr. Winderman in this fashion without the editorial comments?

A. Yes.

Q. Okay. So these items were presented to him but the little notes to yourselves were not. 03:55PM

A. Yes.
Q. And the first one is a complaint about the driveway being too steep?
A. Yes.
Q. And the person having a fear of falling and getting out of the car. And that's in unit 4307. And then apparently 4033 can't use their driveway. 03:52PM
A. Right, yes.
Q. And then there's a discussion about sidewalks and references to the units who have problems with sidewalks. 03:53PM
A. Yes.
Q. Was that also compiled into the list and provided to Mr. Winderman as your problems?
A. Yes. 03:53PM
Q. All right.
(DFT. EXH. 30, 6/13/05 Updated Rivergate Homeowners' Issues, was marked for identification.)
BY MS. BURTON: 03:53PM
Q. Okay. Let me hand you a document I've marked as Exhibit 30. This looks to me to be very similar to the document that we looked at a moment ago.
A. Yes. 03:53PM

to address with Wayne Winderman and the various governmental officials?

A. I don't know.

Q. You don't know whether y'all compiled that into your list of issues? 03:46PM

A. If the issues were done after this, it probably was.

Q. Okay.

(DFT. EXH. 29, Rivergate Homeowners' Issues, was marked for identification.)

(Off-the-record conference.)

BY MS. BURTON:

Q. What is Exhibit Number 29, Mr. Dunn?

A. It's a list of everything, along with some editorial comments. 03:48PM

Q. Who prepared it?

A. Margaret Horan.

Q. What's the purpose of the document?

A. It's to get it all compiled together, everybody's complaints compiled together. 03:48PM

Q. Yes, sir.

A. And like I said, with some of her editorial comments.

Q. Okay. 03:48PM

Margaret Horan's handwriting.

Q. So you don't know?

A. I don't know who did that.

Q. All right.

A. But on the second page, it looks like my wife's handwriting, maybe. 03:45PM

Q. Okay. On the second page -- since you turned to that, I just wanted to ask you, Ms. Hutt told the *ad hoc* committee in June of 2005 that she had concerns about concrete work and the dirt preparation in about -- it's right here. I'll just point to it where it says, "This goes back to." 03:45PM

A. I guess, yeah.

Q. She complained about that.

In the next paragraph, she complained about her driveway being cracked. 03:45PM

A. Again.

Q. Right?

And in the next paragraph, she complains about the sidewalk in front of the clubhouse being cracked. 03:46PM

A. Correct.

Q. Is that correct?

A. (Moves head up and down.)

Q. And were those issues gathered up as issues 03:46PM

Q. Well, some of these other lawyers might care about some of the different items on the forms. I'm sure they can ask you about them if they do.

(DFT. EXH. 28, 6/5/05 Letter from Susann Hutt, was marked for identification.)

BY MS. BURTON:

Q. Let me hand you a document I've marked as Exhibit Number 28. This three-page document has handwritten notes at the top, Susann Hutt, June 5, 2005 on the very first page, the next page has Susann Hutt again. 03:43PM

A. Uh-huh.

Q. Was this document provided by Susann Hutt to the *ad hoc* committee to outline her thoughts about things that needed to be addressed? 03:44PM

A. That's what it says, yes, to the committee.

Q. Who wrote "Susann Hutt" at the top?

A. Who wrote?

Q. "Susann Hutt" at the top? 03:44PM

A. I would have to say -- well, some of it looks like my wife's handwriting, which is the bottom of the second page, but it doesn't look like hers with the name at the top, Susann Hutt, and the Page 1 of 2 and 2 of 2. And it doesn't look like 03:44PM

Q. Okay. So this is not a form that you believe was turned into the *ad hoc* committee?

A. No.

Q. Do you know how you got the form in your file? 03:42PM

A. No.

Q. She complains about curbing, and the street attached to her driveway needs to be repaired, that there's broken curb and potholes?

A. That's what it says. 03:42PM

Q. Do you recall that condition existing at Ms. Collins' home?

A. Yes.

Q. Was it repaired?

A. Not that I know of, no. 03:42PM

Q. Okay. So the condition she complained about in 2005 on this form, still exists, to your knowledge?

A. Yes.

Q. And you don't know who the form was actually turned in to? 03:42PM

A. And I don't know how I got it.

Q. Okay.

A. Unless -- it talks about other things, too. You probably don't care about them, but.... 03:42PM

Q. Mr. Dunn, let me hand you a document I've marked as Exhibit Number 25.

A. Okay.

Q. Is Exhibit 25, which is Bates stamped 368, a memorandum from Mr. Miller dated May 20 of 2005? 03:32PM

A. Uh-huh, yes.

Q. And is that a memo that was provided to the *ad hoc* committee?

A. Yes.

Q. In the first paragraph -- and I understand you didn't necessarily see eye to eye with Mr. Miller. In the first paragraph, he says, "If some owners believe that areas of Rivergate has drainage issues and the committee believes that these issues may be credible, I believe we need to hire an engineer familiar with such issues to evaluate our property and give the committee a hard report for possible discussion of any of these issues with Wayne." 03:32PM 03:32PM

Do you see that?

A. Yes. 03:32PM

Q. Did the *ad hoc* committee discuss Mr. Miller's recommendation to hire an engineer?

A. Yes, I'm sure.

Q. And the discussion, I assume, ended with, We 03:33PM

A. Yes.

Q. And one of those concerns that Pat Connors had in May of 2005 appears to relate to drainage. If you look under, "My areas of concern," the very first item was drainage? 03:30PM

A. Yes.

Q. And I gather from reading this and based on our prior conversations, that Pat Connors lived in one of those duplexes backing up to the golf course? 03:31PM

A. Yes.

Q. And is essential writing about what you called earlier "the river"; is that true?

A. Yes.

Q. And as a result of getting a memo such as Pat Connors, would you have provided -- would the *ad hoc* committee have provided that complaint to Wayne Winderman? Maybe not in isolation, but as part of the overall complaints? 03:31PM

A. Yes. 03:31PM

Q. All right.

(DFT. EXH. 25, 5/20/05 Memo from Donald Miller, was marked for identification.)

BY MS. BURTON: 03:31PM

marked as --

A. I've got cobwebs that are clearing out.

Q. That's okay.

-- Exhibit Number 24. And I'll tell you, this is a document that is contained in the documents that you have provided to us. It's numbered 1024 and 1025. 03:29PM

In the memo to the homeowners of Rivergate that we looked at a minute ago as part of Exhibit Number 1 -- 03:30PM

A. Yeah.

Q. -- the *ad hoc* committee solicited information from the homeowners, as I understood it.

A. Correct. 03:30PM

Q. Thereafter, my impression was you got a lot of information from individual homeowners about their complaints; is that accurate?

A. Correct.

Q. And is this memo from Pat Connors at 4342 Rivergate Lane such a memo? 03:30PM

A. Yes.

Q. And was it provided to you to provide you with information and the *ad hoc* committee with information about concerns that Pat Connors had? 03:30PM

communicate with these people using that information?

A. Yes.

Q. I mean, that was part of the purpose, right -- 03:19PM

A. Yes.

Q. -- to get their information?

A. To get them the information as we found out. And sometimes almost weekly, we would give a blurb of what was going on, or at least monthly, you know, pass out a newsletter or an e-mail. A lot of people, as I said earlier, don't live there permanently, so they wouldn't know. So we needed an e-mail or a physical address so that we could either mail them or e-mail them the information as we found out or learned anything. 03:19PM 03:19PM

Q. Okay. If you would look at the bottom of the first page of Exhibit 22, it identifies three enclosures.

A. Yes. 03:19PM

Q. Do you see that?

A. Yes.

Q. The first enclosure is two pages from the Master Deed.

A. Correct. 03:19PM

BY MS. BURTON:

Q. Let me hand you a stack of documents I've marked as Exhibit Number 22 to your deposition, Mr. Dunn.

A. Yes. 03:17PM

Q. What is this -- what is this form for?

A. I think it's pretty obvious. It's the request, one, to support what we're doing; two, who are you, where do you live, what's your telephone number, how can we communicate with you; and three, 03:18PM remind them why we're here; and four, give me some money --

Q. Okay.

A. -- to help pay for all this paper --

Q. Okay. 03:18PM

A. -- or donate some money, not give me money. I asked for it.

Q. Okay. Did you prepare the form?

A. Pretty much so.

Q. And there's a whole stack of people, as we 03:18PM can see from the exhibit, who returned the form and provided their contact information.

A. Yes, and money.

Q. Did you -- when the *ad hoc* committee would issue any kind of written document, would you 03:18PM

a free lunch today.

Q. Well, that's a good thing, isn't it?

A. That's a good thing.

And he's done one helluva job. And to my understanding, he has brought in all sorts of forensic experts and have reports on all of that stuff. And I have read some of them. 03:16PM

Q. Okay. Did the *ad hoc* committee discuss hiring an engineer?

A. We might have discussed it, but we didn't have any money. 03:16PM

Q. Okay.

A. I asked homeowners for money to pay for paper and to make trips to Conway and to buy postage and Certified letters, that both Wayne and Donna would not open of a lot of these documents and refused delivery of them. 03:17PM

Q. Okay. So the *ad hoc* committee may have discussed it, but with a lack of money, y'all couldn't hire an engineer? 03:17PM

A. Absolutely.

Q. Okay.

(DFT. EXH. 22, Rivergate Ad Hoc Homeowner Committee to Update, was marked for identification.) 03:17PM

possible. The engineer should determine whether there are any warranty defects or problem areas which should called to the attention of the developer."

Do you see that language? 03:15PM

A. Yes.

Q. Did the *ad hoc* committee consult with an engineer to look for defects and deficiencies in the Rivergate subdivision?

A. Do you see that big word that says "hiring"? 03:15PM

Q. Yes, sir.

A. We don't have money to hire people.

Q. So the answer's no?

A. Right.

And then there wasn't a board to allocate money; it was Mr. Winderman. So what do you do? 03:15PM

Through the advice of everybody I ever talked to, from county council, Harold Worley, LLR, Code Enforcement, each and every time I talked with any of them said, You're going to have to get an attorney. 03:16PM

Q. Okay.

A. And after a lot of searching, I got one.

Q. Okay. Mr. Stanley?

A. And I haven't to had pay him yet, and I got 03:16PM

Q. Is Don Miller the person you said was the head of the Wayne Winderman fan club?

A. Yes.

Q. Is he a real estate agent?

A. He worked with Donna to try to sell some real estate, yes. 03:14PM

Q. Did he sell real estate in Rivergate?

A. I don't know whether he ever actually sold one or not.

Q. But he provided you with this article? 03:14PM

A. I think so.

Q. Why?

A. To tell us to be good boys.

Q. Did you read it?

A. Sure. 03:14PM

Q. Okay. Turn over to the third page of the article, which is the last page of Exhibit Number 21.

Are you there?

A. The last page -- 03:15PM

Q. Page 351. It has a heading, Physical Inspection of the Property.

A. Uh-huh.

Q. It says, "The board should consider hiring an engineer to inspect the complex as soon as 03:15PM

And probably in five minutes more, he called again and they were almost turning the corner then. I don't know where they were located or where they were at the time.

And he tells them they have to fix this. 03:12PM
And he starts -- this is the engineer, now. He starts telling them what they're going to do, how they're going to do it and what they're going to do and all of that.

And the man from Speedy Concrete looked at 03:12PM
him and said, "That's what we told you, to begin with, and you insisted on doing it this way."

And he said, "Well, it's going to get fixed now."

And Karen Travis paid to have it fixed a few 03:12PM
years later, because he never did.

Q. So was that at Ms. Travis's home?

A. That's her home, yes.

Q. So the Speedy guys came out, and they had a discussion, but nothing happened? 03:12PM

A. Exactly. And his face went white when the guy told him, "That's what we told you to do, to begin with" -- and, of course, I'm standing there hearing this -- "and you insisted on doing it this way because it's a cheaper way to do it." 03:13PM

Do you see that?

A. Yes.

Q. Did that occur?

A. If he calls himself an engineer, he came down there and looked at it. 03:10PM

Q. So he looked at the walkways?

A. And the driveway, yes.

Q. Okay. Did you have any conversation with him about his observation?

A. Yes. 03:11PM

Q. What did he say?

A. Well, very interesting. This is a -- I don't remember which unit it is; I know where it is -- very steep driveway, that you could not park your car on and get out of the door, even if you were in good health. 03:11PM

The lady had to park in the street and walk up this steep driveway and go across a sidewalk that was not only inclined but sloped. And he came out to look at it. 03:11PM

And he immediately called Speedy Concrete -- this is how I know their name -- and demanded they come over there. And within five minutes, he called them back again and demanded, where were they, how come they weren't there? 03:11PM

Q. Okay. So other than the French drain, you're not aware of any other repair efforts made by or on behalf of Mr. Winderman?

A. Correct.

Q. All right. If you turn to the second page of the July 6, 2005 letter that's part of Exhibit Number 21, at the very top it says, "Upon conclusion of construction, we will have an engineer inspect the site for any repairs needed on the roadways." 03:10PM

Do you see that?

A. Yes.

Q. Are you aware of any inspection by an engineer of repairs needed on the roadways?

A. Not until after I talked to Stacy Stanley. 03:10PM And I don't know that any inspection's have been done now, but there was none done then.

Q. Was any done by Mr. Winderman?

A. No.

Q. Okay.

A. If there was, we were not informed of it.

Q. Okay. The next item on that same page says, "We will have our engineer inspect the walkways for compliance to normal and acceptable engineering standards." 03:10PM

Do you see that?

A. I do.

Q. Are you aware of any of the inspections that were made by or on behalf of Mr. Winderman?

A. No. 03:08PM

Q. Are you aware of any addressing of drainage issues made by or on behalf of Mr. Winderman or WW & LB after this July 6, 2005 letter?

A. When did we say that the French drain -- was it July 20th? That's June 21st, and this is July 20th. June, July. So he must have addressed one. 03:09PM

Q. The French drain?

A. Yes.

Q. All right.

A. But I'm not aware of any inspection. And I still believe that Chris, the landscaping guy, went over with a shovel and dug a ditch and put in a pipe, and that was the end of it. 03:09PM

Q. Okay. And we looked earlier at photographs where there had been some rock placed in various locations. 03:09PM

A. Uh-huh.

Q. Did any rock get placed after Mr. Winderman's July 6, 2005 letter?

A. No, they were there before. 03:09PM

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. **To insure that you have received and read the enclosed material.**
2. **Update your mailing address if different than Rivergate and your home and cell phone numbers.**
3. **We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.**

✓ **I/ ~~We~~ do Support.** ____ **I/ we do not Support.**

whole heartedly!

Print name/s Joan Swallow

Unit Number 1B **if you know it.**

Unit Address 4226 **Rivergate Lane, Little River SC 29566**

Home Phone 663-4226

Cell Phone 910-209-1115 **if you have one.**

Home e-mail jswallow1@juno.com **if you have one.**

Work e-mail ____ **if you have one.**

Mailing Address if different P.O. Box 1365
Little River, SC
29566

Returned to the Ad Hoc Committee at the Yacht Club Meeting 7/20/05 by Joan Swallow

Owner/s Signature Joan Swallow **Date** 7/27/2005

Signature ____ **Date** ___/___/2005

Remember;

In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ 100.00

ENCLOSURES; 3

1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article – "Transition from Developer to Owner: Taking Charge" by Benny L Kass

File: Rivergate
Origin: Jim Dunn
7/20/2005 0857

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. To insure that you have received and read the enclosed material.
2. Update your mailing address if different than Rivergate and your home and cell phone numbers.
3. We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.

✓ I/ we do Support. ____ I/ we do not Support.

Print name/s Wallace + Opal Johnson
Unit Number 194 if you know it.
Unit Address 4283 Rivergate Lane, Little River SC 29566
Home Phone 843-249-4283
Cell Phone _____ if you have one.
Home e-mail _____ if you have one.
Work e-mail _____ if you have one.
Mailing Address if different _____

Owner/s
Signature Opal L. Johnson Date 8/1/2005

Signature Wallace Johnson Date 8/1/2005

Remember;
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ 200

ENCLOSURES; 3
1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article –"Transition from Developer to Owner: Taking Charge" by Benny L Kass

File: Rivergate
Origin: Jim Dunn
7/20/2005 0858

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. To insure that you have received and read the enclosed material.
2. Update your mailing address if different than Rivergate and your home and cell phone numbers.
3. We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.

__✓__ If we do Support. ____ If we do not Support.

Print name/s Donald Allen Welch

Unit Number 5B if you know it.

Unit Address 4278 Rivergate Lane, Little River SC 29566

Home Phone 843-390-1010

Cell Phone _____ if you have one.

Home e-mail _____ if you have one.

Work e-mail _____ if you have one.

Mailing Address if different _____

Owner/s Signature Donald A. Welch Date 9/23/2005

Signature Anita Welch Date 9/23/2005

Remember;

In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ 20.00

ENCLOSURES; 3

1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article – "Transition from Developer to Owner: Taking Charge" by Benny L. Kass

File: Rivergate
Origin: Jim Dunn
7/20/2005 0859

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. To insure that you have receive and read the enclosed material.
2. Update your mailing address if different than Rivergate and your home and cell phone numbers.
3. We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.

__/__ I/ we do Support. ____ I/ we do not Support.

Print name/s Jim & Margie Dunn
Unit Number 15 D if you know it.
Unit Address 4325 Rivergate Lane, Little River SC 29566
Home Phone 663-4325
Cell Phone 424-2968 if you have one.
Home e-mail JKD4325@sccoast.net if you have one.
Work e-mail ____ if you have one.
Mailing Address if different ____

Owner/s Signature Jim Dunn Date 7/20/2005

Signature Margie C Dunn Date 7/20/2005

Remember;

In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ 0

File: Rivergate
Origin: Jim Dunn
7/20/2005 0861

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. To insure that you have received and read the enclosed material.
2. Update your mailing address if different than Rivergate and your home and cell phone numbers.
3. We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.

X I/ we do Support. ____ I/ we do not Support.

Print name/s CANDACE Cochrane

Unit Number 10B if you know it.

Unit Address 4348 Rivergate Lane, Little River SC 29566

Home Phone 843 4348

Cell Phone _____ if you have one.

Home e-mail _____ if you have one.

Work e-mail _____ if you have one. candace.cochrane@centurytelephone.com

Mailing Address if different _____

Owner/s Signature _____ Date 7/23/2005

Signature _____ Date ___/___/2005

Remember;

In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ 10.00

ENCLOSURES; 3

1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article –"Transition from Developer to Owner: Taking Charge" by Benny L Kass

File: Rivergate
Origin: Jim Dunn
7/20/2005 0862

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. **To insure that you have received and read the enclosed material.**
2. **Update your mailing address if different than Rivergate and your home and cell phone numbers.**
3. **We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.**

__V__ I/ we do Support. **____ I/ we do not Support.**

Print name/s ROGER & PAMELA GIETZEN
Unit Number 190 **if you know it.**
Unit Address 4293 **Rivergate Lane, Little River SC 29566**
Home Phone 663-4293
Cell Phone _____ **if you have one.**
Home e-mail WMSC@MCATS.NET **if you have one.**
Work e-mail _____ **if you have one.**
Mailing Address if different JUNE - AGC
825 E 8 MILE RD
NEWAYGO MI 49337
PHONE 231-652-6
E-MAIL SAME

Owner/s Signature Roger C. Gietzen **Date** 8/4/2005

Signature Pamela S. Gietzen **Date** 8/4/2005

Remember;

In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ 25.00 CK

ENCLOSURES; 3

1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article –"Transition from Developer to Owner: Taking Charge" by Benny L Kass

Thanks for all your work! God bless
Pam

File: Rivergate
Origin: Jim Dunn
7/20/2005 0863

Rivergate Ad Hoc Home Owner Committee Up Date ✓

Please return this page to any committee member for the following reason.

1. **To insure that you have received and read the enclosed material.**
2. **Update your mailing address if different than Rivergate and your home and cell phone numbers.**
3. **We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.**

X I/ we do Support. **___ I/ we do not Support.**

Print name/s TODD + CATHY RILEY
Unit Number 7-B **if you know it.**
Unit Address 4308 **Rivergate Lane, Little River SC 29566**
Home Phone 410-695-2993
Cell Phone 443-623-0047 **if you have one.**
Home e-mail DRIVEFORD@COMCAST.NET **if you have one.**
Work e-mail _____ **if you have one.**
Mailing Address if different 2528 BLACK OAK WAY
ODENTON, MD. 21113

Owner/s Signature Todd Riley **Date** 8/4/2005

Signature Cathie Riley **Date** 8/4/2005

Remember;
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort.
Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ 25.00 Cash

ENCLOSURES; 3
1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article –"Transition from Developer to Owner: Taking Charge" by Benny L. Kass

File: Rivergate
Origin: Jim Dunn
7/20/2005 0864

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. To insure that you have received and read the enclosed material.
2. Update your mailing address if different than Rivergate and your home and cell phone numbers.
3. We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.

__✓__ I/ we do Support. ____ I/ we do not Support.

Print name/s Sal + Nancy DeLuise
Unit Number 216 if you know it.
Unit Address 4231 Rivergate Lane, Little River SC 29566
Home Phone _____
Cell Phone _____ if you have one. Sal - 908-309-1559 - Nancy - 908-675-7402
Home e-mail Nancydeluise@netscape.com if you have one.
Work e-mail _____ if you have one.
Mailing Address if different 12 N.J. 8 Martin Dr
Lincroft NJ 07738
ph or # 732-842-0987

Owner/s Signature Sal + Nancy DeLuise Date 8/3/2005

Signature Nancy DeLuise Date 8/3/2005

Remember;
In ord
to parti
Please l

Folks,
Any c

Amou

ENCLOSI
1.) 2
2.) 3
3.) 3

Unresolved issues
Unit 216 -
4231 Rivergate Ln -

There is a lack of the
street - that the landscape
maintenance would be reduced
certain trees, flowers etc
would not be replaced
Dead trees, shrubs
Pretty things.

Have more support
Dear Rivergate Owners
Love Dear Quad.

File: Rivergate
Origin: Jim Dunn
0665

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. **To insure that you have received and read the enclosed material.**
2. **Update your mailing address if different than Rivergate and your home and cell phone numbers.**
3. **We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.**

✓ **I/ we do Support.** ____ **I/ we do not Support.**

Print name/s NANCY SYLVIS
Unit Number 19-C **if you know it.**
Unit Address 4291 **Rivergate Lane, Little River SC 29566**
Home Phone 663-4291
Cell Phone _____ **if you have one.**
Home e-mail _____ **if you have one.**
Work e-mail _____ **if you have one.**
Mailing Address if different _____

Owner/s Signature Nancy Sylvis **Date** 8/19/2005

Signature _____ **Date** ___/___/2005

Remember;
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ 5.00 Check ✓

ENCLOSURES; 3
1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article –"Transition from Developer to Owner: Taking Charge" by Benny L Kass

File: Rivergate
Origin: Jim Dunn
7/20/2005 0808

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. To insure that you have received and read the enclosed material.
2. Update your mailing address if different than Rivergate and your home and cell phone numbers.
3. We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.

✓ I/ we do Support. ____ I/ we do not Support.

Print name/s Pat Connors
Unit Number 9B if you know it.
Unit Address 4345 Rivergate Lane, Little River SC 29566
Home Phone 843 249 4342
Cell Phone ____ if you have one. 4133743388
Home e-mail ____ if you have one. PATSADV@sccoast.net
Work e-mail ____ if you have one.
Mailing Address if different ____

Owner/s Signature Pat Connors Date 8/8/2005

Signature ____ Date ____/2005

Remember;

In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort. Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ 10.00 AD

ENCLOSURES; 3

1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article – "Transition from Developer to Owner: Taking Charge" by Benny L. Kass

File: Rivergate
7/20/2005 Jim: Jim Dunn
0867

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. To insure that you have received and read the enclosed material.
2. Update your mailing address if different than Rivergate and your home and cell phone numbers.
3. We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.

✓ I/ we do Support. ___ I/ we do not Support.

Print name/s DONALD + KATHERINE SHANK
Unit Number 173 if you know it.
Unit Address 4301 Rivergate Lane, Little River SC 29566
Home Phone 663-4301
Cell Phone _____ if you have one.
Home e-mail DKSHK2@SCCOAST.NET if you have one.
Work e-mail _____ if you have one.
Mailing Address if different _____

Owner/s Signature _____ Date 8/19/2005

Signature _____ Date 8/19/2005

Remember,
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreci

The Co

Amount Donated $ 10.00 Cash

ENCLOSURES: 3
1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Winderman
3.) 3 page article –"Transition from Developer to Owner: Ta

I MOST WANT TO KEEP LOCAL CONTROL + KEEP UP THE SPEED - SHE HAS QUESTION ON INSURANCE

Filer: Rivergate
Origin: Jim Dunn
7/20/2005 0868

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. To insure that you have received and read the enclosed material.
2. Update your mailing address if different than Rivergate and your home and cell phone numbers.
3. We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.

✓ I/we do Support. ___ I/we do not Support.

Print name/s Theresa Melanson
Unit Number ___ if you know it.
Unit Address 4350 Rivergate Lane, Little River SC 29566
Home Phone 843-4350
Cell Phone ___ if you have one.
Home e-mail ___ if you have one.
Work e-mail ___ if you have one.
Mailing Address if different ___

Owner/s Signature ___ Date ___/___/2005

Signature ___ Date ___/___/2005

Dear Sir, Melanson 4350 Rivergate
I will be home on the 9th of Sept in M.V. will be in touch then
Thank you
Theresa

$25.00 ck.

9/20/2005 Files-Rivergate Origin: Jim Dunn 0869

Rivergate Ad Hoc Home Owner Committee Up Date

Please return this page to any committee member for the following reason.

1. To insure that you have received and read the enclosed material.
2. Update your mailing address if different than Rivergate and your home and cell phone numbers.
3. We are also seeking your agreement that you do or do not support the efforts of the Ad Hoc Home Owner Committee.

✓ I/ we do Support. ____ I/ we do not Support.

Print name/s Mary Soja
Unit Number 185 if you know it.
Unit Address 4797 Rivergate Lane, Little River SC 29566
Home Phone _____
Cell Phone _____ if you have one.
Home e-mail MSA1@sccoast.net if you have one.
Work e-mail _____ if you have one.
Mailing Address if different _____

Owner/s
Signature Mary Soja Date 1/ /2005

Signature _____ Date 1/ /2005

(Filed LLR Form

Remember;
In order to have a successful community, every homeowner has the responsibility to participate at some level. Your committee has donated a lot of time and effort, Please let us hear from you!

Folks, expenses are mounting!
Any contributions will be greatly appreciated.

The Committee

Amount Donated $ 10.00 Cash

ENCLOSURES: 3
1.) 2 pages – 10 & 11 from Master Deed
2.) 3 page letter from Wayne Windeman
3.) 3 page article – "Transition from Developer to Owner: Taking Charge" by Benny L Kass

File: Rivergate
Origin: Jim Dunn
9/20/2005 0870

Rivergate News

As indicated in recent mail from Wayne Winderman, Atalaya has been terminated as property manager for Rivergate; Atalaya continues to be responsible for our finances.

A committee has been formed to aid in the transition of control from Wayne to the future Board of Directors which will consist of Rivergate owners. Jim Dunn, 4325 Rivergate Lane, is Chairperson. The committee and Wayne Winderman are working together to resolve outstanding common area issues.

New construction in Rivergate is now either settled and lived in or under agreement. There are no new construction Rivergate homes remaining to be sold.

Rivergate Property Restrictions

Section XVI of our Master Deed puts some restrictions on Rivergate property usage; it reads as follows: "The property is hereby further restricted such that no commercial use vehicles, oversize trucks, trailers, campers, mobile homes, boats, watercraft or unregistered, abandoned or inoperable motor vehicles are permitted within the COMMON ELEMENTS or LIMITED COMMON ELEMENTS. Provided however, boats and other watercraft may be stored with Garage UNITS as long as such boats and other watercraft are completely enclosed within such Garage UNIT and the door to same is kept closed except when entering and exiting the Garage UNIT. Further, no mopeds, motorcycles, motor bikes or unregistered "dune buggies" may be operated, located, stored or maintained upon the property."

During the construction phase, the above restrictions are waived as necessary to carry out the construction and subsequent sales.

Concerns

Thanks for your feedback. Concerns expressed to me were again about pets in our community.

Our Master Deed states:

1. "Pets must be on a leash or carried when on any COMMON ELEMENTS."
2. "It shall be the owners obligation to dispose of waste material from pets."

If your pet is outside of your home (lawn included), it is in the common elements.

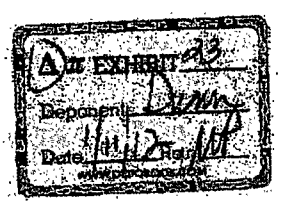
Please be a responsible pet owner and abide by our association rules.

The Pool

After numerous delays, many of us are happy to have the pool opened. Although I have heard some grumbling that the pool is too small but for the size of our community, I think it is a nice size. The pool was not in the original Rivergate plan. It is an add-on and essentially a gift from Wayne Winderman to the Rivergate residents. The furniture at the pool was donated by Donna Dawson. Thank you to both Wayne and Donna!

The pool rules are posted on the wall, please review and adhere to them. Although it's pretty basic, when you bring things into the pool area, please avoid any and all items made of glass (rule #9).

There is a phone box attached to the wall in the pool area. The phone is strictly for emergency use. The box has a built-in lock but will normally be kept unlocked. The box does not open easily. It is my understanding that if the handset is picked up, 911 will be dialed automatically. There is a first aid kit attached to the wall in the club house next to the ladies room. Hopefully we will have no need for either.



File: Rivergate
Origin: Jim Dunn
6423

4342

Subj: **Rivergate HOA**
Date: 5/20/05 3:20:13 PM Eastern Daylight Time
From: PATSADV@SCCOAST.NET
To: horanlttlrvr@aol.com
Sent from the Internet (Details)

Pat Connors
4342 Rivergate Lane (Unit 9A)
843 663-4342 or
413 737-3801 ofo
413 786-6950 home (Massachusetts)
original owner

Since I "commute to work" from Little River to Massachusetts I can be reached at one of the above numbers. My fiance, Jack Hittman is living at our Rivergate condo and can readily get in touch with me.

My areas of concern:

Drainage: ✓
The units along the golf course, of which mine is one, have a severe drainage problem running the length of the property. My back yard is literally eroding away after every heavy rainfall.

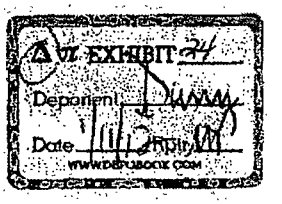
"Barracks": ✓
The small units Wayne has added to our community were not in the original plans when we purchased. It was my understanding that he was not to continue building this style unit. It has come to my attention that he is indeed intending to build a "garden style unit" (barracks style) directly in front of me on the corner of the access road that cuts across to Baker Street. This breaks with the pattern of the previous buildings and is going to stick out like a sore thumb. Also, what is he going to put up along the other side of that access road, backing up to the wetlands ?

Pool: ✓
The pool is a joke. He should fill it in w/dirt and use it as a planter. My daughter has a fish pond on her patio bigger than the pool. Now that's an idea. She wants to give away some of the fish. We will donate the fish if anyone wants to make it into a decorative fishpond.

Townhouses: ✓
I am concerned that the townhouses will be sold to families w/children. Where will they play ? Will they use Rivergate's roads? Will it substantially change the complexion of our "Adult Community"?

I feel strongly that Wayne is up to no good (as usual) and looking to bail ✓ out BEFORE he finishes our development PROPERLY. He wants to eliminate the professional management team appointed by the Court because they hold him accountable. (with respect to fiscal matters). I feel that Atalaya does a fine job and watches out for the best interest of Rivergate Homeowners. If the asylum is going to be run by the inmates, I feel strongly that Wayne should have NO say in choosing the inmates, and that his "cronies" should NOT be included amongst them. (sales staff etc)

I am delighted to have the Committe on board, wish you well, and am available to help in any way.



File: Rivergate
Origin: Jim Dunn
1024

4342

Very truly your,

Pat
Connors

This message was sent using SCCoast.net's SCCourier E-mail Service.
http://www.sccoast.net

File: Rivergate
Origin: Jim Dunn,
1025

4285

DATE: 5/20/2005

TO: RIVERGATE AD HOC COMMITTEE

FROM: DONALD MILLER

RE: RIVERGATE TRANSITION ISSUES

If some owners believe that areas of the Rivergate property has drainage issues and the committee believes that these issues may be credible, I believe we need to hire an Engineer familiar with such issues to evaluate our property and give the committee a hard report for possible discussion of any these issues with Wayne.

It was mentioned at the May 12, 2005 meeting about Rivergate Lane being dedicated to the County in the future. If this is something that may happen we should have the road evaluated to insure that it is constructed to Horry County standards. Perhaps Horry County will agree to perform any evaluation we may need.

The above two issues may incur unbudgeted expenses. Considering that we do not have a Board of Directors, I am not sure how we can direct payment of these expenses.

Thank you,

Don Miller

4285 Rivergate Lane
663-4285
Original owner

EXHIBIT 35
Deponent
Date Rptr.

File: Rivergate
Origin: Jim Dunn
0368

4329

Subj: **Rivergate Issues!**
Date: 5/24/05 10:04:07 PM Eastern Daylight Time
From: jf1002@sccoast.net
To: horanlttlrvr@aol.com
Sent from the Internet (Details)

Margaret Horan, I think it is great that you and the other Rivergate residents have volunteered to serve on a Ad Hoc committee to identify and resolve issues with Wayne Winderman before he walks away from Rivergate. The future success of our community depends on a smooth transition from his involvement to the establishment of a strong Rivergate POA organization.

Roads a

1. Concerned that our road system may not have been built to Horry County specifications. Not only is this important
to us from a future cost of maintenance point of view but this will be very important if we ever want to have the
county take over responsibility these roads.
2. Rumor has it that Wayne plans to build additional condos between us and the waterway with:
*Having them access to and from Rt. 17 over our roads
*Have them tie into our sprinkler system
*Have them tie into our street lighting system
None of this should be permitted to happen. Any additional building in this area should be completely separate
from the Rivergate community having their own Baker St./Rt. 17 access and services.

Unknown words

Roads c

3. Where the road leading to Baker St. intersects with Baker St there is a ditch. Unless this is filled in like it is along
the rest of the Rivergate property facing Baker St, this ditch will be a source of standing water during rainy periods.
This will lead to foul odor and provide a breading ground for mosquitoes and other insects.

These are a few of my thoughts, I'm sure there are many more issues being brought forward. Thank you for your efforts in behalf of our community. John Fitzpatrick 4324 Rivergate Lane Phone #663-1002 E-mail jf1002@sccoast.net

Not the original owner.

EXHIBIT 26
Deponent Dunn
Date 11-12-Apr
www.lexcoast.com

File: Rivergate
Origin: Jim Dunn
1021

4317

RIVERGATE HOA
519 CLARENDON COURT
YARDLEY, PA 19067
215-321-0114

Member Request Form

Name Jane Collins

Unit # 15B

Date 5-31-05

Concerns with exterior maintenance

Curbing and street attached to my driveway needs Repaired - Curbing is broken and there are potholes in front of my driveway

Street light on corner yard is very loose - needs repaired

Sewer clean out valve on the side of my house is Down into ground

EXHIBIT 21
Deponent
Date

File: Rivergate
Origin: Jim Dunn
0964

Susan Klutt
June 5, 2005

Thoughts for committee:

When tempted to give WW the benefit of the doubt.....Don't!

He has rarely made good on any of his promises. He has reneged on most. He chooses to ignore the punch-list complaints. He waits for you to get tired of complaining.
He's has never kept us informed of what's going on. We went almost 2 years without any meeting, info or any form of accounting. It was done only after the lawsuit was filed. He hasn't done anything that he wasn't forced to do.

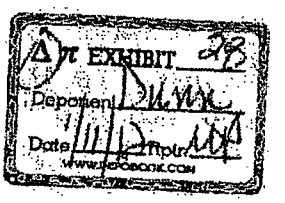
He has never allowed any forum for homeowners to discuss their problems with him. He sneaks in and out of town (usually only for a meeting) and never has time to meet with anyone while he's here. This has added to the level of frustration among the homeowners.

Do not allow him to use our committee to be a Pseudo-board of directors. He's always looking for a scapegoat. Lisa & Atalaya are just the latest of many.

Additionally, I would recommend a Moratorium on any further building/improvements until we have a Board of Directors to decide what we want our community to look like. Up until now, people have changed/added with and without neceseary permits, with and without permission. This includes situations where permission has been given in violation of the Master Deed.

We have rooms,porches and patios extending onto common property. Garden sinks attached to exteriors, A/C units cut into front of units, pink sidewalks, garage screens which alter the appearance of the home exterior. Some would say "it's out of control"! I think that more thought needs to go into decisions before it's too late to go back.

I think we need to take a breath and see where we want to go: Some owner's are happy with individuality and some want the uniformity that was laid out in the Master Deed. All have the right to be heard.



File: Rivergate
Origin: Jim Dunn
.0325

p.1 of 2
Susan Hutt

My thoughts as I watch the pool work done.....6/05/05

Why is it that whenever sub-contractor work is done in Rivergate, the crew shows up in unmarked, beat-up old cars and trucks, no professional identification of any kind. Who are these people and what are their credentials?
Do they have insurance, do they offer warranties for their work?

I am no expert in this field, but common sense sends out warning signals concerning the long-term durability of
our pool. The work has taken 7 months to complete. The concrete shell has sat empty for many of these months. When I had my inground pool, I was warned by my pool company, never to let the pool be empty because of unequal pressure. Does this no longer hold true?

Now after more than 3-4 months of the pool sitting idle, the crew comes (Sat.6/04) to apply the bonding material to interior of pool and concrete apron. It has rained heavily for the past 6 days and is raining as the crew works. I question the integrity of this work since the concrete is so saturated.

This goes back to the work done in the past by other anonymous workers. The concrete work everywhere is shoddy at best. I've watched the inadequate prep work done with little or no effort to level, with minimal to no compacting of the dirt prior to pouring concrete. I've watched as workers shoveled dirt as the concrete was being poured.

My driveway was cracked in at least 3 places within 30 days of pouring in April 2002 (so there was no freezing and thawing incidents to blame cracks on) In 4 homes that I've owned, including a home of 20 yrs, this is the first driveway to crack. The explanation given to me was "concrete cracks". Even in only 30 days. I submit that concrete can crack due to constant heaving of land due to freezes & thaws.....and due to a lack of proper preparation of the land. It is no accident that so much of our community has cracked, unlevel sidewalks and driveways. There are many places where the gravel is visible because the concrete has worn away. All this in a reasonably new community.

The sidewalk in front of the clubhouse had cracked within 72 hours of pouring. It is a rather large crack across one entire segment of the walk. I've asked from the very beginning why the work didn't have to be redone to repair this crack.....shrugged shoulders have been my only response. Again I ask " why don't the sub-contractors have to do acceptable work"? Wayne doesn't seem to have any acceptable standards for the work done.....it's just something that can be fixed by the homeowners at a later date. *

✓ added to list

He has been irresponsible with our finances from the very beginning and that continues today. He continues to co-mingle his expenses with our expenses whenever he can get away with it.
Donna & WW continue to foist off on the HOA every expense that they can.

* I also advised that there was a low spot where the patio was poured next to sliding doors. That water was puddling against building. It was not level. New door track and building mildewed severely. Clubhouse driveway also cracked ✓

File: Rivergate
Origin: Jim Dunn
0333

p 2 of 2

Cases in Point: the huge pothole in front of 4300 that went unrepaired after many months of complaints until
Atalya had it repaired.
the moving of the mailboxes @ cost $600....shouldn't have been HOA expense
Use of mulch purchased by HOA to landscape new homes.
Many attempts to have HOA pay for repairs that should fall under warranty and punch list items

It took our lawsuit to find out that WWLB did not even have a license to build in SC. He is using the license of Rite-Way to build each house.
And who are these people? I've seen no marked trucks or equipment. I've never seen them listed under contractors or builders in any home building venues.

Again, I ask, Who are these people and how do we find them when WWLB is gone?????

Presented to Wayne in response when given to County Code Enforcement

Most issues resolved thru Code Enforcement

Privileged Work Product

~~05/27/05~~ 3/27/05 updated 6/13/05

RIVERGATE HOMEOWNERS' ISSUES

DRAINAGE
Units along the golf course have a severe drainage problem running the length of the property. Owner's backyard literally eroding away after every heavy rainfall (4342 (4308). General drainage and ground erosion problems caused by heavy rains (4325).

Editorial Comments: Is this part of lawsuit?

If drainage issue credible and not part of lawsuit, need to hire an engineer familiar with such issues to evaluate property (4285).

Editorial Comments: If not part of lawsuit, who determines what developer is required to do when developing property re drainage? Was survey of land required prior to development? Was it performed? If so, where is a copy of the survey report? If Wayne has not followed requirements, then resolution is the developer's problem. May be future legal issue. If this is a homeowners' problem, what is the mechanism re hiring of engineers, etc. Under the current situation, how can homeowners vote on cost sharing?

BARRACKS
Courtyard models were not in original plan for Rivergate. Owner understood Courtyards would not continue to be built. Under current plans, a Courtyard model will be built across from owner's unit (on northwest corner of access road), breaking with pattern of previous units. What type units will be built on access road backing to the wetlands (4342)?

Editorial Comments: Is this part of lawsuit? (Refer to Master Deed, p. 3, section IV. Developer appears to have right to make any changes to plans; if so, this is a dead issue.)

POOL
The pool is a joke (4342) (4305). Pool deficient in size for community, lack of parking and deck area for seating (4305) (4275). Pool is too small, not finished, 2 years late and inadequate for the size of this development (4315).

Editorial Comments: Promises re pool were probably only verbal, but unrelated to size, etc. Dead, but annoying, issue.

Pool must be completely finished (paint concrete inside, paint fence or plant tall hedge/bushes; supply chairs at poolside (4246). Pool should be inspected and flaws, if any, corrected (4308).

EXHIBIT 32
Deponent
Date

File: Rivergate
Origin: Jim Dunn
1066

Editorial Comments: Ask Wayne, what work has not been finished at the pool? Is anyone responsible for inspecting pool when it has been finished and passing it prior to use? If so, who has that responsibility?

Will visitors be allowed to use swimming pool (rules/regs?) (4259).

CLUBHOUSE

Clubhouse must be turned over to Rivergate HOA and office must be removed (4246) (4275). Clubhouse should be inspected and all flaws corrected, bearing in mind the wear and tear it has received as a result of its being used as Wayne's sales office (4308) (4275). Since Clubhouse is Wayne's sales office, are we receiving rent (4325)?

Editorial Comments: Will the clubhouse be turned over in like-new condition? How will fitness center be equipped? How will clubhouse be furnished? Presume furniture re sales office will be moved to a new location.

TOWNHOUSES – WHISPERING WOODS AND/OR WATERWAY CONDOS
Concerned that townhouses will be sold to families with children. Where will they play (4342)?

Editorial Comments: Project not deemed "adult" (is this true?); developer has right to sell to anyone. Is Rivergate considered private property? If so, do we have right to expel trespassers?

Will townhouse owners use Rivergate's roads (4342)? Who will pay for road maintenance for Rivergate roads used by Whispering Woods and waterfront condo units (4315) (4325).

Rivergate Lane should not be ingress/egress for Whispering Woods. They should use Baker Street (4246).

Editorial Comments: Wayne says he has granted an easement to Whispering Woods. Is this part of the lawsuit? In granting easements, does Wayne have to file papers from Grantor to Grantee. If so, with whom are papers filed? Can Wayne legally grant easements that may obligate others not party to the easements (i.e., Rivergate homeowners) to future expenses. Can this be done without homeowners consent? How can we guarantee in perpetuity (there are laws in SC re perpetuity clauses) that Whispering Woods as well as new waterfront condo community will pay pro rata share to Rivergate for expenses re road repairs, etc.? What about any liability issues that may arise from Whispering Woods and newly planned condos using roads and having accidents on roads for which the responsibility is Rivergate's? Can Rivergate be held harmless for any liability issues?

Is it possible to get Rivergate's road designated as a county road? Who evalnates to determine whether it meets county standards (4285) (4324)?

File; Rivergate
Origin: Jim Dunn
1067

Editorial Comments: Is it state law in South Carolina that roads automatically become the responsibility of the County after a certain percentage of sales are made in a planned community? Is it possible that County would take over road? If not, why not. If so, what needs to be done to accomplish this (inspections, repairs to road, etc.)? If road does not meet County standards, why was Wayne allowed to build this road?

We should have no sharing of amenities, facilities, [cable], utilities, etc. with Whispering Woods. They should remain as a separate community (4246). Rumor has it that Wayne wants to give to waterway condos access to/from Route 17 over Rivergate Lane, tie-in to our sprinkler system, tie-in to street lighting. This should not be permitted (4324).

Editorial Comments: What are Wayne's plans re the above? Do his plans have any impact on Rivergate if indeed he is planning shared facilities? Need details/options.

Will Whispering Woods substantially change the complexion of our adult community (4342)?

Editorial Comments: A dead issue since, if this should happen, it is out of our control.

RIVERGATE LANE AND ROADS TO CUL DE SACS FROM RIVERGATE LANE

Roads [curbs] must be repaired/repaved by Wayne (4246). All curbing and streets should be in acceptable condition; curbing is broken, cracked, missing in part (4308) (4325).

Editorial Comments: Is this a developer responsibility, since some if not most or all of damage may have been caused by heavy construction equipment using roads during long period of development? What is practice in this area? Any laws that make the responsibility clear? May be future legal issue. If inspection required, what impartial party should do the inspection?

Where the road from Rivergate Lane intersects Baker Street, there is a ditch. This ditch floods during periods of heavy rain. Ditch should be filled in like it is along the rest of the Rivergate property (4324). New road and curbs leading to Baker Street (4245).

Editorial Comments: Whose property is this? Who is responsible for filling in ditch to prevent flooding, foul odors, breeding ground for mosquitoes, etc. Who filled in ditch along most of Rivergate's property? Since road leading to Baker Street may be more heavily used with addition of two other communities, who decides (Wayne or some County official with responsibility for roads) whether current road is adequate?

Unfinished, substandard side streets -- can these be turned over to County (4325)?

[See also preceding section re roads and the townhome and condo developments.]

SIDEWALKS AND/OR DRIVEWAYS

Problems with walkway/driveway—too steep (degree of slant appears greater than most units). Fear of falling. Difficulty in getting out of car, problems with emergency brake release (4307).

Sidewalk too slanted. No fear of falling--already did that. After two weeks, leg is still very swollen (4275).

> Editorial Comments: Is this a liability issue for individual homeowner and/or association? Are driveways/sidewalks common elements? Are slanted walkways a violation of Building Code, particularly in an adult community. Owner of one unit has e-mail from Donna saying "Wayne told me this AM that he would take care of your driveway" [the actual complaint was about the driveway and walkway].

MANAGEMENT OF RIVERGATE

Believe that Atalaya has done a fine job managing Rivergate in the owners' best interests. Believe strongly that Wayne and his sales staff should not be included in the management of Rivergate (4342).

When does Wayne plan to terminate Class II member status—in other words, when is he filing such termination with Horry County (4275)?

Wayne has filed 27 amendments to the Master Deed. When will he so advise HOA as to the details of such amendments (4275).

> Editorial Comments: Need clarification of Master Deed re management, Class II membership, future board election (timing and process in Master Deed, there seems to be a problem re timing). How to operate if Wayne terminates Class II.

Concern expressed that Wayne will walk away from Rivergate and leave homeowners with unresolved problems which homeowners will have to pay to fix (4246) (4324) (4305) (4275). The future success of our community depends on . . . the establishment of a strong Rivergate POA organization (4324).

> Editorial Comments: What is the law in SC re building defects/problems after year's warranty is up? (In CA, there is a 10 year period in which builders can still be held accountable for problems.) Resolution of future problems of this nature probably a legal issue.

Donna, as manager, caught in the middle between Wayne (she is employed by Wayne) and homeowners. A definite conflict of interest (4305) (4315). Believe Donna acts not as a homeowner but as an employee of Wayne's (4275).

SPRINKLER SYSTEM

No sprinkler system in entire yard operates except for landscaped area on top of the bank (4223).

Sprinklers did not run first 4 months after move in. Sodded lawn died. In spite of guarantees, sod that should have been replaced has not been replaced; it is still dead. Owner has been replacing some sod (4305). System appears inadequate—finally began operating 5 months after sod was planted (4315). Continuing problems with sprinkler system (4245).

Irrigation system must be repaired/replaced (4246). Need to look at to ascertain irrigation and sprinkler system problems as they relate to each home (4325).

Are sprinklers working? Grass is dying and, in places, there is no grass at all (i.e., side of house) (4307).

Again, sprinklers seem not to be working. Even when working, sprinklers do not cover areas to be watered. Bushes have died in garden area which abuts the driveway. Like last year, sod will die and need replacement if problems not resolved (4275).

Drainage from sprinklers is excessive (constant pool of standing water in road) in front of house 4279. These appear to be the only sprinklers on the cul de sac that continually work (4275).

> Editorial Comments: We understand that system has recently been repaired and such repairs were paid for by Wayne (get details from Lisa). Need better understanding of what problems exist, if any, for each homeowner (follow up to track improvement, if any?)? Has an impartial person evaluated system and whether it is adequate to not only serve Rivergate but Whispering Woods and newly planned waterfront condo community? If so, where is report. Possible future legal issue. What is the current status of dead/dying sod and bushes for each homeowner?

Apparent water leak at the southside of house since day one and before. Believe it is irrigation system, but it is as far as anyone has gone to make repairs. Water marsh is still there (4265).

> Editorial Comments: What has homeowner done to try to get management to fix this problem? Has anyone actually come to the house to ascertain that there is a problem and the reasons for the problem? Developer's responsibility to repair.

SEWERAGE

Clean out pipes standing up in lawns (4325).

COMMON ELEMENTS

Sod needed in backyard along edge of fence (4223).

Retaining wall inside Rivergate's gate and at the side of owner's home needs to be lined with plastic with drainage provided. When it rains, dirt washes down into yard; washed out holes need to be filled (4223).

Replacement of dead bushes on property (4259) (see also Sprinkler issues).

At northside of 4275 and southside of 4273, orange wires attached to meter box on house wall. Similar orange wires are rolled up behind cable box nearer the street. Also, orange wires are amongst the

electrical boxes at corner in front of 4277. Have not observed wires elsewhere. May be from Time Warner, and a neighbor has attempted many times to get Time Warner here to remove wires. If wires are superfluous, should be removed (4275).

Between 4275 and 4273, street light is quite crooked. It has always been this way—not damaged in last summer's storms. Should be reset so that it is straight (4275).

On north side of 4275, pine straw surrounds A/C units. Within visual sight of unit, everyone else has sod. [Check remainder of property.] Conform to practice in community by removing pine straw and replacing with sod (4275).

There is damage to road at end of cul de sac by 4271. Sand has eroded from 4271 under the street causing a bump in the road—I noticed because I tripped over it. Bump is at end of driveway. Damage due to severe erosion under the driveway (readily observable by looking under driveway by corner of house/walkway). No point in repairing road unless erosion problem is resolved (4275). (See also section on Roads.)

When pine straw was replaced with mulch last year, gardeners ran out of mulch. When they returned, they did not complete the front garden bed that abuts the driveway. Much should be added here (4275).

CONSTRUCTION PROBLEMS/DEFECTS

The bathroom in the front of the house has only a 2' door opening. Understand that it should be 3' feet to meet code (4223).

Water heater was installed 2 feet from the wall rather than its proper corner. Therefore could not place washer/dryer in its proper place. In spite of owner requests, water heater never placed properly. Result was that owner had to buy a stackable washer/dryer which cost $750 rather than the advertised price of $500 (4305).

The back door into the Sunroom has a light but no switch to turn it on. Does this meet code (4223)?

Kitchen pipes were frozen at 12/24/04 and again on 1/18/05 and 2/06/05. Theoretically, the problem has been fixed; owner believes problem relates to improper insulation (4315). [Being investigated by LLR.]

Leak in living room window. Reported 12/24/04 and on other occasions. Four months later, window was recaulked. Concern re internal water damage and breeding of termites. Stain on wall from water leakage has not been painted (4315). [Being investigated by LLR.]

Patio door had to be replaced and replaced again. Weather stripping not installed. Owner installed himself. Cracks still exist between door and weather stripping (4315). [Being investigated by LLR.]

Erosion around patio—developer removed 2 feet of dirt from the adjoining lot prior to construction on 16B which caused erosion beneath my patio and adjoining patio of 15C. Has not been fixed. Concern is that concrete will crack and patio will break off (4315). [Being investigated by LLR.]

Front door threshold replaced—needs siding (4325).

Sliding glass door threshold replaced—needs siding (4325).

Bathroom door does not latch—swings open (4325).

Cracked floor tile in master bath. Needs replacement (4325).

Crack in laminate floor at kitchen counter. Plank(s) need to be replaced (4325).

Ceiling not the same in upstairs bedroom where roof leaked (4325).

Door and window trim—rough and nails protruding (4325).

General finish trim around floor (4325).

Steps trim to upstairs (4325).

Crack and seam in ceiling of living room (4325).

Sticky substance on hardwood laminate floor. Should be removed (4325).

Driveway corners are cracked (4325).

Gutter down spout bent on patio side (4325).

Roof trim on front bent up (4325).

Finish trim work on outside of arched window (4325).

Carpet on steps not flush to wall (4325).

Water meter standing proud in yard (4325).

Shutters outside front living room window missing (4307).

Caulking around kitchen counters coming off (4307).
Sink in kitchen not sealed properly; therefore, debris falls in cabinet below (4307).

Light in attic does not work (4307).

Some vinyl siding is bulging—spaces in between can be seen (4307).

Kitchen screen still missing (4307).

Outside of front door, paint is peeling and there is a dent in the bottom left side. Repainted, but still peeling and dented (4307).

Outside bottom of front door unfinished. Needs kick plate or vinyl covering (4307).

Outside front corner—piece of vinyl siding is scratched/damaged (4307).

Ceiling fan in living room light moves to the right and left when the light is turned on and off (4307).

Second bedroom door too close to carpet. Hard to open and close. And closet doors need to be adjusted. The left side does not close, and there is a big gap in the middle and doors are not level on top or bottom. Adjusted but still snug (4307).

Both bathroom light fixtures need to be centered over mirrors (4307).

Attic door threshold and backside of door was not painted (4307).

Re door leading to patio, outside the door, the green wood needs to be finished or covered with vinyl (4307).

Ceilings in all rooms need to be looked at. Corners are discolored. Looks like wall paint hit the ceiling, popcorn did not hold in places (4307).

Outside walls, ceiling, including overhang on left side, very dirty and discolored. Should be powerwashed (4307).

No grass or mulch near AV/AC (4307).

> Editorial Comments: One possible remedy is for homeowners to call the department responsible for inspecting possible building code violations. Understand that if they inspect the property and decide it is a building code violation, Wayne has only 10 days to remedy the problem. Can we identify potential building code violations? Alternatively, should we provide advice to homeowners re trying to resolve problems by filing complaints with LLR.
>
> Cracks in concrete driveways—believe that this has occurred in many driveways (both houses adjacent to mine have cracks). Possibly we need to walk around and survey this to know the real extent of the problem. Is this a future legal issue? Are driveways built to code?

POWERWASHING UNITS

Powerwash all units after all construction is completed (4245).

> Editorial Comments: Is this really necessary for all units? Who makes the decision? In this instance, if powerwashing required for recently completed units, it should be a developer expense.
>
> Powerwashing units on a regularly scheduled basis is a future issue for HOA. No budget now; in any event, eventually it will be homeowner expense either through budget item or special assessment.

RIVERGATE SIGN

Replace our Rivergate sign [that matches license plates given to owners] and take down Whispering Woods sign (4325) and place it on Baker Street (4246) (4236). New sign should be erected at entrance to Rivergate for Whispering Woods, and we should receive rent for the space where sign is placed (4326).

Editorial Comments: If we have rights to our own sign, then the Rivergate sign previously on property should be replaced. Possibly Whispering Woods requires and has rights to their own sign, the placement of which probably should be at the entrance to Rivergate Lane since Wayne has granted as easement to Whispering Woods for ingress/egress on Rivergate Lane. To place Whispering Woods sign on Baker Street is another option.

FRONT ENTRANCE TO RIVERGATE

Coming from the south on Route 17, front entrance should be repaved to allow for a wider and smoother turn (4264).

Editorial Comments: Where Rivergate Lane intersects with Route 17, the actual entrance is wider than Rivergate Lane. Is this extra width sufficient?

Billboard sign at entrance—on whose property is sign placed (4325) (4275)? If it is Rivergate's property, we should be receiving rent for the sign (currently used by Century 21 and Sun Cruz).

ENGINEER'S REPORT

[Refer to Master Deed, p. 15, section XXIII.] Wayne should have property, roads, utilities inspected to assure that everything is in order and that roads meet Horry County standards so they can be turned over to County to maintain (4236) (4275).

Editorial Comments: Re road issues, see previous sections. Re Engineer's Report, Wayne was obligated under Master Deed to have an annual inspection done by a professional. The first report was due not later than 1 year after filing the Master Deed (in other words, not later than March 16, 2002) and each subsequent inspection should have occurred (and will occur in the future) annually between January 1 and July 1. The cost of such report is a common expense. There is no money in the current budget to have such an inspection conducted. Since Wayne, as the only Board member of which Atalaya is aware, is responsible for including in the HOA budget pertinent expense items, his non-compliance with the Master Deed appears to be undisputed. How to remedy? Need for an independent, unbiased inspection—not by one of Wayne's cronies. Because of non-compliance, possibly Wayne should incur the cost of the first report.

RESERVES

Some funds have been set aside for maintenance and repair of the units. Needs to be an accounting as repairs will be needed before too long (4236).

Editorial Comments: Oh boy!! Believe this is part of the lawsuit (there may be numbers of financial issues involved in the pending lawsuit). When I have talked to Atalaya about Reserves, there is some problem re lack of sufficient information provided by Wayne. In any event, per the Master Deed, there should be two reserve funds—one for replacement/repair to existing

properties and another for expenses in times of "stress" (refer to Master Deed, p. 22, Item F). The latter reserve does not exist. Again, it is the Board's responsibility (that is, Wayne's) to establish reserves, which funding should be included in every homeowners' dues. In the future, the buildup of reserves should include each and every item at Rivergate subject to repair/replacement over a period of time (in one state that I know of, everything needs to be included in the reserve if it needs to be repaired/replaced within 30 years). What is required in SC?

INDIVIDUAL PROBLEMS/CONCERNS

Permission to place an awning over my patio (4259).

Contractors' speeding up/down Rivergate Lane (one truck passed an owner going at least 45 mph) (4236).

Refrigerator furnished by developer should have been equipped with glass shelves. Not provided. Excuse was that model had been discontinued (4315).

Was told washer/dryer could be obtained for $400. Actual bill was $587. When owner contacted supplier, supplier said owner was misinformed about the price. Owner was told to pay WW & LB, which he paid by check. Supplier says bill not paid. Issue not resolved (4315).

LLR

DIVISION OF LEGAL SERVICES
OFFICE OF INVESTIGATION AND ENFORCEMENT

COMPLAINT FORM

For Consumer Complaints Against:
Residential Builders, Residential Specialty Contractors and Home Inspectors

Please complete and return to this office for review in order to determine if this complaint falls within the scope of the statutory authority of the Residential Builders Commission. Please answer all questions so that your complaint can be processed as soon as possible. Failure to answer all questions could result in delays in processing and/or request for additional information. You will be notified of receipt of your complaint and how it will be handled.

Your Name: (Complainant)

Dunn James K.
Last First M.

4325 Rivergate Lane
Mailing Address

Little River SC 29566 Horry
City State Zip Code County

843-663-4325 call 843-424-2848
Home Phone Day Time Phone

Same

Address of Property Involving Dispute

Complaint Against: (Licensee/Respondent)

Winderman Wayne
Last First M.

W&A&LR Development
Company Name

517 Clarendon Court
Mailing Address

Yoedley PA 19067
City State Zip Code

843-321-0114 —
Day Time Phone License #

I. Facts Regarding Your Complaint:

A. About your agreement:
(1) Did you enter into: written contract ☒ verbal agreement ☐
(2) Is a copy of your contract attached to this complaint? Yes ☐ No ☐
(3) Total cost for work to be performed: $ Unknown

B. Work performed for: New Construction ☒ Repair/Remodeling ☐ Home Inspection ☐
(1) Is a copy of your building permit attached (if applicable)? Yes ☐ No ☒
(2) If new construction, has Certificate of Occupancy been issued? Yes ☒ No ☐
(3) What is approximate age of the home? 1 year
(4) If repairs or remodeling, date work started — date work completed —

Rev. date:

EXHIBIT 32
Deponent Dunn
Date 11/6/14

File: Rivergate
Origin: Jim Dunn
0104

C. Have you hired an attorney to assist you in this matter? Yes ☐ No ☒
If answer is yes, please provide name and address.

Name of Attorney _____ Name of Firm _____

Mail Address _____ City _____ State _____ Zip Code _____

Phone: ( ) _____

D. Explain your complaint specifically. List items needing correction. Describe events in the order in which they occurred. Attach additional sheets if necessary.

1. Interior finish trim, nails not set, rough wood not sanded.
2. Doors not plumb. Swing open or close by them self.
3. Exterior windows, nails not set & caulked and frames not painted
4. Roofing over room over garage leaked two times. Ceiling damage in room and garage both times where repairs were made calling it different than replace of room and garage.
5. No hurricane shutters where here when we moved in.
6. Nails left in concrete foundation.
7. Tile cracking in master bathroom.

II. Additional Information Regarding Dispute Resolution

A. Does your contract contain an arbitration clause? Yes ☐ No ☐ unknown
B. Have you and Licensee/Respondent begun arbitration concerning this construction? Yes ☐ No ☑
C. Have you begun a civil action concerning the items in Your complaint? Yes ☐ No ☒

File: Rivergate
Origin: Jim Dann
0105

Outline directions to site of property involving dispute. Directions should be to a specific reference point in your area to allow the investigator to proceed directly to the location. Attach a map or on the back of this page, draw a sketch using highway and road numbers, names and other landmarks.

Going North on Hwy 17 from North Myrtle Beach
Rivergate is on north side of Eastport with
covered lot street on right & parallel to Baker St.
in Little River SC. 29566

(Tim)

9/19/2005
Date

Complainant Signature

Sworn to before me this 19 day of September, 2005

Notary Public
State of South Carolina

My Commission expires My Commission Expires May 16, 2014

Elizabeth Ann Nyland

Return completed form to:
SC Department of Labor, Licensing and Regulation
Office of Investigation and Enforcement
Post Office Box 11329
Columbia, South Carolina 29211-1329
Telephone: (803) 896-4470
Fax: (803) 896-4656

DIVISION OF LEGAL SERVICES
OFFICE OF INVESTIGATION AND ENFORCEMENT

COMPLAINT FORM

For Consumer Complaints Against:
Residential Builders, Residential Specialty Contractors and Home Inspectors

Please complete and return to this office for review in order to determine if this complaint falls within the scope of the statutory authority of the Residential Builders Commission. Please answer all questions so that your complaint can be processed as soon as possible. Failure to answer all questions could result in delays in processing and/or request for additional information. You will be notified of receipt of your complaint and how it will be handled.

Your Name: (Complainant)
Dunn James K
Chairman of Ht Hoc HOA
Last First M.

4325 Rivergate Lane
Mailing Address

Little River SC 29566
City State Zip Code County

843 663-4325 / 843-424-2868 cell
Home Phone Day Time Phone

Same

Address of Property Involving Dispute

Complaint Against: (Licensee/Respondent)
Winkelmann, Wayne
Last First M.

Loe & LB Development
Company Name

519 Clarendon Court
Mailing Address

Yardley PA 19067
City State Zip Code

(215) 321-0114 —
Day Time Phone License #

I. Facts Regarding Your Complaint:

A. About your agreement:
(1) Did you enter into: written contract ☒ verbal agreement ☐
(2) Is a copy of your contract attached to this complaint? Yes ☐ No ☒
(3) Total cost for work to be performed: $ Unknown

B. Work performed for: New Construction ☒ Repair/Remodeling ☐ Home Inspection ☐
(1) Is a copy of your building permit attached (if applicable)? Yes ☐ No ☒
(2) If new construction, has Certificate of Occupancy been issued? Yes ☒ No ☐
(3) What is approximate age of the home? 1 year
(4) If repairs or remodeling, date work started _____ date work completed _____

C. Have you hired an attorney to assist you in this matter? Yes ☐ No ☒
If answer is yes, please provide name and address.

Name of Attorney _____ Name of Firm _____

Mail Address _____ City _____ State _____ Zip Code _____

Phone: ( ) _____

D. Explain your complaint specifically. List items needing correction. Describe events in the order in which they occurred. Attach additional sheets if necessary.

See attach memo and photos of water issues

#1 Rivergate Ad Hoc Home Owner Committee Up Date
5 pages

#2 Rivergate Ad Hoc Home owner Committee Landscaping Update
1 Page

#3 Little River Water & Sewerage
1 page

#4 John Weaver, Horry County Attorney
1 page

Nine pages of photography Washed out parking pads standing water, stake Water, erosion,

Wayne Waterman, manager & Developer is the only member of HOA. Does not enforce By laws, Does not manage or take care of issues or complaints.

#5 Notes The following have reported leaks in pipes #432, 4229, 4289, 4297 and 4261 also is leaking in front between

II. Additional Information Regarding Dispute Resolution

A. Does your contract contain an arbitration clause? Yes ☐ No ☐ unknown
B. Have you and Licensee/Respondent begun arbitration concerning this construction? Yes ☐ No ☒
C. Have you begun a civil action concerning the items in Your complaint? Yes ☐ No ☒

File: Rivergate
Origin: Jim Dunn
0097

Outline directions to site of property involving dispute. Directions should be to a specific reference point in your area to allow the Investigator to proceed directly to the location. Attach a map or on the back of this page, draw a sketch using highway and road numbers, names and other landmarks.

Traveling north from N. Myrtle Beach on Hwy 17
Big Rivergate is on the north side of Eastport golf course. Before you get to Bolier St. in 24th River SC.

(Jim)

9/19/2005
Date

James K. Dunn
Complainant Signature

Sworn to before me this 19 day of September, 2005

Notary Public
State of South Carolina

My Commission expires May 18, 2014

Elizabeth Ann Nyland

Return completed form to:
SC Department of Labor, Licensing and Regulation
Office of Investigation and Enforcement
Post Office Box 11329
Columbia, South Carolina 29211-1329
Telephone: (803) 896-4470
Fax: (803) 896-4656

File: Rivergate
Origin: Jim Dunn
0098

South Carolina
Department of Labor, Licensing and Regulation

Division of Legal Services
Office of Investigations and Enforcement

Mark Sanford
Governor

Adrienne Riggins Youmans
Director

LLR

110 Centerview Drive
Post Office Box 11329
Columbia, SC 29211-1329
Phone: (803) 896-4470
FAX Information
Office of Investigations (803) 896-4656
Wages and Child Labor (803) 896-7680
www.llr.state.sc.us

NOTICE OF INSPECTION

September 25, 2006

Right Way Construction Inc.
889 Gator Ln.
Murrells Inlet, S.C. 29576

Case No: 2006-27

Complaint Filed By: James Dunn

Site Location: 4325 Rivergate Ln.

Please be advised that I will be conducting an inspection at the above address on October 10, 2006, at which time I will examine each item in the complaint to determine if it represents a violation of the applicable building codes or construction standards. If you desire to be present during the inspection, please contact me at 803-896-4820.

The results of my investigation will be submitted to an Investigative Review Committee (IRC) for review to determine if you have violated any of the provisions of the license law with regard to building code or standards violations. If you have satisfactorily addressed and/or repaired the items that represent violations, prior to my inspection or filing of the IRC report, that fact will be taken into consideration by the IRC as long as proper documentation is received by this office.

Respectfully,

Andrew Dempsey
Investigator

cc: Complainant

File: Rivergate
Origin: Jim Dunn
0599

South Carolina
Department of Labor, Licensing and Regulation

Board of Registration for Professional
Engineers and Land Surveyors

Mark Sanford
Governor

Adrienne Riggins Youmans
Director

110 Centerview Drive
Post Office Box 11597
Columbia, SC 29211-1597
Phone: (803) 896-4422
FAX: (803) 896-4427
www.llr.state.sc.us

October 27, 2005

File:

JAMES K. DUNN
4325 RIVERGATE LANE
LITTLE RIVER, SC 29566

RE: Wayne Winderman / WW & LB Development Co., LLC

Dear Mr. Dunn:

Reference your complaint dated September 19, 2005 (received October 11, 2005) against the above captioned subject(s) submitted to the SC Department of Labor, Licensing & Regulation. It appears that the subjects of your complaint are out-of-state "developers" rather than the builder. We do not license developers. We license residential and specialty builders in South Carolina.

Please provide us copies of any contract, invoice, written estimate, cancelled check(s) or the like that identify the builder of your home. A copy of the building permit is requested. You may obtain the document from the local building official. If you have a 3rd party inspection report noting the deficiencies, please provide us a copy.

SC law requires a homeowner to provide written notice to his builder affording the builder the opportunity to repair any deficiencies. The law is commonly referred to as the "right to cure" law. You did not provide us a copy of your notice to your builder.

Please direct the documents to my attention within the next ten (10) business days. Otherwise, we will not be able to initiate action on your concerns. Please note that we have no authority to require the builder to make any repairs or to refund any monies. Those issues are typically pursued through the court. Thank you.

Sincerely,

Charles J. Ido
Chief of Investigations
Office of Investigations & Enforcement

File: Rivergate
Origin: Jim Dunn
0598

South Carolina
Department of Labor, Licensing and Regulation

Division of Legal Services
Office of Investigations and Enforcement

Mark Sanford
Governor

Adrienne Riggins Youmans
Director

110 Centerview Drive
Post Office Box 11329
Columbia, SC 29211-1329
Phone: (803) 896-4470
FAX Information
Office of Investigations (803) 896-4656
Wages and Child Labor (803) 896-7680
www.llr.state.sc.us

January 23, 2006

Mr. & Mrs. James Dunn
4325 Rivergate Ln, 15 D
Little River, SC 29566

Re: Contractors' Licensing Board
File #: 2006-27

Dear Mr. & Mrs. Dunn:

Your complaint referenced above has been received and a case file has been opened. Investigator Andy Dempsey has been assigned the case and may be contacting you for further information. Normally our investigators work their cases in the order they are received. Please be assured that your complaint will be worked as quickly as our caseload permits.

Please understand that the function of this agency is to administer and enforce the applicable license laws and regulations and we have no authority beyond the statutes that apply to a particular license area. With respect to your complaint, the agency has the authority to investigate to determine if a licensee has violated the license law and, if so, refer it to the Board or Commission having jurisdiction so that they may take appropriate disciplinary action. Discipline may range from a public reprimand to revocation of a license or registration. This agency does not have the authority to intercede in contractual issues, arbitrate disputes or require a licensee to refund money or perform any particular act regarding the matters alleged in your complaint.

The investigator assigned to this case will collect evidence to determine if there are facts to support a charge against the licensee for violations of the license law. The investigator's findings will be reviewed by a committee composed of legal and subject matter experts with recommendations to follow. If violations are noted, the Board may negotiate a settlement with the licensee or proceed to a hearing at which time you may be called as a witness. If no violations are noted or cannot be proven, the case will be closed and you will be notified, in writing, of our decision.

Please be assured that your complaint will receive a thorough investigation and you will be contacted as necessary. Thank you for your patience while we conduct our investigation.

Respectfully,

Edwin A. Farnell, III
Chief of Investigations

EAF

File: Rivergate
Origin: Jim Dunn
0600

DIVISION OF LEGAL SERVICES
OFFICE OF INVESTIGATION AND ENFORCEMENT

COMPLAINT FORM

For Consumer Complaints Against:
Residential Builders, Residential Specialty Contractors and Home Inspectors

Please complete and return to this office for review in order to determine if this complaint falls within the scope of the statutory authority of the Residential Builders Commission. Please answer all questions so that your complaint can be processed as soon as possible. Failure to answer all questions could result in delays in processing and/or request for additional information. You will be notified of receipt of your complaint and how it will be handled.

Your Name: (Complainant)

SARRATT CHRIS G.
Last First M.

4311 Rivergate Lane
Mailing Address

Little River, SC 29566 Horry
City State Zip Code County

(843) 663-4311 843-457-3778
Home Phone Day Time Phone

Same as above.

Address of Property Involving Dispute

Complaint Against: (Licensee/Respondent)

Winderman Wayne
Last First M.

WW & LB Development Co, LLC
Company Name

1414 Woodyview Rd.
519 Clarendon Ct.
Mailing Address

Yardley PA. 19067
City State Zip Code

(215) 321-0114
Day Time Phone License #

I. Facts Regarding Your Complaint:

A. About your agreement:
(1) Did you enter into: written contract ☑ verbal agreement ☐
(2) Is a copy of your contract attached to this complaint? Yes ☑ No ☐
(3) Total cost for work to be performed: $ _____

B. Work performed for: New Construction ☑ Repair/Remodeling ☐ Home Inspection ☐
(1) Is a copy of your building permit attached (if applicable)? Yes ☐ No ☑
(2) If new construction, has Certificate of Occupancy been issued? Yes ☑ No ☐
(3) What is approximate age of the home? June 2005 - 3 months
(4) If repairs or remodeling, date work started July 2005 date work completed Not complete

Rev. date:

File: Rivergate
Origin: Jim Dunn
0065

C. Have you hired an attorney to assist you in this matter? Yes ☐ No ☑
If answer is yes, please provide name and address.

Name of Attorney _____ Name of Firm _____

Mail Address _____ City _____ State _____ Zip Code _____

Phone: ( ) _____

D. Explain your complaint specifically. List items needing correction. Describe events in the order in which they occurred. Attach additional sheets if necessary.

(See attachment)

II. Additional Information Regarding Dispute Resolution

A. Does your contract contain an arbitration clause? Yes ☐ No ☑
B. Have you and Licensee/Respondent begun arbitration concerning this construction? Yes ☐ No ☑
C. Have you begun a civil action concerning the items in Your complaint? Yes ☐ No ☑

File: Rivergate
Origin: Jim Dunn
6066

Outline directions to site of property involving dispute. Directions should be to a specific reference point in your area to allow the Investigator to proceed directly to the location. Attach a map or on the back of this page, draw a sketch using highway and road numbers, names and other landmarks.

Take Hwy 17 from North Myrtle Beach And Travel North To Little River. Take 1st Right Past Eastport Golf Course. Sign will Say Whispering Woods on Top and Rivergate on Bottom. Take Left on 6th Street Down. House is last on Right. House #4311.

9-30-25
Date

Complainant Signature

Sworn to before me this 30th day of September, 2025

Notary Public
State of South Carolina My Commission expires February, 2031

Return completed form to:
SC Department of Labor, Licensing and Regulation
Office of Investigation and Enforcement
Post Office Box 11329
Columbia, South Carolina 29211-1329
Telephone: (803) 896-4470
Fax: (803) 896-4656

D. Explain Complaint Specifically

My wife and I closed on our home June 27, 2005. I am a realtor for Condolux Real Estate Sales in North Myrtle Beach. I made a punch list prior to moving in and per her instructions gave this to the On Site realtor, Donna Dawson of Beach Realty of Little River LLC- Broker-Owner. The project did not have a superintendent for this project. The developer, WB & LB Development Company, LLC, used Donna Dawson to act as their construction superintendent. I was assured by Ms. Dawson that all of my items would be completed but as of this date it is not completed. We have asked Ms. Dawson to repair items on numerous occasions and have had a few items completed. Most neighbors we've learned have given up on repairs due to negligence by the Developer. The Realtor assured us of a one year warranty by the Developer.

I'm sad to report that many things that were promised in the Sales Presentation by Ms. Dawson has not happened. For example, the electrical light switches were backwards, one switch in a bedroom closet was on the wrong wall, and no ground fault circuits in baths or kitchen--Ms. Dawson's response to this was " we fired the electrician". This was, of course, after our closing date. We have also recently learned that the Rivergate Homeowners Association, run by the developer Wayne Winderman, has the buildings insured for approximately 40% of the property values which means each homeowner has 60% risk for full or partial damage claims. I spoke with the insurance company representative and was told that they had requested that Mr Winderman carry the proper coverage but he has denied updating the policy. This can only be done by Mr. Winderman according to the insurance company.

If we ever wanted to sell our property, the Residential Property Disclosure would , in my opinion as a realtor, severely hamper the sale of our new home. Please help with our concerns as you seem to be our last resort.

Sincerely,

Chris Sarratt
4311 Rivergate Lane
Little River, SC 29566
843-457-3778

File: Rivergate
Origin: Jim Dunn
0068

I-D Facts Regarding Complaint

Interior Punch list

✔ indicates has been completed

Front Bedroom

Light switch in closet is on the wrong wall per door opening.

Master Bedroom

Outlets on the outside wall are upside down.
Molding around window at the bottom is damaged.
Attic opening in walk-in closet is painted shut.

Master Bathroom

No ground fault outlet. (Code violation)
Light switches not in correct order (backwards).
Shower drain pipe is to high. ✔

Upstairs Bedroom

Attic door in closet is painted shut.
No ground fault outlet.

Upstairs Bathroom

Hole in wall foot from the floor at the door jam. ✔

Hall Bathroom

Floor covering not glued properly.

Dining area

Hole in floor under carpeting near right of pantry door.

Kitchen

Cabinet door needs to be hung. ✔
Heard from a neighbor the microwave could be a fire hazard due to improper installation.

Den

Front door has air gaps from door frame when closed at the top and bottom.
Sliding door handle is missing a screw. ✔
Sliding door screen has no hardware so screen can be locked/secured.

Garage

Air gaps at each end of the garage door.
Hot water heater (overflow hose)
Naked wires on wall for cable, etc. near hot water heater.
No insulation around hot water heater pipes.
Hot water hook-up for washing machine leaks. ✔
Popcorn on ceiling needs to be repaired.
Dryer vent is supported with straps instead of brackets.
Doorway wasn't cut properly before entry door was installed leaving a large gap above the top molding.

Grounds

Sprinklers in front of house under the windows and the one in front of the front door aren't working.

Low area in front of the house (paved area is to be redone so water will not stand) per Donna Dawson (Beach Realty).

General

Floor covering isn't cut properly throughout the house.
Door and wall moldings not flush with floor throughout house.
Concrete floor in entry hallway isn't level.
Dots on drywall throughout house.

Exterior Doors

Keys had been made for entry doors several times at different places and keys never would work. Keys given at closing never worked properly so we never could lock doors. Knobs need to be changed.

DIVISION OF LEGAL SERVICES
OFFICE OF INVESTIGATION AND ENFORCEMENT

COMPLAINT FORM

For Consumer Complaints Against:
Residential Builders, Residential Specialty Contractors and Home Inspectors

Please complete and return to this office for review in order to determine if this complaint falls within the scope of the statutory authority of the Residential Builders Commission. Please answer all questions so that your complaint can be processed as soon as possible. Failure to answer all questions could result in delays in processing and/or request for additional information. You will be notified of receipt of your complaint and how it will be handled.

Your Name: (Complainant)

MEDLIN EDAIE H.
Last First M.

4321 RIVERGATE LANE
Mailing Address

LITTLE RIVER, SC 29566
City State Zip Code County

(843) 663-4321 - 843-458-0702
Home Phone Day Time Phone

4321 RIVERGATE LANE
LITTLE RIVER SC 29566
Address of Property Involving Dispute

Complaint Against: (Licensee/Respondent)

WADERMAN WAYNE
Last First M.

WW & LB DEVELOPMENT CO., LLC.
Company Name

519 CLARENDON COURT
Mailing Address

YARDLEY, PA. 19067
City State Zip Code

(215) 321-0114
Day Time Phone License #

I. Facts Regarding Your Complaint:

A. About your agreement:
(1) Did you enter into: written contract [✓] verbal agreement [ ]
(2) Is a copy of your contract attached to this complaint? Yes [ ] No [✓]
(3) Total cost for work to be performed: $ _____

B. Work performed for: New Construction [✓] Repair/Remodeling [ ] Home Inspection [ ]
(1) Is a copy of your building permit attached (if applicable)? Yes [ ] No [✓]
(2) If new construction, has Certificate of Occupancy been issued? Yes [✓] No [ ]
(3) What is approximate age of the home? 7 MONTHS
(4) If repairs or remodeling, date work started N/A date work completed N/A

C. Have you hired an attorney to assist you in this matter? Yes ☐ No ☒
If answer is yes, please provide name and address.

Name of Attorney _____ Name of Firm _____

Mail Address _____ City _____ State _____ Zip Code _____

Phone: ( ) _____

D. Explain your complaint specifically. List items needing correction. Describe events in the order in which they occurred. Attach additional sheets if necessary.

see attached

II. Additional Information Regarding Dispute Resolution

A. Does your contract contain an arbitration clause? Yes ☐ No ☒
B. Have you and Licensee/Respondent begun arbitration concerning this construction? Yes ☐ No ☒
C. Have you begun a civil action concerning the items in Your complaint? Yes ☐ No ☒

File: Rivergate
Origin: Jim Dunn
0082

Outline directions to site of property involving dispute. Directions should be to a specific reference point in your area to allow the Investigator to proceed directly to the location. Attach a map or on the back of this page, draw a sketch using highway and road numbers, names and other landmarks.

Take Hwy 17 from North Myrtle Beach and go north to Little River. After you pass East Port Golf course on the right - turn right on Rivergate Lane. The sign will say Whispering Woods on top & Rivergate @ the bottom. Go to the end to the last street on the left & turn left. House # is 4321.

(OR) you can take Hwy 17 N toward Little River & after you pass Eastport Golf course on right, take a right @ the Stoplight @ Baker St. Then go almost to Cricket Cove marina & take the 1st street to the right. Then take another right & then 1st right - to 4321

9-24-05
Date

Complainant Signature

Sworn to before me this 24 day of September, 2005

Notary Public Jane W. Forward
State of South Carolina My Commission expires 2-24-13

Return completed form to:
SC Department of Labor, Licensing and Regulation
Office of Investigation and Enforcement
Post Office Box 11329
Columbia, South Carolina 29211-1329
Telephone: (803) 896-4470
Fax: (803) 896-4656

File: Rivergate
Origin: Jim Dunn
0083

D. Explain your complaint specifically.

My spouse and I closed on our house on March 22, 2005. I am a Project Manager for Baldwin Construction. I made a punch list prior to moving in and faxed it on March 21, 2005. I was assured all my items would be completed. To my amazement they did not have a superintendent for this project. They used a realtor, Donna Dawson of Beach Realty of Little River to act as construction superintendent. I was assured by Ms. Dawson that all my items would be completed. As of this date it has not happened. We've had the door man come out to repair the front door because it drags and it still drags. He has worked on it twice. We have asked to have our sprinkler heads repaired and even sent a note to the landscaper to come by and fix it but he never came by. We asked the plumber to cut off the pipes in the front yard level with the yard. He never did. A lot of our neighbors have given up on having the developer repair items on their punch lists and have hired and paid other contractors to come and repair the items that should have been repaired by the developer under the builder's one year warranty. Several items that were in the original brochure in the sales presentation were never done. Two of these items were a walking path around the neighborhood and an exercise room.

I have attached a copy of my original punch list. This shows items that were not completed and includes new items since we have moved into the house.

General notes to punch list for 4321 Rivergate Lane.

Several of my neighbors and I were promised when construction was complete our street would have a second layer of asphalt. That means they would have to raise the catch basin grate that is level with the existing asphalt. I have attached a photo that shows drainage is a continual problem. I understand the construction process, but clean up of construction debris is a constant problem. They have never washed the streets of the constant mud from the construction.

4321 Rivergate Lane

PUNCH LIST FOR UNIT 16D – EDDIE & JULER MEDLIN

EXTERIOR PUNCH LIST

~~1. Repair low section of sod between driveways.- **Landscaper**~~

~~2. Pressure wash driveway, sidewalks and exterior of unit.- **Pressure Washer Sub.**~~

3. Putty hole in trim and caulk miter joints around 3Ea windows and sliding glass door and paint, some trim never has been painted.- **Painter**

~~4. Caulk around hose bibb pipe, this was caulked but there is still void where water can get behind siding.- **Plumber**~~

~~5. Clean construction trash off of driveway.- **Clean up crew**~~

6. Repair sod in front yard where vehicles have been driving across the grass.- **Landscaper**

~~7. Add additional red bark in landscaped areas where it has washed away.- **Landscaper.**~~

8. Exterior windows were never washed. Mortar and mud on windows. -**Cleanup crew**

~~9. Clean mortar off white vinyl at ceiling entrance where the stone mason got it on the vinyl. **Stone Mason**~~

10. Front door drags at top of door frame. Jessie tried to get it to work, but I don't think he installed it. The trim has hammer marks and nail holes that need to be repaired. **Front door installer** — AS of 9/15/05 - STILL NOT REPAIRED

11. Repair vinyl below front door threshold.- **Vinyl Siding Subcontractor**

12. Replace bent vinyl below door ringer.-**Vinyl Siding Subcontractor**

13. Repair sod around water meter box. -**Landscaper**

14. Cut off green vent pipes level with ground and cap.-**Utility Contractor**

~~15. Sheet rock mud was dumped on sod next to outside unit and got mud on unit and vinyl siding. Probably will have to replace some sod. **Drywall Sub**~~

~~16. Install window screens after pressure washer has finished. **Screen Installer**~~

~~17. Screen for sliding glass door?~~

18. Remove caulk around door bell ringer. Other units do not have this caulk.

19. EXT. NAILS @ SIDING PATIO DOOR WERE NOT GALV. - STARTING TO RUST.

Interior Punch list.

Front Bedroom Closet

~~1. Closet door will not latch-**Jessie**~~

~~2. Touch up door casing inside closet-**Jessie**~~

~~3. Sand ripple in sheet rock next to switch plate-**Drywall sub**~~

~~4. Remove pencil mark from quarter round.~~

~~5. Exterior door casing has dings and rough places that need to be puttied, sanded and painted.~~

File: Rivergate
Origin: Jim Dunn
0065

Front Bed Room

1. Touch up paint spots on door casings Jessie
2. Spackle small holes by right door casing and paint Drywall Sub and Jessie
3. Spackle places above switch plate & Paint Drywall Sub and Jessie
4. Clean all windows tracks Very dirty form construction trash and dirt. Clean Up Sub
5. Repair chipped wood on window sill and repaint Jessie
6. Nail @ top of window trim sticking out ¼". Set nail, putty and paint. Jessie
7. Nail hole @ left window casing. Putty and paint Jessie
8. Touch up big mark on wall to left of vertical window trim Jessie
9. Big paint drip on back wall that needs to be sanded and repainted Jessie
10. Paint end of quarter round @ left of door casing Jessie
11. Set nail in quarter round, putty and paint. This on the wall @ CATV Outlet.
12. Fill nail holes @ left side of casing & paint Jessie.

Master Bed Room Closet

1. Paint access panel to attic It never has been painted Jessie
2. Sand rough spots on door casing, putty and paint Jessie
3. Putty holes in vertical door casing and paint. It looks like there is only one coat of paint. Jessie
4. Door handle loose Jessie
5. Spackle big dimple in sheet rock and repaint This in on the right wall as you enter the closet Drywall Sub & Jessie
6. Sand sheetrock @ left wall corner and paint Jessie
7. Fill ½" place in sheetrock @ left corner as you enter the closet and paint Drywall Sub & Jessie
8. Quarter round @ door left side looking at door needs to be 45degree and painted Flooring sub and Jessie
9. Caulk cracks in door frame, sand rough spots, putty nail holes and paint Jessie
10. Shelving was never installed. Shelving Sub
11. Sand sheetrock @ back wall above base and paint Drywall Sub and Jessie

Master Bed Room

1. Outlet cover plate on next to CATV outlet away from wall Electrical Sub WAS NOT INSTALLED
2. Sheet rock mud showing around shower enclosure needs sanding and painting. **Drywall Sub & Jessie**
3. Edge of door casing never painted Jessie
4. This is a general note: Repair all places on sheetrock with dots and Paint Drywall Sub & Jessie
5. This is a general note: Repair all cracks, rough spots, fill nail holes in door frames and door casing and paint Jessie

Master Bath Room

~~1. Complete Plumbing @ vanity Plumber~~
~~2. Install toilet paper holder on side of vanity.~~
~~3. Can light above shower needs to be flush with ceiling Electrical Sub~~
~~4. Credit for vanity Mirror~~
~~5. General note: Where dots are on drywall the drywall Sub needs to finish drywall and Jessie needs to paint.~~
~~6. Where dots are on the base or door casing Jessie need to either caulk joints, fill cracks, putty nail holes, touch up marks or sand rough spots on trim and paint.~~
~~7. Caulk door casing at floor on tile.~~
8. CRACKED FLOOR TILE,

Upstairs Bath

~~1. Faucet in shower not flush with the shower wall. Plumber~~
~~2. Very low water pressure in shower Plumber~~
~~3.General Note: See dots on drywall for Drywall Sub to finish his work and Jessie to Paint~~
~~4. Repair damaged door casing and paint. Jessie~~
~~5. General Note: Where dots are on the base or door casing Jessie will need to either caulk joints, fill cracks, putty nail holes, and touch up marks or sand rough spots on trim and paint. Jessie~~

Bonus Room Upstairs

~~1. Paint attic access and trim. It has never been painted. Jessie~~
~~2. Same general notes apply to this room concerning the Drywall Sub and Jessie and as in upstairs Bath.~~

Stairway

~~1. Repair drywall and paint where dots are. Jessie and Drywall Sub~~
~~2. Caulk edge of stringer and paint. Jessie.~~
~~3. Repair hammer marks on top of stringer, repair chip in wood stringer at bottom Of the stair. Jessie~~

Kitchen

~~1. Missing several door silencers on cabinet doors. Cabinet Sub~~ OWNER INSTALLED
2. Hot water is not on.
~~3. Latch on door to garage does not work Jessie~~ ~~DOOR REPLACED~~
4. Same general note concerning dots for the Painter and Drywall Subs apply.

File: Rivergate
Origin: Jim Dunn
0087

Garage

~~1. Clean out garage and clean sheet rock mud off floor.~~ OWNER REPAIRED
~~2. Same General note concerning dots for the Painter and Drywall Subs apply.~~
3. SHEET ROCK MUD AND MORTAR STILL ON FLOOR GARAGE FLOOR.

Dinning Room

~~1. Set nails in trim under bar, putty and paint.~~ Caulk at top of trim under bar and paint.- Jessie
~~2. Same general note concerning dots for the Painter and Drywall Subs apply. There is one very bad wall next to the pantry that the drywall contractor needs to repair.~~

Pantry

~~1. Finish drywall at the dots and paint~~

Living Room

~~1. Light does not work on ceiling fan Electrical Sub~~
2. Big ripple in drywall above base board the whole length of the wall- Drywall Sub
~~3. Repair damaged wood casing at top of sliding wall. Jessie~~
~~4. Install second coat of paint on arch above window. Install cover plate on cable outlet Electrical Sub~~
5. BIG RIPPLE IN DRYWALL AS YOU ENTER FOYER ON LEFT WALL

Front Door and Foyer

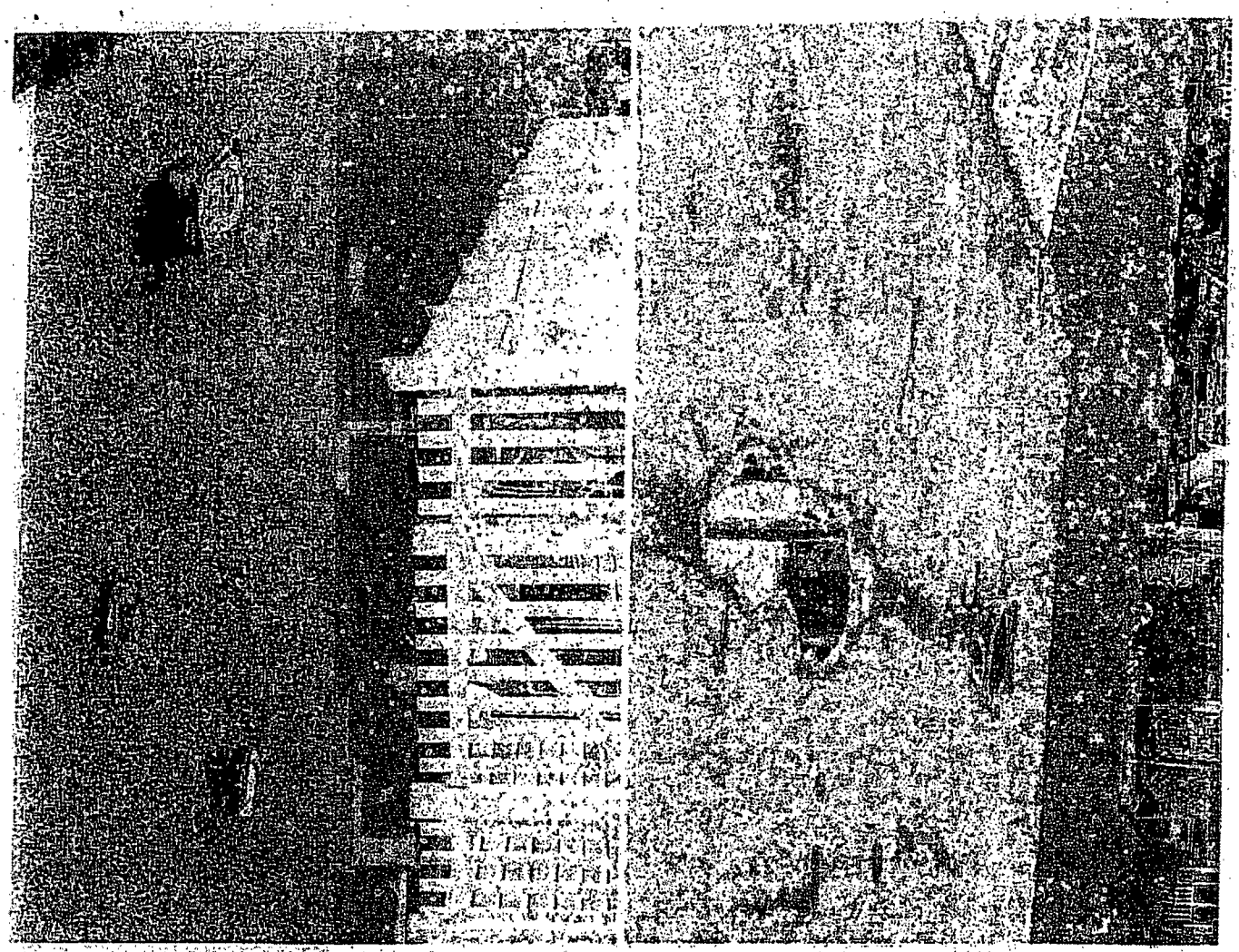
1. Front Door drags at Bottom left of door frame Need to be corrected. Exterior Door Sub
~~2. Front door deadbolt will not latch Jessie or the Exterior Door Sub~~
~~3. Paint quarter round @ threshold Jessie~~
4. Putty nail holes and repair damaged door frame and casing from hammer marks and paint. – Exterior Door sub and Jessie

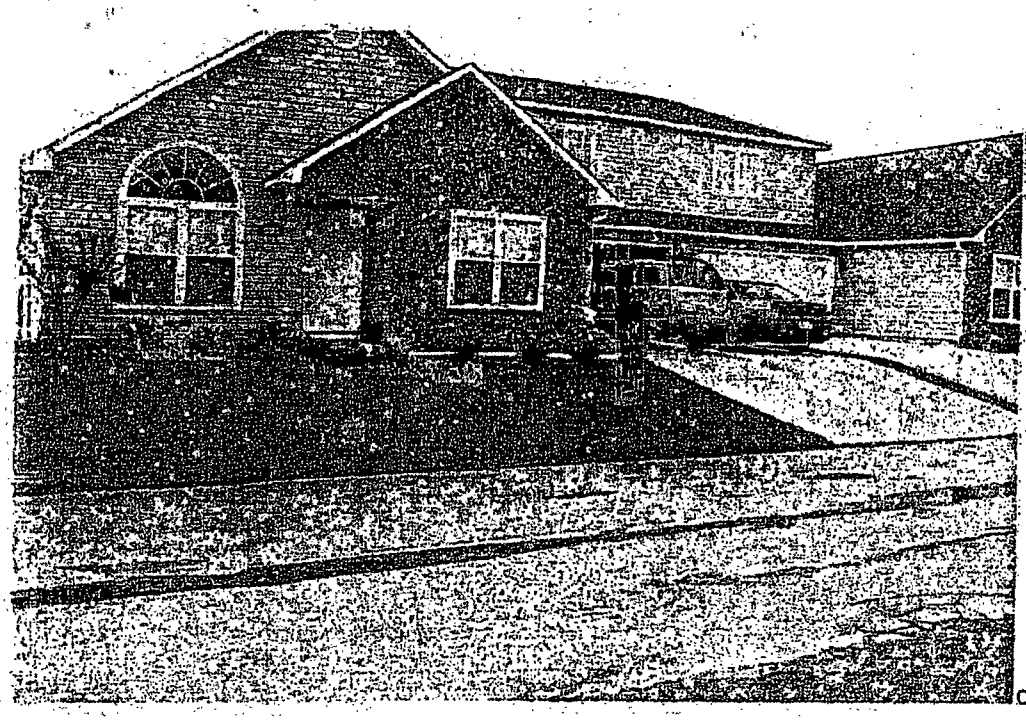
General Notes:

~~1. Final cleaning has not been done.~~
~~2. Install mirrors in the upstairs bathroom and the front bathroom downstairs.~~
~~3. Clean all window tracks.~~
~~4. Complete all drywall and painting.~~
~~5. Install all screens after pressure washing and painting.~~
6. Install door silencers and plastic buttons for screw holes in all vanities and cabinets.
7. SPRINKLER HEADS ARE NOT ALL WORKING. SPRINKLER HEADS DO NOT COVER ALL OF YARD.

File: Rivergate
Origin: Jim Dinn
0088

(SEE ATTACHED SHEET)





File: Rivergate
Origin: Jim Dunn
0089

LLR

DIVISION OF LEGAL SERVICES
OFFICE OF INVESTIGATION AND ENFORCEMENT

COMPLAINT FORM

For Consumer Complaints Against:
Residential Builders, Residential Specialty Contractors and Home Inspectors

Please complete and return to this office for review in order to determine if this complaint falls within the scope of the statutory authority of the Residential Builders Commission. Please answer all questions so that your complaint can be processed as soon as possible. Failure to answer all questions could result in delays in processing and/or request for additional information. You will be notified of receipt of your complaint and how it will be handled.

Your Name: (Complainant)

Swallow, Joan
Last First M.

P.O. Box 1365
Mailing Address

Little River SC 29566
City State Zip Code County Horry

(843 663-4226
Home Phone Day Time Phone

1B 4226 Rivergate La
Address of Property Involving Dispute

Complaint Against: (Licensee/Respondent)

Winderman, Wayne
Last First M.

WW & LB Development Co. LLC
Company Name

519 Clarendon Ct.
Mailing Address

Yardley, PA 19067-
City State Zip Code

( )
Day Time Phone License #

I. Facts Regarding Your Complaint:

A. About your agreement:
(1) Did you enter into; written contract ☑ verbal agreement ☐
(2) Is a copy of your contract attached to this complaint? Yes ☑ No ☐
(3) Total cost for work to be performed: $ Orig cost 2878.26 Replacement cost 1239.25

B. Work performed for: New Construction ☑ Repair/Remodeling ☐ Home Inspection ☐
(1) Is a copy of your building permit attached (if applicable)? Yes ☐ No ☑
(2) If new construction, has Certificate of Occupancy been issued? Yes ☑ No ☐
(3) What is approximate age of the home? 2 1/2 years 4-16-03
(4) If repairs or remodeling, date work started _____ date work completed _____

Rev. date:

File: Rivergate
Origin: Jim Dunn
0072

C. Have you hired an attorney to assist you in this matter? Yes ☐ No ☑
If answer is yes, please provide name and address.

Name of Attorney _____ Name of Firm _____

Mail Address _____ City _____ State _____ Zip Code _____

Phone: ( ) _____

D. Explain your complaint specifically. List items needing correction. Describe events in the order in which they occurred. Attach additional sheets if necessary.

I chose to upgrade my carpet upon purchasing 1B to Burbar. I was told to use Coastal Carolina Carpet. I was displeased with the installation immediately & called to complain. The seams on the carpet formed a V. I was told the seams would "settle" in time. Monthly I called the carpet store requesting someone come look at my carpet. Sometime around Dec/Jan I went across the street & spoke to the man laying carpet there. He came over & told me the seams were never glued & that he would report it to Coastal. Soon thereafter I got a call from the carpet store "scolding" me for talking to their workers. I said I had called the store monthly to no avail. A week later a young man came to glue my carpet seams. I complained when they were doing it that it made the seams more obvious, but they assured me when the glue dried it would look "just fine". I kept calling the store to no avail.

Well the seams now are disgusting & I paid "an expert" to size up the problem. This has been an ongoing problem now past my "1 year warranty" — Documents attached

II. Additional Information Regarding Dispute Resolution

A. Does your contract contain an arbitration clause? Yes ☐ No ☑
B. Have you and Licensee/Respondent begun arbitration concerning this construction? Yes ☐ No ☑
C. Have you begun a civil action concerning the items in Your complaint? Yes ☐ No ☑

File: Rivergate
Origin: Jim Dunn
9073

Outline directions to site of property involving dispute. Directions should be to a specific reference point in your area to allow the Investigator to proceed directly to the location. Attach a map or on the back of this page, draw a sketch using highway and road numbers, names and other landmarks.

Hwy 17 Rivergate Lane Unit 1B

9-28-05
Date

Complainant Signature

Sworn to before me this 28th day of September, 2005

Notary Public
State of South Carolina My Commission expires June 27, 2013

Return completed form to:
SC Department of Labor, Licensing and Regulation
Office of Investigation and Enforcement
Post Office Box 11329
Columbia, South Carolina 29211-1329
Telephone: (803) 896-4470
Fax: (803) 896-4656

1B

NW&LB DEVELOPMENT
FLOOR COVERING SPECIFICATIONS
ALL UNITS

Date 2-10-03

Kitchen
Vinyl Floor Covering

All Bathrooms
Vinyl Floor Covering

All Dining, Living and Bedrooms
Carpeting per sample in model

Floor Covering Upgrades

Upgrades are permitted by making arrangements directly with builders floor covering vendor. Builder has bid the cost of flooring with many vendors and has found the current vendor to be the most competitive with a high degree of satisfaction.

The Builder shall provide the following allowances:

Golf View Duplex	$ 2,950.
Duplex Units	$ 2,250.
Quad Units	$ 2,250.
Courtyard Units	$ 1,800.

Selections are required to be made after four weeks from signing a contract to enable the floor covering vendor enough time to adequately plan and install accordingly. It is strongly recommended that all buyers use a vinyl membrane under all ceramic installations. Floors are always prone to settlement cracks which are normal and expected. The vinyl membrane is an insurance policy that your ceramic floor will not crack as a result of normal settlement.

Buyer shall take standard ✓ Buyer shall upgrade foyer & ceramic linoleum ✓ LR, DR & hallway #2404

Approved by Buyers _____

_____

NW&LB Development Manager

flup.doc

File: Rivergate
Origin: Jim Dunn
0075

Bill
paid
for further input

Coastal Carolina Carpet & Tile, Inc

P.O. Box 4385
North Myrtle Beach, SC 29597
Office (843) 272-4656
Fax (843) 272-4557
Email CCCarpet@msn.com

Joan Kosloski
Rivergate 1-B

Paid $578.26 for extra charges on floor covering. Balance to be paid by builder.

Check Number 581

Wayne -

Brandi M. Cattles

File: Rivergate
Origin: Jim Dunn
0076

TELEPHONE
(843) 249-2224
P.O. BOX 809
1600 HWY. 17 N.
N. MYRTLE BEACH, SC 29582
FAX # (843) 249-6534

Williams Carpet

CUSTOM DESIGNED RUGS
WOOD & CERAMIC TILE
WALL TO WALL CARPETING
EXPERT INSTALLATION
ARMSTRONG AND
CONGOLEUM VINYL

Wide Selection of Wallpaper • Window Treatments

Estimate for carpet replacement

DATE 4/21/05

Jean Swallow
4236 Rivergate Ln
Little River
443-4226

80579

12x42'	Allegretto	14	99	854	43
57yds			box	42	72
57yds	Labor	4	50	256	50
57yds	Move Furniture	1	50	57	00
57yds	Take up		50	28	50
				1239	15

NOT RESPONSIBLE FOR CUSTOMER MEASUREMENTS
WE DO NOT CUT OFF DOORS
WE DO NOT MOVE STOVES & REFRIGERATORS

MDSE. APPROVED BY:

HWY. 701 SOUTH
WHITEVILLE, NC 28472
TELEPHONE (910) 642-6298

8745 OCEAN HWY.
PAWLEYS ISLAND, SC 29585
(843) 235-9218

NET 30 DAYS
ALL INVOICES NOT PAID BY THE DUE DATE ARE SUBJECT TO A FINANCE CHARGE OF 1½% PER MONTH, ANNUAL PERCENTAGE RATE OF 18%

1808 CASTLE HAYNE RD.
WILMINGTON, NC 28401
TELEPHONE (910) 763-7993

7136 BEACH DR., HWY. 179
OCEAN ISLE BEACH, NC 28469
(910) 579-7692

File: Rivergate
Origin: Jim Dunn
0077

6/5/06
Carpet Insp
Includes Report, Findings
~~Report~~ and Conclusion of Insp
Joan Swallow Report
Report will be sent to Consumer
Amt Due $225.00
Pay To Harry Foust

Note; Further Action Recommended
for problem of installation

Fd. 6-2-05

PROFESSIONAL TECHNICAL SERVICE
FCITS Certified Inspector
Air Quality Specialist

Commercial
•
Residential
•
Floor Covering Inspections
•
Moisture Testing
•
Consultant

Harry B. Foust

1610 D Church Street
PMB 169
Conway, SC 29526
Tel: (843) 397-3129
Fax: (843) 397-3143
harryfoust@sccoast.net

File: Rivergate
Origin: Jim Dunn
0078

Main Identity

Response to Inspection.

(2)

From: "Brandi Matkins" <cccarpet@msn.com>
To: "Joan Swallow" <jswallow1@juno.com>
Sent: Thursday, July 14, 2005 2:15 PM
Subject: Re: Wayne Matkins

Ms. Swallow,
It is unfortunate that you are unhappy with your carpet, however the one year installation warranty is null and void at this point in time. There were repairs done to your carpet within the warranty time limits. At this point we have done all that we are going to do in this matter.

Thank you,
Wayne Matkins

---- Original Message ----
From: Joan Swallow
To: Undisclosed-Recipient:
Sent: Friday, July 08, 2005 11:11 AM
Subject: Att: Wayne Matkins

Inspection report sent to Coastal Carpets.

(1)

---- Original Message ----
From: HARRY FOUST
To: jswallow1@juno.com
Sent: Friday, July 08, 2005 7:32 AM
Subject: CLAIM #12456

INSPECTION REPORT requested: by Joan Swallow

DEALER: Coastal Caroline Carpet, North Myrtle Beach, SC

CONSUMER: Joan Swallow (DIVORCED) Married name: Joan Kosloski
PHYSICAL ADDRESS: Rivergate 1B, LITTLE RIVER, SC Install date: 4/2003

COMMENTS:

CONSUMER STATED THAT THE BERBER CARPET INSTALLED WAS NOT ACCEPTABLE, BEFORE INSTALLERS HAD COMPLETED INSTALL.

CONSUMER HAD STATED ALSO THAT SHE HAD REPEATLY CALLED DEALER ABOUT PROBLEM WITH SEAM AREAS AFTER INSTALLER HAD BEED OUT TO REPAIR SEAM AREAS WITHIN A SHORT PERIOD OF TIME AFTER INSTALL, WITHOUT THE SEAM BEING REPAIRED PROPERLY.

PROBLEM HAS BEEN ONGOING SINCE, WITH SEAMS HAVING A SLIGHT PEAKING CAUSING UNSIGHTLY APPEARANCE, SEAM AREA HAD SPOTTED LATEX APPLIED TO SEAMS WHICH WAS NOT APPLIED CORRECTLY AND TUFTS FELT STIFF WHERE SEALER WAS APPLIED. THE SEAMS WERE POORLY CONSTRUCTED AND AND SOME TUFTS WERE SPROUTING AT TIME OF INSPECTION, MAY 27, 2005.

THERE WERE NO INDICATORS OF MANUFACTURING RELATED PROBLEMS.

SEAM AREAS MAY BE REPAIRABLE.

File: Rivergate
Origin: 8/02/05
0079

YOU MAY EMAIL THIS INSPECTION REPORT TO COASTAL CAROLINA CARPETS, CCCarpet@msn.com TO THE ATTENTION OF MR MATKINS.

IT MAY BE THAT YOUR MARRIED NAME WOULD BE BENEFICIAL FOR THE DEALER TO ADDRESS THE INSTALLATION PROBLEM WITH SEAMS.

PLEASE CALL 843-397-3129 OR FAX 843-397-3143 IF FUTHER ASSISTANCE IS NEEDED.

HARRY B FOUST

DIVISION OF LEGAL SERVICES
OFFICE OF INVESTIGATION AND ENFORCEMENT

COMPLAINT FORM

For Consumer Complaints Against:
Residential Builders, Residential Specialty Contractors and Home Inspectors

Please complete and return to this office for review in order to determine if this complaint falls within the scope of the statutory authority of the Residential Builders Commission. Please answer all questions so that your complaint can be processed as soon as possible. Failure to answer all questions could result in delays in processing and/or request for additional information. You will be notified of receipt of your complaint and how it will be handled.

Your Name: (Complainant)

EDNA M. HENSLEY
~~Last~~ First M.

13501 SPRING RUN RD.
Mailing Address

MIDLOTHIAN VA 23112
City State Zip Code County

804 739-2579
Home Phone Day Time Phone

Address of Property Involving Dispute

Complaint Against: (Licensee/Respondent)

WAYNE WINDERMAN
~~Last~~ First M.

Company Name

Mailing Address

City State Zip Code

( )
Day Time Phone License #

I. Facts Regarding Your Complaint:

A. About your agreement:
(1) Did you enter into: written contract ☑ verbal agreement ☐
(2) Is a copy of your contract attached to this complaint? Yes ☐ No ☐
(3) Total cost for work to be performed: $

B. Work performed for: New Construction ☑ Repair/Remodeling ☐ Home Inspection ☐
(1) Is a copy of your building permit attached (if applicable)? Yes ☐ No ☐
(2) If new construction, has Certificate of Occupancy been issued? Yes ☑ No ☐
(3) What is approximate age of the home?
(4) If repairs or remodeling, date work started date work completed

Rev. date:

File: Rivergate
Origin: Jim Dunn
0090

C. Have you hired an attorney to assist you in this matter? Yes ☐ No ☐
If answer is yes, please provide name and address.

Name of Attorney _____ Name of Firm _____

Mail Address _____ City _____ State _____ Zip Code _____

Phone: ( ) _____

D. Explain your complaint specifically. List items needing correction. Describe events in the order in which they occurred. Attach additional sheets if necessary.

1. The front entrance door is not an arched
2. The Stairwell (back Corner step) paint spotted and has to replace some.
3. The Handrail (back garage door) paint spotted
4. Garage floors were left with globs of paint, plaster, and dirt remaining,
6. My trash can was not removed before and after I took possession
6. The drywall on front RR is damaged from the molding is crooked
7. Side molding in MBR closet has some damaged and poorly patched
8. Crack in ceiling by door in MBR
9. Bathroom tub and shower fixtures appear corroded, flow and water pressure
10. The marble windows sill in Bedroom closet 3 rooms - still unmarred
11. The electrical outlets were discovered in inside corner of Closet there is only one.
12. TV cable connection in LR is approx 5 ft. in the wall.
13. Small crack in MBR wall.
14. Ceiling fixtures in Kitchen, Bedroom.
15. Refrigerator is chipped at top panel - shows damage
16. Front side strip of drawer (by panel door) is loose.
17. Paint on stairwell is uneven and stairwell drywall still visible
18. Handrail is damaged.
19. Front garage side doorway molding had paint splatter on it.
20. Tile in front entry - overall dirty look
21. Air conditioner unit in front RR does not appear to be
22. Having gaps on the front window sills in the LR area.
23. Mirrors in bathroom closet by entry window sill not caulked, mastic
24. Ridge mastic on driveway not placed at front side in straight line appears
25. Why were the trees around the front yard not cut down - it is dead

by everyone - cars, trucks, equipment etc. no citizen - around!

II. Additional Information Regarding Dispute Resolution

A. Does your contract contain an arbitration clause? Yes ☐ No ☐
B. Have you and Licensee/Respondent begun arbitration concerning this construction? Yes ☐ No ☐
C. Have you begun a civil action concerning the items in Your complaint? Yes ☐ No ☐

File: Rivergate
Origin: Jim Dunn
0091

Outline directions to site of property involving dispute. Directions should be to a specific reference point in your area to allow the Investigator to proceed directly to the location. Attach a map or on the back of this page, draw a sketch using highway and road numbers, names and other landmarks.

Take HWY 17 North (Toward WILMINGTON) To Little River, S.C. Pass Eastport Golf Club on right Turn left onto next right RIVERGATE go to 6th street on left - my house is 3rd on right

4913 RIVERGATE LN.
LITTLE RIVER, S.C. 29566

Oct. 5, 2005
Sept. 24, 2005
Date

Edna M. Hawley
Complainant Signature

Sworn to before me this 5th day of October, 2005

Notary Public
State of Virginia My Commission expires 6-30-08

Return completed form to:
SC Department of Labor, Licensing and Regulation
Office of Investigation and Enforcement
Post Office Box 11329
Columbia, South Carolina 29211-1329
Telephone: (803) 896-4470
Fax: (803) 896-4656

File: Rivergate
Origin: Jim Dunn
0092

DIVISION OF LEGAL SERVICES
OFFICE OF INVESTIGATION AND ENFORCEMENT

COMPLAINT FORM

For Consumer Complaints Against:
Residential Builders, Residential Specialty Contractors and Home Inspectors

Please complete and return to this office for review in order to determine if this complaint falls within the scope of the statutory authority of the Residential Builders Commission. Please answer all questions so that your complaint can be processed as soon as possible. Failure to answer all questions could result in delays in processing and/or request for additional information. You will be notified of receipt of your complaint and how it will be handled.

Your Name: (Complainant)
Last: [illegible] First: [illegible] M.: A.
Mailing Address: [illegible]
City: [illegible] State: [illegible] Zip Code: [illegible] County: [illegible]
Home Phone: (843) 663-4261 Day Time Phone: [illegible]
[illegible]
Address of Property Involving Dispute

Complaint Against: (Licensee/Respondent)
Last: Winberman First: Wayne M.:
Company Name: W W & B Development
Mailing Address: 519 Clarendon Court
City: Yardley State: PA Zip Code: 19067
Day Time Phone: 215-321-0114 License #:

I. Facts Regarding Your Complaint:

A. About your agreement:
(1) Did you enter into: written contract ☒ verbal agreement ☐
(2) Is a copy of your contract attached to this complaint? Yes ☐ No ☒
(3) Total cost for work to be performed: $ [illegible]

B. Work performed for: New Construction ☒ Repair/Remodeling ☐ Home Inspection ☐
(1) Is a copy of your building permit attached (if applicable)? Yes ☐ No ☒
(2) If new construction, has Certificate of Occupancy been issued? Yes ☒ No ☐
(3) What is approximate age of the home? 1 year
(4) If repairs or remodeling, date work started _____ date work completed _____

Rev. date:

File: Rivergate
Origin: Jim Dunn
0093

C. Have you hired an attorney to assist you in this matter? Yes ☐ No ☒
If answer is yes, please provide name and address.

Name of Attorney _____ Name of Firm _____

Mail Address _____ City _____ State _____ Zip Code _____

Phone: ( ) _____

D. Explain your complaint specifically. List items needing correction. Describe events in the order in which they occurred. Attach additional sheets if necessary.

Spoke to Janet and Norman about siding off & side off # 4261 also Garage leaking Siding has been more than 2 months. Log it for my ck. for HOA Dues. No calls or letters from anyone. Water coming in Master Bedroom downstairs.

II. Additional Information Regarding Dispute Resolution

A. Does your contract contain an arbitration clause? Yes ☐ No ☐ Unknown
B. Have you and Licensee/Respondent begun arbitration concerning this construction? Yes ☐ No ☒
C. Have you begun a civil action concerning the items in Your complaint? Yes ☐ No ☒

File: Rivergate
Origin: Jim Dunn
0094

Outline directions to site of property involving dispute. Directions should be to a specific reference point in your area to allow the Investigator to proceed directly to the location. Attach a map or on the back of this page, draw a sketch using highway and road numbers, names and other landmarks.

Traveling north on Hwy 17 from N. Myrtle Beach to Little River SC. You will pass East Port on the right. Rivergate Lane is the next street on the right. Just before the red light at Ogden St.

10-8-05
Date

Complainant Signature

Sworn to before me this 7 day of October, 2005

Notary Public State of South Carolina

My Commission expires My Commission Expires June 19, 2014

Return completed form to:
SC Department of Labor, Licensing and Regulation
Office of Investigation and Enforcement
Post Office Box 11329
Columbia, South Carolina 29211-1329
Telephone: (803) 896-4470
Fax: (803) 896-4656

LLR

DIVISION OF LEGAL SERVICES
OFFICE OF INVESTIGATION AND ENFORCEMENT

COMPLAINT FORM

For Consumer Complaints Against:
Residential Builders, Residential Specialty Contractors and Home Inspectors

Please complete and return to this office for review in order to determine if this complaint falls within the scope of the statutory authority of the Residential Builders Commission. Please answer all questions so that your complaint can be processed as soon as possible. Failure to answer all questions could result in delays in processing and/or request for additional information. You will be notified of receipt of your complaint and how it will be handled.

Your Name: (Complainant)

Hutt — Susann — D
Last — First — M.

4229 Rivergate Lane
Mailing Address

Little River SC 29566 Horry
City — State — Zip Code — County

(843) 663.4229
Home Phone — Day Time Phone

Same As Above

4229 Rivergate Lane (Unit 2B)
Address of Property Involving Dispute

Complaint Against: (Licensee/Respondent)

Winberman, Wayne.
Last — First — M.

d/b/a LB Development Corp. LLC
Company Name

59 Clarendon Court
Mailing Address

Yardley PA 19067
City — State — Zip Code

(215) 321-0114 —
Day Time Phone — License #

I. Facts Regarding Your Complaint:

A. About your agreement:
(1) Did you enter into: written contract ☑ verbal agreement ☐
(2) Is a copy of your contract attached to this complaint? Yes ☐ No ☐
(3) Total cost for work to be performed: $ Would prefer Repairs Be made.

B. Work performed for: New Construction ☑ Repair/Remodeling ☐ Home Inspection ☐
(1) Is a copy of your building permit attached (if applicable)? Yes ☐ No ☐
(2) If new construction, has Certificate of Occupancy been issued? Yes ☑ No ☐
(3) What is approximate age of the home? 3½ yr 4.16.02
(4) If repairs or remodeling, date work started _____ date work completed _____

Rev. date:

File: Rivergate
Origin: Jim Dunn
0099

C. Have you hired an attorney to assist you in this matter? Yes ☑ * below No ☐

If answer is yes, please provide name and address.

Kathyann M. Cook — Name of Attorney

Cook & Roy — Name of Firm

P.O. Box 4086 North Myrtle Beach, SC 29597 — Mail Address

City State Zip Code

Phone: (843) 663-1200

D. Explain your complaint specifically. List items needing correction. Describe events in the order in which they occurred. Attach additional sheets if necessary.

The biggest complaint is shoddy workmanship due to no oversight during construction process. Developer is absentee landlord visiting site 2-3 times a year. He resists vigorously to making good on repairs.

Many of my issues were resolved only after getting local code-enforcement officials involved. The remaining issues have still never been addressed.

The developer seems to have a misplaced anger towards the homeowners for complaining rather than holding the contractors accountable for inferior work.

This situation has been an on-going since the beginning of this community in 2001. The developer refuses to meet and discuss problems with homeowners creating a high level of frustration.

(See attached pages)

II. Additional Information Regarding Dispute Resolution

A. Does your contract contain an arbitration clause? Yes ☐ No ☑

B. Have you and Licensee/Respondent begun arbitration concerning this construction? Yes ☐ No ☑

C. Have you begun a civil action concerning the items in Your complaint? Yes ☑ * No ☐

In Nov. 2002 I joined with 15 other homeowners to file action against MR Winderman for mishandling of the Homeowner's Assoc management and the funds collected and for failure to address punch list complaints. This action is still pending.

File: Rivergate
Origin: Jim Dunn
0100

Outline directions to site of property involving dispute. Directions should be to a specific reference point in your area to allow the investigator to proceed directly to the location. Attach a map or on the back of this page, draw a sketch using highway and road numbers, names and other landmarks.

Rivergate Community Hwy 17 N Little River (east of 17)
1 Block North of East Port Golf Course. Tiska Dr.

Oct 4, 2005
Date Oct 7, 2005

Susan O'Neill
Complainant Signature Susan O'Neill

Sworn to before me this 7th day of October, 2005

Notary Public Horry County,
State of South Carolina My Commission expires June 27, 2013

Tonya M Simpson

Return completed form to:
SC Department of Labor, Licensing and Regulation
Office of Investigation and Enforcement
Post Office Box 11329
Columbia, South Carolina 29211-1329
Telephone: (803) 896-4470
Fax: (803) 896-4656

File: Rivergate
Origin: Jim Dunn
0104

Existing Complaints:

Exterior back door. Either the door or the frame was warped at installation leaving the door difficult to open and close. Also gaps of daylight and loss of heated and cooled air. Door has been worked on several times using various weatherstripping and door sweeps. All have failed. I still have air leaks and water comes in under door when it rains. Wood rot has already developed in door frame.

* Gutters. Water pours off of double-wide roof line in rear causing standing water against house. Unable to keep grass or shrubs within 2 feet of house. Believe gutters should have been installed. Gutter installation seems haphazard throughout community.

Drainage. Failed to provide proper drainage from upper elevations and gradation of land throughout. Developer's solution to all drainage is to dig ditches rather than grade land and use drainage pipes. The ditch created is within 2 feet of my patio and creates constant additional erosion. Two previous landscapers employed by developer recommended pipes and soil brought in to create more level yard but developer nixed both as too expensive. I chose this site because of the backyard area. Also developer promised there would be trees and shrubs planted along the unsightly fence line. (Not done) What I ended up with is nothing as envisioned.

Patio. Developer reneged on patio and privacy fence between adjoining house and mine(which was provided for every other home). Complaint letter attached.....no response received.

Bathroom light fixture. Upstairs fixture not installed flush due to bulging sheet rock. Then painter got paint all over fixture, ruining finish. Repair/replacement denied.

Driveway. Concrete driveway developed cracks within 30 days of installation (Apr2002) Also large cracks in concrete each side of garage door where door supports sit.

Frozen Pipes. 18 occurrences during three winters (2002-2004) resulting in no water for 2-6 hours each time. Finally repaired in Jan 2005. Inadequate insulation seemed to be culprit. Won't know until next freeze if problem solved.

Misc. Multiple bulging nailheads, paint in stairway unevenly applied. Most bi-fold doors hung unevenly and do not close evenly. Two interior door frames crooked.

* Oct 6-7: 4-5 inches standing water against foundation; 2005 concrete degrading. Gravel showing through. Water has seeped through to garage floor, water has gotten under door threshold between garage and kitchen and along baseboard of wall between garage and kitchen.

File: Rivergate
Origin: Jim Dunn
0102

April 4, 2003

To: Wayne Winderman
WW&LB/Rivergate

Re: Back Door Patio & Privacy Fence

Upon the completion and sale of Units 1A & 1B, I find it necessary to revisit the circumstances surrounding the purchase of my home, Unit 27B.

Since mine was going to be the first of this particular model, I had to rely on the information provided by your representatives, Shirley Europa and Sally Foran. It was my understanding that this new model would be somewhat of a hybrid of the existing models...the quad and the golfview.

I was told that unlike the quad, it would be a duplex with a back door, patio and privacy fence separating the 2 rear units. Additionally, with my unit being on the corner, there would also be a privacy fence between my patio and the street.

Midway through construction, I was advised by Sally Foran that you were not going to provide a patio, even though a patio is clearly indicated on the blueprints (9.6X 10). After several conversations with you, we agreed to split the cost, which would cost me $175. for a 8X16 patio. I feel this was a real bait and switch, but what choice did I have? You assured me that it would be worth it and would look so nice with all the landscaping you were going to put around it. Well, that never happened either.

After my closing, April 18, 2002, I asked Sally Foran several times when the privacy fence would be installed. She assured me it was on the way. Approximately a month after moving in, I was advised after another inquiry, that there would be no privacy fence. I believe the explanation was...since you didn't provide the patio, you didn't provide the fence.

Now, Unit 1, directly across the street from me and the same model, listed at the same base price, $126,900 was completed with patios and privacy fence. The basic patio in this case is 12X12. Unit 1B had their patio enlarged to a size of 12X23 for only $150. Once again, there is the inconsistency of what you promise and what you provide. Also, I have recently measured my patio and it is not 8X16 as promised, but only 8X14.

Your current representative, a licensed Realtor, just as your previous representatives were not, asked if this was written in my contract. It is not, but then there are many amenities provided that are not specifically stipulated. I had a reasonable expectation based on the word of your sales people, the blueprints for the house and the exterior appearance of the existing houses.

Therefore, I would appreciate reimbursement for the cost of the patio $175 and $66.46 for my share of the privacy fence cost which was split with my neighbor. I am not even pursuing the promises of the landscaping or the additional privacy fence.

As you are aware, we have several other issues not addressed here. I consider those still pending. If this cannot be resolved, I will pursue other options, including the BBB, the Consumer Advocate for the State of SC, and any other consumer service available.

Sincerely,

Susan D. Hall

File: Rivergate
Origin: Jim Dunn
0103

South Carolina
Department of Labor, Licensing and Regulation

Division of Legal Services
Office of Investigations and Enforcement

Mark Sanford
Governor

Adrienne Riggins Youmans
Director

LLR
110 Centerview Drive
Post Office Box 11329
Columbia, SC 29211-1329
Phone: (803) 896-4470
FAX: (803) 896-4471
www.llr.state.sc.us

December 5, 2006

Mr. & Mrs. Don Welch
4278 Rivergate Ln Unit 5B
Little River, SC 29566

Re: Residential Builders Commission
File #: 2006-673

Dear Mr. & Mrs. Welch:

Your complaint referenced above has been received and a case file has been opened. Investigator Andy Dempsey has been assigned the case and will be contacting you in the future to schedule an appointment to review your complaint. Site inspections are not routinely conducted relative to work by unlicensed individuals and/or firms. Please be assured we will conduct a thorough inquiry of your complaint as quickly as we can. Complaints are routinely investigated in the order received.

It is important for you to understand that the function of this agency is to administer and enforce the South Carolina Residential Homebuilders' License Law as set forth in Chapter 59, Title 40, Code of Laws of South Carolina, 1986, as amended, and we have no authority beyond that statute. With respect to your complaint, the agency has the authority to investigate to determine if a licensee has violated the license law and, if so, to take disciplinary action that the Commission deems appropriate. Discipline may range from a public reprimand to revocation of a license or registration. **The agency does not have the authority to intercede in contractual or cosmetic issues and cannot require the licensee to fix any items, pay for repairs, refund any monies or arbitrate disputes.** During the course of this investigation the licensee may volunteer to resolve some, or all of the issues you raise. The licensee's willingness to resolve the dispute will not affect the determination of a violation of the license law, but it may affect the ultimate sanction by the Commission.

The Investigator assigned to this case will collect evidence to determine if there are any facts to support a charge against the licensee for violations of the license law. Relevant facts include violations of the applicable building codes, or the Commission's published construction standards where failure to comply with those codes and standards is the responsibility of the licensee.

Please be assured that your complaint will be investigated thoroughly. We do not provide routine status reports. You will be notified should we require additional assistance and you will be provided a written disposition report. Your complaint does not preclude your right to seek civil remedy through the courts.

Thank you for your patience in this matter.

Respectfully,

Charles J. Ido
Chief of Investigations

CJI

File: Rivergate
Origin: Jim Dunn
0376

South Carolina
Department of Labor, Licensing and Regulation

Division of Legal Services
Office of Investigations and Enforcement

Mark Sanford
Governor

Adrianne Riggins Youmans
Director

110 Centerview Drive
Post Office Box 11329
Columbia, SC 29211-1329
Phone: (803) 896-4470
FAX Information
Office of Investigations (803) 896-4656
Wages and Child Labor (803) 896-7660
www.llr.state.sc.us

NOTICE OF INSPECTION

September 25, 2006

Right Way Construction Inc.
889 Gator Ln.
Murrells Inlet, S.C. 29576

Case No: 2006-30

Complaint Filed By: Don Welch

Site Location: 4278 Rivergate Ln.

Please be advised that I will be conducting an inspection at the above address on October 10, 2006, at which time I will examine each item in the complaint to determine if it represents a violation of the applicable building codes or construction standards. If you desire to be present during the inspection, please contact me at 803-896-4820.

The results of my investigation will be submitted to an Investigative Review Committee (IRC) for review to determine if you have violated any of the provisions of the license law with regard to building code or standards violations. If you have satisfactorily addressed and/or repaired the items that represent violations, prior to my inspection or filing of the IRC report, that fact will be taken into consideration by the IRC as long as proper documentation is received by this office.

Respectfully,

Andrew Dempsey
Investigator

cc: Complainant

File: Rivergate
Origin: Jim Dunn
0377

Karen Travis

October 10, 2005

Jim Dunn
Jkd4325@sccoast.net

Dear Jim,

This past weekend, October 8th and 9th 2005, Cathy and I experienced our first visit during a rather heavy rain storm. As you are aware we do not reside in our home full time. The drainage trench in the rear of our property has serious erosion problems. We are getting erosion from my neighbors down spout as well as the trench itself. The water is swirling from higher ground causing a widening of the trench at the point it enters my property area. We have serious concerns that because we are not full time residents, our problem is not being addressed. We also noticed that our sprinkler system is not adjusted properly because all of the shrubberies that we have invested in through out the property have died. Finally, we also experienced a leak in our roof with water coming through the ceiling near the area where you enter the home from the interior garage door.

Please do not think of this as a complaint toward the efforts you have put forth in assisting with our community, but we need help and we did not know who to turn to. Any assistance you can provide us with will be appreciated.

Thank You,
John and Cathy Riley
4308 Rivergate Lane

Met w/ Karen during wk 10-22 thru 10-29
at Eileen Grassmon - Tenant
17C 4307 Rivergate
ph 843-340-5000 Grassmon phone
Karen Travis, owner, about property
wants to tear up drive way grade +
repave at her expense & to keep
her tenant & eliminate threats
of injury + law suits

EXHIBIT 22
Deponent
Date 11/12
www.bbcsoox.com

File: Rivergate
Origin: Jim Dunn
0574

TO: Right Way Group, Inc.
P. O. Box 1662
Murrells Inlet, South Carolina 29576

FROM: JOHN RILEY

Unit 73 , 4308 Rivergate Lane

Little River, South Carolina 29566

DATE: 12/8/05

PHONE NUMBERS: _____ (Home-Little River)

_____ (Other Home)

910-374-8204 (Cell Phone)

As of the current date, items on the attached list are punch list items in my unit which need to be completed and/or repaired. These items have been furnished to Donna Dawson, Broker-in-Charge and on-site project manager for Rivergate, and/or Wayne Winderman.

Since you are the contractor of record, could you please let me know when these items will be completed?

Very truly yours,

_____ Owner

_____ Owner

Attachment: Punch List

EXHIBIT 32
Deponent
Date

File: Rivergate
Origin: Jim Dunn
0158

Name of Owner/s JOHN RILEY

Address 4308 Rivergate Lane, Little River, SC 29566 Unit # 2 B

Phone Number 910-374-8204

Current Punch List Items which need to be repaired:

1. (1) IRRIGATION SYSTEM NOT WORKING PROPERLY, WHEN IT WORKS
2. NOT ALLOWED PROPERLY. LACK OF MOISTURE DESTROYED NUMEROUS
3. SHRUBS & FLOWERS
4.
5. (2) ROOF LEAKS NEAR DOOR ENTERING HOUSE FROM GARAGE.
6. CEILING BRIDGE OPEN & WATER ENTERED HOUSE, EVIDENCE
7. EXISTS THAT ROOF HAS LEAKED FOR SOME TIME. CEILING
8. DISCOLORED IN GARAGE AND AREA WHERE CEILING DAMAGED
9.
10. (3) DRAINAGE TRENCH SWIRL, OVERFLOWS WHERE IT ENTERS
11. PROPERTY FROM ABOVE, WATER GATHERS IN REAR, SWIRL
12. CURVES AND CAN NOT CONTROL FLOWING WATER. THIS HAS
13. BEEN A PROBLEM AND I NOTIFIED WAYNE NUMEROUS TIMES.
14. WE DID NOT HAVE A PROBLEM UNTIL HE PUT THE SWIRL IN.
15.
16. (4) DRAINAGE EROSION FROM DOWNSPOUT RUN OFF FROM
17. NEIGHBOR ABOVE. ELEVATION PROBLEM NOT A NEIGHBOR PROBLEM
18.
19. ALL OF THE ABOVE HAVE BEEN BROUGHT TO WAYNE'S ATTENTION
20. SEVERAL TIMES IN WRITING. HE HAS IGNORED ALL PREVIOUS
21. NOTICES AND HAS NOT COOPERATED. DONNA DOES NOTHING
22.
23.
24.

Date: 12/8/05

Owner

Owner

File: Rivergate
Origin: Jim Dunn
0157

TO: Right Way Group, Inc.
P. O. Box 1662
Murrells Inlet, South Carolina 29576

FROM: Gina Savoca

Unit 25D, 4245 Rivergate Lane

Little River, South Carolina 29566

DATE: December 11, 2005

PHONE NUMBERS: (843) 663-4245 (Home-Little River)

_____ (Other Home)

_____ (Cell Phone)

As of the current date, items on the attached list are punch list items in my unit which need to be completed and/or repaired. These items have been furnished to Donna Dawson, Broker-In-Charge and on-site project manager for Rivergate, and/or Wayne Winderman.

Since you are the contractor of record, could you please let me know when these items will be completed?

Very truly yours,

Regina K Savoca Owner

_____ Owner

Attachment: Punch List

File: Rivergate
Origin: Jim Dunn
0153

Name of Owner/s Gina Savage

Address #245 Rivergate Lane, Little River, SC 29566 Unit # 25D

Phone Number (843) 663-4245

Current Punch List Items which need to be repaired:

1. drainage on side of house
2. crack in finished floor
3. damage cabinets
4. crack in garage floor
5. crack in driveway
6. condensate of house
7. seal leaks on window

8.
9.
10.
11.
12.
13.
14.
15.
16.
17.
18.
19.
20.
21.
22.
23.
24.

Date: December 11, 2005

Regina K Savage
Owner

Owner

File: Rivergate
Origin: Jim Dunn
0154

Name of Owner/s Candace Cochrane

Address 4348 Rivergate Lane, Little River, SC 29566 Unit # _____

Phone Number _____

Current Punch List Items which need to be repaired:

1. This is in reference to the units that have propane tanks that have not been enclosed. Having recently had a propane fireplace installed and informed that it had to be enclosed, which I did, I am wondering why there are so many that have NOT been enclosed???
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____
11. _____
12. _____
13. _____
14. _____
15. _____
16. _____
17. _____
18. _____
19. _____
20. _____
21. _____
22. _____
23. _____
24. _____

Date: Dec 12, 2005

Owner Candace Cochrane

File: Rivergate
Origin: Jim Dunn
0158

TO: Right Way Group, Inc.
P. O. Box 1662
Murrells Inlet, South Carolina 29576

FROM: James C. Mildred L. Sutphin

Unit 14D, 4337 Rivergate Lane

Little River, South Carolina 29566

DATE: 13 December 2005

PHONE NUMBERS: 843 663 4337 (Home-Little River)

(Other Home)

843 902 4317 (Cell Phone)

As of the current date, items on the attached list are punch list items in my unit which need to be completed and/or repaired. These items have been furnished to Donna Dawson, Broker-in-Charge and on-site project manager for Rivergate, and/or Wayne Winderman.

Since you are the contractor of record, could you please let me know when these items will be completed?

Very truly yours,

James C. Sutphin Owner

Mildred L. Sutphin Owner

Attachment: Punch List

File: Rivergate
Origin: Jim Dunn
0159

Name of Owner/s James C. & Mildred L. Sutphin

Address 4337 Rivergate Lane, Little River, SC 29566 Unit # 14D

Phone Number 843 663 4337

Current Punch List Items which need to be repaired:

1. Nail holes in all outside window frames showing through. Need to be filled-in and caulked.
2. Concrete deteriorating where sidewalk connects to driveway, and where driveway connects to the street.
3. Hole in floor under sliding glass doors going out to patio. Needs repaired.
4. Street light needs to be removed from yard in front of 14D living room window and placed on property line between buildings 14D and 13.
5. Water drain needs to be installed between buildings 14 and 13. Rainwater is eroding yards and leaving standing water in yard where heat pump for Building 14D is located.
6. Light in front bedroom closet needs to be relocated from behind the closed door. Extremely difficult to reach when closet door is opened.
7. Some sprinklers under front bedroom window not working.
8. Street in front of building 14D floods when it rains due to insufficient drainage.
9. Nail heads protruding from walls inside house.
10. For safety purposes, reflector(s) and a conduit for water flow need to be installed where Rivergate Lane connects connect to Baker Street.
11. Main power line to building 14D not underground or in conduit. Connection between main power line and meter box is above ground and wrapped with electrical tape.

Date: 9/13/05

James C. Sutphin
Owner

Mildred L. Sutphin
Owner

File: Rivergate
Origin: Jim Dunn
0160

TO: Right Way Group, Inc.
P. O. Box 1662
Murrells Inlet, South Carolina 29576

FROM: Ray Bucks

Unit 34 4262 Rivergate Lane

Little River, South Carolina 29566

DATE: 12/27/05

PHONE NUMBERS: (843) 663-0019 (Home-Little River)
(717) 540 8844 (Other Home)
(717) 541-5321 (Cell Phone)

As of the current date, items on the attached list are punch list items in my unit which need to be completed and/or repaired. These items have been furnished to Donna Dawson, Broker-in-Charge and on-site project manager for Rivergate, and/or Wayne Winderman.

Since you are the contractor of record, could you please let me know when these items will be completed?

Very truly yours,

Ray Bucks Owner

Owner

Attachment: Punch List.

File: Rivergate
Origin: Jim Dunn
0151

Name of Owner/s C.O. RAYMOND BOOKS

Address 34 4262 Rivergate Lane, Little River, SC 29566 Unit # 34

Phone Number (843) 663-0019

Current Punch List Items which need to be repaired:

1. SIDE HILL IS ERODING + NEEDS REBUILT
2. BACK YARD NEED RE-SEEDED
3.
4.
5.
6.
7.
8.
9.
10.
11.
12.
13.
14.
15.
16.
17.
18.
19.
20.
21.
22.
23.
24.

Date: _____

_____
Owner

_____
Owner

File: Rivergate
Origin: Jim Dunn
0152

TO: Right Way Group, Inc.
P. O. Box 1662
Murrells Inlet, South Carolina 29576

FROM: James K. & Marjorie C. Dunn

Unit 15D, 4725 Rivergate Lane

Little River, South Carolina 29566

DATE: 11/4/06

PHONE NUMBERS: 843-663-4325 (Home-Little River)

_____ (Other Home)

843-424-2968 (Cell Phone)

As of the current date, items on the attached list are punch list items in my unit which need to be completed and/or repaired. These items have been furnished to Donna Dawson, Broker-in-Charge and on-site project manager for Rivergate, and/or Wayne Winderman.

Since you are the contractor of record, could you please let me know when these items will be completed.

Very truly yours,

James K. Dunn
Owner

Marjorie C. Dunn
Owner

Attachment: Punch List

File: Senger vs. WRG/JB
Origin: Homeowner's Documents
Drawer 436

TO: Right Way Group, Inc.
P. O. Box 1662
Murrells Inlet, South Carolina 29576

FROM: Carolyn King
Unit 4331 Rivergate Lane
Little River, South Carolina 29566

DATE: 1-17-06

PHONE NUMBERS: 843-663-2299 (Home-Little River)
_____ (Other Home)
843- N/A (Cell Phone)

As of the current date, items on the attached list are punch list items in my unit which need to be completed and/or repaired. These items have been furnished to Donna Dawson, Broker-in-Charge and on-site project manager for Rivergate, and/or Wayne Winderman.

Since you are the contractor of record, could you please let me know when these items will be completed?

Very truly yours,

Carolyn K. King Owner

_____ Owner

Attachment: Punch List

File: Rivergate
Origin: Jim Dunn
D170

Name of Owner/s Carolyn King

Address Rivergate Lane, Little River, SC 29566 Unit # 4831

Phone Number 843-663-2299

Current Punch List Items which need to be repaired:

1. Back entrance door - weather stripping
2. Patio - cracked concrete
3. Driveway - cracked concrete
4. Leaking water sprinklers
5. Kitchen Sink - damaged - reported on Oct. 5, 2005 the day I moved into my home
6. Did not receive two garage door openers
7. Garage - blue wiring hanging from ceiling
8. Front entrance - missing [redacted] board under threshold
9. Restricted per By-Laws two commercial trucks - parked on street at house # 4323 prevents cars exiting my driveway without driving on my grass
10.
11.
12.
13.
18.
19.
20.
21.
22.
23.
24.

Date: 1-17-06

Carolyn K King
Owner

Owner

File: Rivergate
Origin: Jim Dunn
0171

MINUTES OF RIVERAGE HOME OWNERS MEETING – NOV. 4, 2006

Meeting was held at Little River Methodist Church & hosted by Sylvia Lindsay & Jim Dunn. Sylvia thanked everyone for coming & explained that the Church hall was free for us to use but it would be nice to give a donation.

She said we should try to follow some rule or order for this meeting, so the procedure will be to hold up your hand to be recognized if you want to ask a question or address the crowd. We will find out what the issues are that concern all at Rivergate, since Wayne Winderman has said that by the end of the year he will be leaving & turning everything over to us. We must prepare & be ready.

Jim Dunn told everyone that he & the AdHoc Committee has done a lot of work in the community; the yellow lines were eliminated; sewer lines were put in the ground where they belong; street lights were straightened; French drains were installed at the end where Candace Cochran lives, but it didn't do much good. I have talked to every government agency in Horry County & the State; a lot of you know that there were a number of Code Violations that were fixed & Wayne was shut down until they were. Carolyn King's house has 2 ft cut off the side of it to correct a big mistake. The next big thing that took forever was the LLR(License,Labor & Regulations in Columbia) blank forms that 13 or 14 of us turned in & finally, after a year they came out & did all the inspections. They said the least that could probably happen is a fine would be given to RiteWay since they took out the permit & did the work. Wayne, Luther, LLB did not have a builder's license to do the work. We haven't heard back from them yet. All the information will be turned over to the Review Board.

Susann Hutt said Mr. Dempsey from LLR called her & said from the very beginning they didn't even have a bond.

Jim mentioned there are still code violations that need to be fixed; some foundations that are cracking; conduit box coming up from floor is exposed & not in the wall; leaking windows; there are still other punch-list items that we were promised would be fixed & haven't been as yet.

File: Rivergate
Origin: Jim Dunn
1365

Recommendation was that we have a class action suit against Wayne, but we are not an HOA yet.

Whispering Woods is not a part of Rivergate...Rivergate stops at the original road at the wetlands..they are using our road, our sprinklers, &complaints voiced about construction traffic & their speed...police do not have any authority because it is a private road...they will not set up a radar devise to clock the speed or put a police car there, they have no jurisdiction...

Sylvia said these are the issues we are addressing for the whole group, not personal punch list, and nothing can be done until we have an attorney, which we can't get until we are a HOA. There is a definite Violation of the South Carolina Law that says you must hold an HOA Meeting once a year. It's been almost 18 months since we've had a meeting. There was a law suit brought by the early residents...we are still waiting the results.

Susann Hutt said the law suit contained 19 residents & was started the end of 2002. It's been winding through the courts...the judge found WW was mismanaging the funds, the audits weren't done properly...Court ordered Atalaya Property Management as receiver & WW had to turn over the monies...& also allowed them to handle the property, but Atalaya found him to be in violation of things, WW got annoyed & fired them as property manager. They had been doing a good job for Rivergate, we were able to call them with a problem & they sent someone to fix it. An Arbitrator was assigned & he found WW guilty of violating everything in his Master Deed. We are still waiting to hear further. However, be mindful that this Law Suit got us the Pool & the Clubhouse.

Angela Nichols asked if we had a Clubhouse, all she sees is an Office...can we use this...Gina Sirignano said yes, this is our Clubhouse, & we were told the clubhouse is available to us from 9am to 5 pm or whatever hours it's open..however, there are 3 desks, office equipment, telephones, sales people, etc. no room for us to do anything in there...

This has been a big issue for us & we are waiting for her to get out of there so we can take over. Meantime we should be collecting rent from her.

Jim said Wayne hasn't dedicated Rivergate into the HOA, so we can't do anything yet.

Susann said Wayne's 'mantra' is: "they'll get tired of waiting & do it themselves, #2 is: so sue me, you'll be out of money & I'll be gone, & #3, so I'll be fined but I'm still ahead of the game".

Sylvia found out that Wayne's liability holds for 25 yrs.

Roger from 19D said he spoke to Wayne personally & found that what he said made sense & he felt WW should be here to face upfront the residents.

Sylvia said if he could arrange to have Wayne come to a meeting we will all be there...you're in charge.

Jim mentioned that Wayne & Donna were sent the same invitation to come to this meeting, but Wayne doesn't answer or return phone calls or even sign for registered return receipt mail from any of any of us. He thought Donna was going to be here, he's got numerous LLR forms that she will not sign for & Wayne won't sign for them either. The original Ad Hoc meeting with the group of us Wayne said Yes, go for it & he gave me all the support, verbally.

There is one driveway that is so steep you can't even park your car on it. He called the concrete people & they told him, "Wayne, we told you this at the time we poured that it was too steep & needed a wall & steps" and he got hostile with them because they said this in front of me. But it was going to be fixed that day & they were starting work the next week. And that's been the same for over a year.

Ray Bucks said anybody who thinks you can deal with Wayne & believe what he says, he's got news for them! He got into a fight for 2 hrs. right in the middle of the street. He has cave-ins on the side of his property & he told WW & Luther & the relative who was the foreman who was then fired when he told WW what had to be done. WW assured Ray it would be fixed, but it never happened, WW said you'll be gone before anything bad happens here. Point is you cannot negotiate with this man!

File: Rivergate
Origin: Jim Dunn
1368

Jeri & Jim Mulhern have similar issue with flooding & washout at their corner at Baker Street. At one time in the spring after very heavy rain the water was up to the sidewalk. They have spoken to Wayne, Luther & Donna & got no results. This must be fixed before he turns the HOA over to us; we should not have to pay for this repair.

Jim said retaining walls need to be built.

Ultimately, we should hire an attorney; unfortunately, they cost money, but with this many people, it won't cost that much; but to get this on record legally that these streets are this way, we have this storm drainage problem, and any other big item that's going to cost a lot of money, because if you don't do it, it will reach a fiasco & at some point in time if you can accept it when we are our own HOA, assessment will be charged.

John Riley @4308 lives here 4 yrs. but unfortunately, don't live here all the time...last comment hit home...the last heavy rain you could see the water just flowing down Rivergate & he sent a letter to Horry County about this, the water doesn't go into any of the drains due to the grade being above street level & it settles down at the bottom. Seems like we need to band together & maybe write letters & if the County gets 80 letters then maybe we can get something done. He's already written many letters to the County as well as having his attorney involved.

Questions, Answers, Suggestions & Discussion followed regarding the following items: Luther's 2 lots, not yet built on; who pays taxes on this property; WW not dedicating Rivergate Lane; Possibly changing Telephone Service; signs on property; letters painted on sidewalk; motorcycles; Code Enforcement; Pool regulations; parking on the street; commercial vehicle parking; Whispering Woods; Reserve Funds; Mailboxes; Hiring an attorney.

Another meeting will be held on a Saturday in January 2007...notice will be sent out as soon as date is determined.

Meeting adjourned...

Respectfully submitted,

Gina Sirignano

File: Rivergate
Origin: Jim Dunn
1367

Dec 2-14 6 PM.
R03

RIVERGATE NEWSLETTER

NOVEMBER, 2006

HOA MEETING SUCCESS--------On Sat., Nov. 4, 74 Rivergate residents met at the Little River United Methodist Church for a gathering of the minds. It was our first meeting in over 18 months, due to our current directors violation at Art. 2, Sect. 5 & 6 of our Bi-Laws.

The group was brought up to date on what had been accomplished in the correction of erosion, building, and landscaping errors from constructions thus far. The court actions and fines of Feb. 2006 were discussed. The LLR agent from Columbia was here recently, and his report of additional fines to our developer was also presented. Many people who were not aware of the history of these violations had theirs eyes opened considerably. The LLR report will be forthcoming, hopefully by the time of our next meeting.

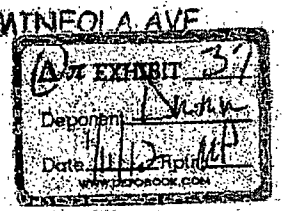
The pool and clubhouse were only made possible through legal actions of the original 19 residents 3 years ago. Many people were upset that our clubhouse is not available to us as promised, rather having become the "Whispering Woods Sales Office"

The Adl-hoc Committee has done a lot of work in the community: the yellow lines were eliminated, sewer lines were put in the ground, sprinklers made to work throughout, & French drains added at the end of lower lots. A number of the violations caused work to be halted last year on the new current project until they were corrected. The LL&R, (License, Labor, and Regulations) agency took a year on the 14 forms that were turned in, but they did come out and did the inspections. Some were fixed, others are still waiting. RiteWay was given a fine because they did the actual work, because others did not have licenses to do the work. It was also reported by LLR that there also was inadequate bonding for the development. Other violations were also discussed

Unfortunately, we have exhausted all of our free resources for legal and state department help. Nothing is left except hiring and attorney to help these flagrant violations be corrected. None of these issues will be corrected without help. As we all know, this CANNOT be done without the hiring of an attorney.

NEXT MEETING-------SATURDAY, JAN. 13, 2007

LITTLE RIVER UNITED METHODIST CHURCH--MINEOLA AVE



File: Rivergate
Origin: Jim Dunn
0657

Whispering Woods is not a part of Rivergate,.....the boundary is the end of the original road at the wetlands. Their construction equipment is using our roads, their residents are using our roads., their sprinklers are using our pumps and well, their lights are using our electricity.. The police do not have any authority on Rivergate Ln,-it is a private undedicated road.

The case that was filed with attorney in 2002 by the 19 early residents resulted in the judge finding that the developer was mismanaging funds, audits were not being properly done. So the court ordered Atalaya Property Management as receiver, and he had to turn over the monies...and then got annoyed and fired them as property manager, therefore appointing Donna to receive all complaints for needs. Some people never even received screens for their windows. An Arbitrator was appointed, and he also found him in violation of most of the rules contained in his own Master Deed.

Many residents felt that Whispering Woods homeowners should be assessed a fee for the use of our streets, electricity, and irrigation wells. The clubhouse, pool, and streets have not been dedicated as of yet. We are unable to form our own organization until the developer signs it over in the court house. According to our bi-laws this is way overdue.

Lists of interested people for committees were collected, and we had great response to this; Anyone else interested in being on any of these committees please contact me at lindsays@juno.com. Committees are: Social, Insurance evaluations, Landscaping, Finance, Pool/Clubhouse;

NOW----------WE HAVE A NEW PROBLEM !!!!!!!!!!!

Since the meeting was held a new problem has come to light. It seems that an error was made in the ORIGIONAL survey of Rivergate land. When the bank purchased the ticket office property they had land surveys done, and discovered that the Rivergate fence and retaining wall that serves as a perimeter boundary is on BANK PROPERTY!!!!!!!!!!!!!! How could that happen, unless an unqualified survey, if any, was made on the onset of construction of Rivergate. The four houses on the left as you enter Rivergate will lose most of their back yards, not to mention the views that it will present. It is not required that a fence be put around a bank parking lot.

Also, it was learned that we are not zoned as "Residential", but as "Resort Commercial" This classification carries a minimum of protection for homes on the borders of Rivergate.

File: Rivergate
Origin: Jim Dunn
0558

MERRY CHRISTMAS
AND
HAPPY NEW YEAR

MAY 2007 BE THE BEST
RIVERGATE
YEAR

File: Rivergate
Origin: Jim Dunn
0559

At the meeting we hope to have new proposals to present. If we are ready to elect our own board, we will do so. In preparation for this we would like to have information on the candidates that have shown interest in serving. In order to be better informed on our voting we are asking each candidate to provide a brief biography to be reviewed before voting. This will be available at the meeting.
If you would like to be a board candidate, please fill out the following form and drop it in my "tubebox" at 4305.

****

Please provide the following information for us to review:

Name:
Address:
Phone #:
Career experience:

HOA experience:

Why do you want to serve on HOA board?

Please return this form to my mail/paper tube at 4305 during the month of Dec.

OUR GREATEST OBLIGATION AND OWN TOP PRIORITY IS TO PROVIDE THE BEST COMMUNITY ENVIRONMENT POSSIBLE. TO THIS WE MUST ESTABLISH COMMUNITY STANDARDS—RULES AND REG-ULATIONS AIMED AT PERMITTING AN ACTIVE LIFESTYLE YET ENSURING THE PRIVACY OF ALL OUR RESIDENTS OF COMMUINITY STANDARDS ESTABLISH A BASIC CRITERIA FOR ANYONE WISHING TO MOVE INTO RIVERGATE, AND THOSE STANDARDS WILL APPLY WHEN HOMES ARE RESOLD TO PROTECT OUR INVESTMENTS.

File: Rivergate
Origin: Jim Dunn
0560

W. Raymond Bucks
4262 Rivergate Lane
Little River, SC 29566

November 7, 2006

WW & LB Development
Donna Dawson
Rivergate Homeowners Association
4220 Rivergate Lane
Little River, SC 29566

To Whom It May Concern:

I am formally notifying you of a serious problem that is developing along side of my property at the above noted address.

The ground is beginning to cave in causing severe holes and potential collapse of the propane tank caused by this erosion. As you are well aware, this condition was predicted during the period of my unit's construction and I was assured that any corrective action would be performed if this occurred.

Because of the impending turning over of the Home Owners' Association from your control, I feel it is important to remedy this condition before any change takes place. This is a condition that the builder is responsible for and should be corrected ASAP!

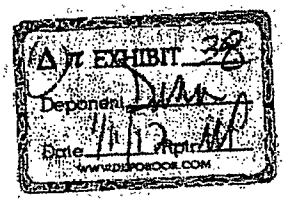
Please give me the courtesy of a reply to this letter within thirty (30) days. I have given you the courtesy of not overly complaining about numerous problems I have endured with faulty and bad construction inside my unit. However, this condition exist on the outside of the premises and could potentially injure someone who may walk around the outside of the house. I personally have had the ground give way when I stepped on it and could have easily sprained or broken an ankle.

I await your reply and hope this matter can be resolved peacefully without the use of attorneys.

Sincerely,

W. Raymond Bucks

Cc: Atalaya Property Management



File: Rivergate
Origin: Jim Dunn
1395

River Gate in General

1. River Gate Sign now has Whispering Pines added. ✓
2. Billboard sign whose property is it on? ✓
3. Club house used as sales office. Rent? ✓
4. Unfinished, sub standard side streets turn over to county? ✓
5. Irrigation, sprinkler system and individual homes. ✓
6. Access to Whispering Pines and planned condo? ✓
7. Curbing broken and missing. ✓
8. Drainage and ground erosion from heavy rain.
9. Sewerage clean out pipes standing up in lawns.

ΔR EXHIBIT 41
Deponent Dunn
Date 4/11/12 Rptr
www.depobook.com

File: Rivergate
Origin: Jim Dunn-1023

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF HORRY)	DOCKET NO. 2010-CP-26-3901
RIVERGATE HOMEOWNERS' ASSOCIATION, ET AL., PLAINTIFFS,	
vs.	
WW & LB DEVELOPMENT COMPANY, LLC, RWG, INC., AIELLO ASSOCIATES, DANIELS ENGINEERING, INC., RIVERGATE HOMEOWNERS' ASSOCIATION, RIVERGATE HOMEOWNERS' ASSOCIATION BOARD OF DIRECTORS, WAYNE WINDERMAN, INDIVIDUALLY, MARCOS SOARES, INDIVIDUALLY, AND D/B/A M.S. CONSTRUCTION, WILLIAM C. DESOUZA, INDIVIDUALLY, JAMES EASON, INDIVIDUALLY, AND D/B/A JAMES EASON & COMPANY, D&D CLEANING AND CONSTRUCTION, INC., JOEL'S FRAMING, JO FREZA, AROLDO GARCIA, JOAQUIN GERALDO ZEFERINO, INDIVIDUALLY, AND D/B/A ZEFERINO FRAMING, LEO TROMBLEY, JUDY SCHULTZ, J&D INTERIOR DESIGN, JOSE DASMERCES D/B/A J.P. CONSTRUCTION, SCOTT CHANDLER D/B/A COASTAL CUSTOM WINDOWS & DOORS, R&D CONSTRUCTION, NICASIO RAMIREZ ZUNIGO, WALCHIR MORAIS, MARCO TREBBI, BLAKENSHIP ROOFING, INC., DLJ CONSTRUCTION, L.L.C., DEWAYNE BATES, THE BATES GROUP, L.L.C.,	**DEPOSITION OF DONNA DAWSON COPY**

Verbatim, Inc.
Professional Court Reporters
info@verbatiminc.com
(803) 787-7242

A Yes.
Q What were the discussions when he hired you?
A I better sell houses.
Q That's what he said?
A Basically.
Q Okay. All right.
A I mean, we sat down and we had our normal discussion. He had already seen me in action because I had already been bringing people over, and he had two homeowners playing hostess for him and they kept saying you need to get Donna on board, you need to get Donna on board. So, he came to see me and I was there seven, eight, nine years.
Q Okay. So, when did Mr. Winderman approach you?
A By phone, sometime around February, it was after Valentine's Day, 18th, 19th, and he hired me on March 13th.
Q Okay.
A Of 2002.
Q And what was your commission for the sale of those units?
A Five percent. It was co-broke, two and a half, two and a half.
Q Okay.

MR. HELMS: I'm sorry. Could you repeat that?

truck?
A Dennis might have, too. I just don't remember.
Q Okay.
A I wouldn't pay attention to stuff like that.
Q Okay. All right. All right. Let's talk about any - we've been going about an hour. Do you need a break?
A No.
Q You're good, okay.
A This shortly.
Q All right. You just tell me when you're ready for a break.

MR. STANLEY: Are you okay?

THE COURT REPORTER: I'm fine. Thank you.

BY MR. STANLEY:

Q Tell me about any construction defects that you are aware of or any water intrusion problems or anything of that sort at the Rivergate project.
A I know that Phil Carr's unit, 24-C ---

MR. HELMS: What letter? I'm sorry.

THE WITNESS: 24-C.

MR. HELMS: Thank you.

THE WITNESS: Lot 24-C had a roof leak. I know Wayne had several roofers on the roof trying to, excuse me, trying to solve it, and Phil Carr will even verify that. And then, got Blankenship up on it, still was

leaking. And I met this gentleman, I can't remember his name. Don something, that owns a water restoration type company, and in one day, he had solved the problem and everything was fixed.

BY MR. STANLEY:

Q Okay.

A I remember Lot 2, which was my old first office, the side yard was, they were complaining it was holding water. That's all I remember.

Q Do you remember any complaints from any of the homeowners about problems with the windows?

A The back to back three-three, two-car garage, the third bedroom being above the garage, several of the windows, as I've been told, I'm not a contractor, something to do with flashing. Well, I just had one that just worked with just this week that people put hurricane panels up. And the company had put the hurricane panels up and, again, I was told they didn't punch holes in the tray that holds the permanent shutters and it was leaking down in the garage. So, we had to have all of that stuff taken off and now it's in the garage, take all the vinyl off and fix that window. But it was caused from, that's the second one I know of. My girlfriend that works for me is in one, same thing, and had to have the hurricane thing taken off.

A You don't know that?
Q Uh-uh. No.
A I'll see if I can find that for you, too.
Q Okay.

MR. MCCUE: You need to get out more, man.

THE WITNESS: Yeah.

BY MR. STANLEY:

Q I do. I've got to go to Big Daddy's.
A They're closed. It's a church now.
Q Oh, or better, I'll go there.
A Church with a bar.
Q Yeah. Probably have real good attendance.

MR. MCCUE: That's called taking the product to the market.

BY MR. STANLEY:

Q Okay. So, 24-C, that's the Carr property. Lot 2 was ---
A Bill Race owned it at that time.
Q Who?
A Bill Race.
Q Race.
A He doesn't own it now. Now, it's in foreclosure.
Q Race, R-a-c-e?
A Uh-huh.
Q Is that right?

A Yes.
Q And that was a flooding issue. Is that right, or water?
A And - just water laying in the yard after rain.
Q Okay.
A In between two houses.
Q Did anybody attempt to correct that problem?
A Yes.
Q Who did?
A Oh, gosh. I don't remember. Rivergate's had like 13 landscapers in ten years. I don't remember who was on at that point.
Q All right. So, you just don't recall who the landscaper ---
A No, uh-uh.
Q Well, who called the landscaper to come and try to correct that issue?
A Mr. Winderman.
Q Okay. And then, the two-car garage issue that you mentioned, I didn't quite understand. You said 33 or something like that. Was that Unit 33?
A The one that we just fixed?
Q Yes.
A It's 19-B, owned by Dorrie and Don Miller.
Q And that was the window above the garage?

Verbatim, Inc.
Professional Court Reporters
info@verbatiminc.com
(813) 787-7242

about?
A No.
Q All right. Did you coordinate the repairs at Rivergate, these repairs or any other repairs?
A Punch sheet items, if they called me, I wrote them down, faxed them to Wayne. If it came to me in writing, I faxed it to Wayne and then he would go over it and add to it, change this, do this, whatever, and fax it back to me to give to whatever sub walked in the door.
Q Okay. Were you ever on the board of directors at Rivergate?
A Well, before we, he gave it to Atalaya, I was just his manager, assistant, whatever he wanted to call me. There was never a board until Atalaya took over management.
Q So, what did you do in that position as the manager/assistant?
A Anything he wanted done.
Q Okay. Like any repairs or ---
A No, like notices that we're going to have a meeting.
Q Okay.
A Or start interviewing people to get property management to take over so we can turn it over to us homeowners.
Q Okay. Did you get paid for that position?

Verbatim, Inc.
Professional Court Reporters
info@verbatiminc.com
(303) 787-7242

A No.
Q Okay.
A I didn't make any money the whole time I've been with him except my commission checks. I want everybody to know that. Period.
Q Okay.
A I did what I wanted to, to make the project beautiful.
Q Okay. And was there anybody else on the board, other than Mr. Winderman?
A In the beginning, Sally Foran.
Q Okay. How about her husband?
A Gerry.
Q Okay.
A Probably.
Q So, during the time that you were the manager or assistant, the only directors on the board were Sally and Gerald Foran and Mr. Winderman?
A Correct.
Q Now, did they have meetings, the Forans and Mr. Winderman?
A Uh-huh.
Q Is that a yes?
A Yes.
Q Where did they meet?
A At my sales office.

Verbatim, Inc.
Professional Court Reporters
info@verbatiminc.com
(803) 787-7242

Whispering Woods because it's falling apart, or seal it or whatever they do to it.

Q Would people in the neighborhood come to you with complaints about the asphalt?

A No, not since I left Rivergate.

Q How about before you left Rivergate?

A Yes.

Q What were the complaints?

A Mainly the exit street, because we couldn't put a culvert and the big moving vans coming in and moving vans going out and waste management in and out, it's breaking off the corners. In fact, it was just repaired, which is not the first time.

Q And when you say the exit street, are we talking about the street that cuts through to ---

A To Baker.

Q --- Baker? And I don't know which, is that I? Is that street I?

A I don't know however they're ---

Q I know it's one alphabet.

A Yeah.

Q But it's the one that actually cuts the road?

A Yes, the only one.

Q And right there when it hits Baker Street, is that where there's a problem with the asphalt?

Verbatim, Inc.
Professional Court Reporters
info@verbatiminc.com
(803) 787-7242

A Yes.
Q And the asphalt is just, what, crumbling?
A It just keeps getting broke off because there's no culvert. So, the water lays there and floods over it. People drive over it.
Q You mentioned earlier in response to some prior questions that there was a desire to put a culvert under that street, but some governmental ---
A County would not let Wayne do it.
Q Why?
A Environmental, because you -- they wanted that dirt to stop the trash coming down so it doesn't go into the wetlands.
Q So, they did not want a culvert to run underneath ---
A That's right.
Q --- to keep whatever debris was in the water from ---
A That's right.
Q Okay. Were you involved at all in talking to the county about the culvert?
A No.
Q So, this notion that they wouldn't let a culvert be installed, did you get that from Mr. Winderman directly?
A I've heard it from more people than him.
Q Who else have you heard it from?

Verbatim, Inc.
Professional Court Reporters
info@verbatiminc.com
(803) 787-7242

Q So, Karen had a problem with the steepness ---
A She didn't have a problem. She just didn't like it like that, so she had it dropped, got a permit, hired an engineer. It might have even been Amy, and Little River had to come and drop the sewer line and everything. She put a gorgeous stone wall around it.
Q Okay.
A That was her choice.
Q Did any, has any other person, any other resident complained to you about the steepness of their driveway?
A Several.
Q Who?
A I don't know. Well, Jesse Muncy and Carol Newman in the beginning. They've moved out and have a new tenant. That's just the way the land rolls down that hill.
Q So, I'm sorry. Is Muncy a woman?
A Jesse.
Q Jesse?
A He owns Muncy Painting. He was our painter.
Q Okay. I've heard - they talked about him last week. Did Mr. Muncy complain to you about how steep his driveway was? Is that right?
A Yes.

Verbatim, Inc.
Professional Court Reporters
info@verbatiminc.com
(803) 787-7242

Q Do you know approximately when he complained about that?
A When his house was built.
Q Does that goes back to the ---
A That was probably '05.
Q '05? And you mentioned Carolyn Newman?
A Carol Newman, that's his girlfriend.
Q Carol, okay. So, she was in the same unit?
A Yeah. Yes.
Q Was anything done in response to their complaint?
A No.
Q Did anybody else complain to you about the steepness of their driveway?
A I can't think of any other than those two.
Q Okay. Did any resident out at Rivergate complain to you about cracking of their driveway?
A There's a couple driveways that the, you know, it's like here had been cracked where they roll them out to the curb, you know what I'm saying.
Q Honestly, I don't. Help me out a little bit.
A Okay. Here's the street and the driveway comes to it like this. So, you've got a point here, and an 18 wheeler, furniture truck, garbage truck has cracked several of them.
Q So, you're talking about the very edge ---

Verbatim, Inc.
Professional Court Reporters
info@verbatiminc.com
(803) 787-7242

A Yeah.
Q --- where the driveway meets the asphalt?
A Nothing up here.
Q Okay. Was anything done to try and repair those cracks?
A I can't answer that.
Q Okay. Has anybody complained to you or have you observed any erosion near or under any of the driveways?
A No. No to either.
Q Has anybody complained to you or have you observed areas of standing water in the neighborhood?
A Recently?
Q At any point since you started in 2002.
A Well, I brought that up with Stanley, but between lot two and one, we had standing water.
Q Okay.
A We had standing water over on 27 and drainage was put in.
Q Okay. So, on the standing water between lots two and one, was that repaired?
A If I - I know on 27, they put in - oh, it's a pipe with holes in it so water will drain in it and drain out.
Q Okay.
A They did that. And then, on 27, they actually put a

Verbatim, Inc.
Professional Court Reporters
info@verbatiminc.com
(803) 787-7242

lid where the water goes in and runs out to the cul-de-sac.

Q When you say they put it in, who did that work?

A Oh, my God, please. I don't know. Could have been Oasis Landscaping, it could have - who did our construction landscaping. They're not the, doing their normal, Rivergate's normal maintenance. I have no idea.

Q But it was a landscaper that did that work?

A I don't - I think so, but I'm not sure.

Q The work at Lot 27 where there was standing water, was that done near the time that it was originally constructed?

A No.

Q Do you know when that work was done?

A No.

Q Was it before you moved out?

A I don't know. Probably.

Q And I'm sorry. The work at, the standing water between lots one and two, what was the repair for that?

A They put in that pipe with holes in it.

Q Okay.

A And then ran it to run down by the golf course.

Q And when was that work done?

A Oh, probably in four.

Verbatim, Inc.
Professional Court Reporters
info@verbatiminc.com
(603) 787-7262

Q And was that done by a landscaping contractor, also?
A I don't remember.
Q You don't remember who it was done by? Other than standing water at Lot 27 and between Lots 2 and 1, has anybody complained to you about standing water in any other location at Rivergate at any point in time?
A Not that I remember.
Q Has anybody, have you ever observed standing water in any other location?
A Nope.
Q Has anybody ever complained to you about erosion at Rivergate?
A Lot 10, golf course, it's out of our hands.
Q I'm sorry?
A Lot 1, Lot 3 through 10 backs up to the golf course.
Q Okay. And what's the erosion issue there?
A Because their sprinkler systems are monsters. They run them 24/7 and it slants down and they don't have the proper drainage, so it was coming over and taking Rivergate's dirt.
Q So, it was washing away dirt behind those, the units at Lots 3 through 10?
A Yes.
Q Was there any fix ever for that?
A I don't remember who went to the golf course, if it was

Verbatim, Inc.
Professional Court Reporters
info@verbatiminc.com
(803) 787-7242

Wayne or Wayne's attorney to get them to do something.
Q Did they?
A Of course not.
Q So, it just continued?
A They said you don't like it, too bad. They didn't care. They just want those golfers out there.
Q So, did that condition continue, erosion behind those lots?
A I can't say that either. I know we went down -- oh, yes, I can. I do remember. We did put a little drainage ditch. Don't ask me who did that, either, because I don't remember. Probably Oasis. Behind 8, I believe it's 8, 9, and 10. And I'm trying to, I'm trying to say it's some kind of stuff they put and then they put the sod back on top of it.
Q Okay. Do you know when, approximately when that work was done between 8, 9, and 10?
A Oh, God. I'm going to say six or seven. I don't remember.
Q Was it before or after you moved out?
A I don't know.
Q And who made the decision to do that work? Was that Mr. Winderman or ---
A Absolutely.
Q Mr. Winderman did? Did you have any involvement in -

Verbatim, Inc.
Professional Court Reporters
info@verbatiminc.com
(803) 787-7242

A Yeah.
Q That you're aware of?
A Yeah.
Q Were there hurricane panels or hurricane shutters installed on other units where, to your knowledge, there had not been problems, or did those type of problems occur on each of the units where the hurricane panels or shutters were installed?
A I don't think there's anybody else that's put the money down to do that. I can't ---
Q Do you think that would have been within the last year or so?
A Oh, no.
Q Longer ago than that?
A Yeah, six or seven years ago.
Q When did you first move into your unit at Rivergate?
A I moved in in April and closed in August of '02.
Q Of 2002? Moved in in August, did you say?
A Moved in in April and closed in August.
Q All right. You moved in prior to your closing, then?
A Yes. He wanted me on site.
Q And when did you, when did you sell that unit?
A November of '06.
Q All right. And were you still living in it at that time?

A I moved into the condo building at the end of the street.
Q When did you ---
A Oh, I was living in it, yeah.
Q Yeah, all right. So, you lived there until November of 2006?
A Uh-huh.
Q All right. When you were selling, making sales at the original units after they had - well, actually, you said they were presales, correct? Most of your sales, original sales were presales?
A Correct.
Q What was your daily schedule, with regard to your presence in the sales office?
A Every day, seven days a week.
Q And what were your hours?
A Whatever hours I needed to be there.
Q Normally, that would be how many hours a day?
A Well, if I had to put a permit out, I'd be out on the streets at 6:00 in the morning, go back and have my coffee, get dressed and go to work. If I needed office supplies or cleaning supplies or anything, I'd go do that first. My office opened at 9:00 and closed no earlier than 5:00.
Q All right. So, you were on ---

STATE OF SOUTH CAROLINA)
) COURT OF COMMON PLEAS
COUNTY OF HORRY)

ROBERT SANGER, representing a class of similarly situated people,

Plaintiffs,

-versus-

CASE NO.: 07-CP-26-0228

WW & LB Development Company, LLC, Wayne Construction Co., Inc., Right Way Construction Company, Inc., BMS, Inc., Russell Spitzer, Atelio Associates, Sterling Engineering, Inc., Rivergate Homeowners Association, Rivergate Homeowners Association Board of Directors, Wayne Winderman, individually, Salvatrice Foran, individually, and Gerard Foran, individually, Thomas Soares, individually, and d/b/a M.S. Construction, William C. De Sousa, individually, James Eason, individually and d/b/a James Eason & Company, R&D Cleaning and Construction, Inc., Joel A Frasier, Jo Frasier, Angie Garcia, Joaquin Geraldo Zaferino, individually, and d/b/a Zaferino Framing, Leo Bradley, Jody Schmidt, JBD Interior Design, Jose Dameraus, d/b/a J.P. Construction, Scott Chandler d/b/a Coastal Custom Windows & Doors, R&D Construction, Micaela Ramirez Zuniga, Waldir Rorela, and Marco Tresini,

Defendants.

RIVERGATE HOMEOWNERS ASSOCIATION,

Plaintiffs,

-versus-

CASE NO.: 08-CP-26-4030

WW & LB Development Company, LLC, Wayne Construction Co., Inc., Right Way Construction Company, Inc., BMS, Inc., Russell Spitzer, Atelio Associates, Sterling Engineering, Inc., Rivergate Homeowners Association, Rivergate Homeowners Association Board of Directors, Wayne Winderman, individually, Salvatrice Foran, individually, and Gerard Foran, individually, Thomas Soares, individually, and d/b/a M.S. Construction, William C. De Sousa, individually, James Eason, individually and d/b/a James Eason & Company, R&D Cleaning and Construction, Inc., Joel A Frasier, Jo Frasier, Angie Garcia, Joaquin Geraldo Zaferino, individually, and d/b/a Zaferino Framing, Leo Bradley, Jody Schmidt, JBD Interior Design, Jose Dameraus, d/b/a J.P. Construction, Scott Chandler d/b/a Coastal Custom Windows & Doors, R&D Construction, Micaela Ramirez Zuniga, Waldir Rorela, and Marco Tresini,

Defendants.

THE DEPOSITION OF WAYNE WINDERMAN, INDIVIDUALLY AND WW & LB DEVELOPMENT COMPANY, LLC BY WAYNE WINDERMAN, THE 30(B)(6) DESIGNEE

Tuesday, April 28, 2009
9:54 a.m. – 3:44 p.m.

Prestige Court Reporting, Inc.
413 Post Street
Conway, South Carolina 29527
(843) 248-5252

FOR THE DEFENDANT:
(Salvatrice Foran and Gerald Foran)
Kathryn M. Cook, Esquire
COOK & ROY, LLC
10409 North Kings Highway
Post Office Box 4086
Myrtle Beach, South Carolina 29572

FOR THE DEFENDANT:
(Atelio Associates)
William C. Helms, III, Esquire
BARNWELL WHALEY PATTERSON & HELMS
Post Office Drawer H
Charleston, South Carolina 29402-0197

FOR THE DEFENDANT:
(Jose Dameraus, d/b/a J.P. Construction)
Jacqueline B. Lynn, Esquire
HAYNESWORTH SINKLER & BOYD
Post Office Box 340
Charleston, South Carolina 29402

FOR THE DEFENDANT:
(James Eason, d/b/a James Eason & Company)
James A. Atkins, Esquire
CLAWSON & STAUBES, LLC
126 Seven Farms Drive, Suite 200
Charleston, South Carolina 29492-7595

Prestige Court Reporting, Inc.
413 Post Street
Conway, South Carolina 29527
(843) 248-5252

APPEARANCES:

FOR THE PLAINTIFF:
Stacy L. Stanley, Esquire
STANLEY LAW FIRM
3303 East Highway 9
Little River, South Carolina 29566

FOR THE DEFENDANT:
(Right Way Construction Company, Inc.)
Dunn D. Hollingsworth, Esquire
ROBERTSON & HOLLINGSWORTH
First Union Center
177 Meeting Street, Suite 300
Charleston, South Carolina 29401

FOR THE DEFENDANT:
(Pine Bluff Construction and Kaye Construction, Co., Inc.)
Michael Timbes, Esquire
THURMOND, KIRCHNER & TIMBES, P.A.
15 Mid-Atlantic Wharf, Suite 101
Charleston, South Carolina 29401

William B. Woods, Esquire
WOODS & GIVEN
146 E. Main Street
Post Office Box 2444
Lexington, South Carolina 29071

Prestige Court Reporting, Inc.
413 Post Street
Conway, South Carolina 29527
(843) 248-5252

FOR THE DEFENDANT:
(Rivergate Homeowners' Association and Rivergate Homeowners' Association Board of Directors)
Robert C. Brown, Esquire
BROWN & BREHMER
1720 Main Street
Post Office Box 7965
Columbia, South Carolina 29202

FOR THE DEFENDANT:
(WW & LB Development Company)
Stephanie Drawdy, Esquire
RICHARDSON PLOWDEN CARPENTER & ROBINSON
Post Office Box 3646
Myrtle Beach, South Carolina 29578

FOR THE DEFENDANT:
(Wayne Winderman, Individually)
Christopher Pearce, Esquire
TURNER, PADGET, GRAHAM & LANEY, P.A.
2411 North Oak Street, Suite 301
Myrtle Beach, South Carolina 29577

FOR THE DEFENDANT:
(Joaquin Geraldo Zaferino, Individually and d/b/a Zaferino Framing)
Laura E. Paris, Esquire
Carlock Copeland & Stair, LLP
40 Calhoun Street, Suite 400
Charleston, South Carolina 29401-3531

Prestige Court Reporting, Inc.
413 Post Street
Conway, South Carolina 29527
(843) 248-5252

through the caption of the case, and you can tell me who did what for the project. Are you familiar with the term "scope of work"?
A: Yes.
Q: I'm going to be asking you what the scope of work was for each of these parties, okay?
A: Okay.
Q: I mean I've been provided this information, but I would like for you to confirm it?
A: No problem.
Q: WW & LB Development Company, LLC, is that what we've been talking about with the members, you, Luther Bellamy, and the Stanley Family?
A: That's correct.
Q: What was the scope of work for WW & LB Development Company, LLC for this project?
A: They were the developer. That included marketing, construction and closing of the property, of the properties.
Q: You said "developer, marketing, construction and closing"?
A: Yes, you know, the sale, closing the sale.
Q: What type of project did you foresee this being? For example, I've seen some material that said this was an adult community. Is that what you

had foreseen as that type of project?
A: That's the way it was marketed.
Q: Tell me what you define as an adult community.
A: I think it was specified in the homeowners' document. I would refer you back to that.
Q: So you're talking about the master deed?
A: Yes.
Q: Who drafted the master deed for you?
A: That was somebody from the Bellamy Law Firm not far from here. Do you know who they are?
Q: Yes, I do.
A: Okay.
Q: Do you remember what attorney did that for you?
A: King.
MS. COOK: BRAD KING.
A: Yeah. No. It wasn't Brad King. It was a Jeffrey King, I think, Jeffrey King. There's two Kings in that -- there was back then.
Q: Did you happen to do any general contracting work under WW & LB Development Company?
A: I'm not going to really understand that question. We didn't -- WW & LB didn't do general contracting work, no.
Q: Did you subcontract any work?
A: Yes.

Q: Okay.
A: No, wait. Again, when you use the term "subcontract," I would have to say no to that as well. We hired a general contractor, and we hired a prime site work contractor to do the work, just to be clear on that. We will not do any direct contracting in any way.
Q: Tell me who you did hire for this project then.
A: It's various people, you know, which should be on the Horry County records. You know, I would refer you back. I don't want to have a memory that's not 100 percent accurate.
Q: Just who you recall.
A: Every building where was the general contractor hired.
Q: Mr. Winderman, I was asking you who you had hired for this project, and I know you said it was reflected in the records in Horry County. Just tell me you recall that you hired for this project. Let's start with the engineer that you hired.
A: That would be AB, I think, Consulting, but I may be -- not -- yes, it's got to be Consulting and the gentleman's name there is Braxton Lewis.
Q: And what was their scope of work for this

project?
A: Their scope of work was to design what I call the, the infrastructure, the design would be the, include grading, you know, the storm water system, they would have designed, you know, blacktop specs, you know.
Q: You're talking about the asphalt, is that what you're talking about, blacktop?
A: Yes, asphalt, blacktop, they're kind of synonymous. And the sewer system, they designed the sewer system, anything to do with the site.
Q: Sprinkler system also?
A: No.
Q: So they did the general site work then?
A: That's correct.
Q: Who else; how about an architect?
A: Well, the architect we hired for -- well that's, that's -- various architects were used, you know. The ones that come to mind is, I think Russ Baltzer did one of the buildings. I used an individual by the name of Dwayne Bates. He drew up plans that didn't require an architectural seal.
Q: What was his title; what was he?
A: He was an independent contractor that we hired.

Q: Where was that company out of?
A: He's dead?
Q: Yes.
MS. COOK: LITTLE RIVER.
Q: It's out of Little River?
A: I'm sorry to hear that. He's a nice guy. Repeat the question please?
Q: Do you know where the business was located?
A: It was in Little River.
Q: Any other general contractors that were hired for this Rivergate project other than Keye Construction, Right Way Construction, RWG, and Brewer Construction?
A: No. Oh, yeah, wait, that was one more. David -- Bridges Construction, I think.
Q: What was their scope of work?
A: He was a general contractor.
Q: What buildings did Bridges Construction work on?
A: If you promise not to hold me, I would speculate.
Q: That's fine.
A: I'm going to guess Building 6 and Building 3 -- wait, Building 6 and Building 2.
Q: Do you happen to have any documents that would provide all of your general contractors and all of your subcontractors for the project?

A: No.
Q: Any other general contractors for this project that WW & LB hired?
A: No.
Q: Tell me about Russell Baltzer. What was his scope of work? I know you touched on that earlier.
A: He did the architectural plans for one building, I believe.
Q: Did you happen to use -- what type of building was that that he did the plans for?
A: It was one of the quads, the four units attached to one another.
Q: Did you use those plans for any other buildings in the project?
A: I really don't recall. I'd probably like to say no, but I don't have a clear recollection.
Q: And again, I think I asked you this. You didn't recall what building it was that he had done the plans for?
A: I really don't.
Q: We talked about Aiello as being one of the architects. What type of plans did they draw for you?
A: I believe that was for a quad building.

Q: Do you remember which building or buildings those were?
A: I don't.
Q: I've got information that Baltzer designed Building 25; which was units 4235, 4237, 4243, and 4245. Can you confirm that for me?
A: Without seeing the plans, I cannot; but I wouldn't be surprised if that was the correct one.
Q: In regards to Aiello, my information is that they designed -- they've got the same building, Building 25.
A: That's not true.
Q: That might've just been a typographical error on my part. All right, and we talked about Daniels Engineering. They did the structural engineering for what buildings?
A: My best recollection will be that they did them for all of the buildings. You know, Daniels Engineering was the structural engineer for all of the buildings.
Q: Did he work with the architects in this project?
A: I would say yes.
Q: Let me ask you this about the board of directors for Rivergate. There are a couple of names that

I'm going to ask you about. Tell me, who are the board of directors for your -- your initial board of directors?
A: The initial board of directors was myself and Salvatrice Foran and, if I recall correctly, Gerry Foran. I'm not sure about Gerry. I know Salvatrice for sure.
Q: Does Gerry go by Gerard?
A: He could, yeah.
Q: Do you remember what years -- were those all of the board members?
A: That's correct.
Q: So what year was that, that the initial board was begun?
A: I'd like to recall in the very beginning of 2000, maybe going into 2001.
Q: So from 2000, 2001 it was you and Salvatrice and Gerard Foran ---
A: Right.
Q: --- on the board?
A: That's correct.
Q: How about the following year, 2002?
A: I really don't recall exactly who was on the board then. At some point Donna Dawson came onto the board.

Q: Do you remember what year that was that Ms. Dawson came on the board?
A: I can't give you an exact date.
Q: Would you have any minutes from these -- I mean, did you have board meetings?
A: We had informal board meetings.
Q: Did you take any minutes from these informal board meetings?
A: No.
Q: Do you have any recordings from these informal board meetings?
A: No.
Q: Is there any documents ---
A: No.
Q: --- of any kind from these board meetings that you had?
A: No.
Q: And when I'm asking you about documents, I want to cover any documents for any board meetings through the existence of the Rivergate project.
A: I don't have anything. Anything I had was turned over to Atalaya Management, I believe, sometime in 2005.
Q: Who was that that you were dealing with at Atalaya?

A: Lisa Watts.
Q: So 2000, 2001, it was you and the Forans. In 2002, did you say you recall who was on the board then?
A: Not off the top of my head.
Q: How about 2003?
A: Again, at some point Foran left and Donna Dawson came on. I just don't remember when exactly.
Q: Have there been any other board members other then you, the Forans and Ms. Dawson?
A: We tried. We tried to bring in board members. That effort was stifled by Ms. Cook, you know we called a special board meeting, probably sometime in 2006. Even prior to that time I made many efforts to try to organize the homeowners in Rivergate. We tried to organize a landscape committee because that was the predominance of the issues that were being expressed. In fact I did organize a landscape committee, a gentleman in Building 25 and a gentleman in Building 1, I think, I forget the names of the top of my head, and one of them was actually a landscape supervisor. And I said "Well, you know, I think it would be great if you could help the homeowners out here and go out and request bids

from landscapers so we can address concerns, you know, concerns about whether the price was fair, concerns' -- I mean, totally open in trying to get them involved even at that very early stage. And unfortunately, at that time things were so busy on the Beach they weren't able to actually secure landscape bids let alone obtain a different landscape contractor so in the beginning that was a challenge.

Also, Sally Foran, Salvatrice, you know, was in our office, she was making most of the early decisions for the HOA. She was the one that was calling the contractors. She was the one who was supervising the landscape contractors and taking care of the punch list items as relates to the HOA.

And then 2005, as things were evolving and -- in the beginning you had maybe 10 houses, maybe 15 houses, and as it grew to a certain size actually made efforts and called a special board meeting because some members of the board had expressed, some members of the homeowners association had expressed the desire to serve in that capacity, and I thought it would be good to institute, you know, a formal board at that

point. And Ms. Cook came with Lisa Watts to that meeting and stood up at that meeting and threatened anybody who wanted to service on the homeowners association with a lawsuit, that they would be named or have the liability of the homeowners association passed on them. So any effort that I made to try to organize the homeowners was squashed at that point in time, and what really upset me is that Lisa Watts who was supposed to be this independent property manager that I hired back in 2005 showed up at the meeting with Kif Cook, and I felt at that point that she exhibited absolutely no independence in performing her duties.

MS. COOK: AND WAS THAT THE LISA WATTS THAT WAS HIRED AS A RESULT OF A MOTION TO REQUIRE YOU TO ---
MR. PEARCE: KIF, WE'RE NOT GOING TO DO THIS TODAY. WE'VE GOT A WITNESS UNDER OATH.
MS. COOK: YOU'RE RIGHT.
MR. PEARCE: AND HE NEEDS TO TESTIFY.
MS. COOK: I MAY END UP BEING A WITNESS.

MR. STANLEY CONTINUES:

Q: And I appreciate that explanation, but just so I've got the people I need down for board members, it was just you, the Forans and Ms. Dawson, they were not any other board members other than those ---

A: Not during my tenure, but not by my choice.

Q: Fair enough. Let me just make sure I'm clear about any documents that may have come from a board meeting or a homeowner meeting. Did y'all happen to take any minutes for board meetings or homeowner meetings?

A: Well, starting in 2006, you know, there were board meetings, and they were being taken by Lisa Watts or somebody from her firm, Atalaya Management.

Q: So 2005 to the time that you relinquished the board ---

A: I attempted to.

Q: I'm sorry?

A: 2005 I attempted to -- I relinquished for a period of time the management. I hired Atalaya Management to perform the managerial and the accounting functions of the HOA.

Q: But from 2005 to present there should be minutes

from all board meetings?

A: There should.

Q: And those would be in the possession of Ms. Watts at Atalaya Property Management?

A: They should be.

Q: What about, did you happen to call any annual homeowner meetings?

A: Yes, we did.

Q: Do you remember what years those started?

A: That would've been -- I recall that being in 2005. It may have been 2004.

Q: Was that meeting in 2004 or 2005 recorded also?

A: You would have to ask Lisa Watts from Atalaya Management. When you say "recorded," you mean audiotape?

Q: Audiotape or any minutes taken.

A: Well, there were definitely minutes taken, but I don't recall if they actually taped it as well. I just don't know.

Q: All right. What other years when you were on the board did you have annual homeowner meetings?

A: Well, we turned it over in 2007. I don't have any recollection.

Q: Okay.

A: But there was that one special meeting that I

called in 2005 when I attempted to turn over my duties to some willing members of the homeowners association, you know, so that they would be represented by an independent person. I made very few, if any, decisions in regards to the homeowners. Decisions about maintenance of the landscaping and the irrigation system, that was done by Sally Foran in the beginning and to a certain extent, you know, Donna Dawson, you know, picked up. We would address concerns particularly with any leaking roofs. Any issues with any leaks, you know, we -- I, I had a goal, a very hard fast rule that any reports of any leaking structures were to be addressed immediately, and we did our very best to follow that diligently.

Q: Let me ask you about Ms. Foran and Ms. Dawson. Were they acting -- I think you said they addressed punch list items and water intrusion ---

A: As it related to the HOA.

Q: As it related to the HOA?

A: Right.

Q: Were they acting on behalf of the board of directors or for WW & LB?

A: They were acting on behalf of the board of directors of the HOA. Ms. Dawson and Ms. Foran both resided, you know, at Rivergate, and they both had a very vested interest to make sure it remained very attractive and beautiful, which I believe it is today.

Q: When you talked about addressing water leaks and other issues that the homeowners have had ---

A: Right.

Q: --- do you happen to have a list or, you know, any other documents that would tell us what issues you were addressing?

A: No. There's not a list that we maintained. Any records in regards to the HOA were turned over to Lisa Watts in 2005, and we don't have any written documents or if we did, it's no longer been maintained.

Q: Were there any work orders or anything of that sort?

A: No. We would call the contractor who did the work, you know, and tell them that we had a leak and made sure they got out there and fixed it for the best of our ability. Sometimes fixing leaks, you know, requires a lot of effort. You don't always identify the source of the problem

STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY	DOCKET NO.:10-CP-26-3901
	(CIVIL ACTION NOS 2007-CP-26-0228 AND 2008-CP-26-4690 WERE CONSOLIDATED UNDER 2008-CP-26-4690 BY ORDER FILED 3/31/09)
RIVERGATE HOMEOWNERS' ASSOCIATION, ET AL.,	
PLAINTIFFS,	
vs.	
	DEPOSITION
WW&LB DEVELOPMENT COMPANY, LLC, RWG, INC., AIELLO ASSOCIATES, DANIELS ENGINEERING, INC., RIVERGATE HOMEOWNERS' ASSOCIATION, RIVERGATE HOMEOWNERS' ASSOCIATION BOARD OF DIRECTORS, WAYNE WINDERMAN, INDIVIDUALLY, MARCOS SOARES, INDIVIDUALLY, AND D/B/A/ M.S. CONSTRUCTION, WILLIAM C. DE SOUZA, INDIVIDUALLY JAMES EASON, INDIVIDUALLY, AND D/B/A JAMES EASON & COMPANY, D&D CLEANING AND CONSTRUCTION, INC., JOEL'S FRAMING, JO FREZA, AROLDO GARCIA, JOAQUIN GERALDO ZEFERINO, INDIVIDUALLY, AND D/B/A ZEFERINO FRAMING, LEO TROMBLEY, JUDY SCHULTZ, J&D INTERIOR DESIGN, JOSE DASMERCES D/B/A J.P. CONSTRUCTION, SCOTT CHANDLER D/B/A COASTAL CUSTOM WINDOWS & DOORS, R&D CONSTRUCTION, NICASIO RAMIREZ ZUNIGO, WALCHIR MORAIS,	OF LUTHER BELLAMY COPY

MARCO TREBBI,)
BLAKENSHIP ROOFING, INC.,)
DLJ CONSTRUCTION, LLC,)
DEWAYNE BATES,)
THE BATES GROUP, LLC,)
BRIDGES CONSTRUCTION, CO.,)
BREWER CONSTRUCTION, INC.,)
SPEEDY CONCRETE,)
REB-FEL, INC.,)
MARK MYCHAJLUK,)
ERIC JAZWINSKI,)
SOUTHERN FRAMING CORPORATION,)
AB CONSULTING ENGINEERS, INC.,)
WWI DEVELOPMENT COMPANY, LLC,)
MICHAEL DAWSON CONSTRUCTION, INC.,)
ASPHALT PAVING & MAINTENANCE CO.,)
INC., AND)
CHUCK'S CONSTRUCTION CO., INC.,)
)
DEFENDANTS.)

DEPOSITION OF LUTHER BELLAMY, TAKEN BEFORE WENDY SHANNON SULLIVAN, PROFESSIONAL VERBATIM REPORTER, AND NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH CAROLINA, COMMENCING AT THE HOUR OF 10:07 A.M., ON THURSDAY, THE 1ST DAY OF DECEMBER, 2011, AT MCANGUS, GOUDELOCK AND COURIE, 2411 NORTH OAK STREET, SUITE 401, MYRTLE BEACH, SOUTH CAROLINA 29577.

A Well, why be upset?
Q Okay.
A What am I going to do, blow his brains out? Hey, that ain't worth it.
Q Well, I would probably want to do something about it. Not blow his brains out. But I would want to bring a lawsuit against him. Have you ever considered that?
A I thought about it.
Q Okay. All right. Is there anything else that you can tell me, about the written agreement with you and Mr. Winderman, and Mr. Lonnie Stanley, and Mr. Ted Bellamy today, since I don't have that contract in front of me? Any important provisions, or anything else in the contract that I need to know?
A No.
Q Okay. Now, have you ever been involved in any other projects, other than the Rivergate project?
A No.
Q Have you ever been a developer for any other projects?
A No.
Q And was this agreement between you, Mr. Winderman, Lonnie Stanley, and Mr. Ted Bellamy, part of the WW&LB, LLC?
A Yes.
Q Okay. So the WW is Wayne Winderman, correct?

A Wayne Winderman. Luther Bellamy and Wayne Winderman.
Q Okay. And the LB is Luther Bellamy, correct?
A Yes.
Q But you didn't have any of the other partners' names in the corporation name?
A No.
Q Okay.
A Just Wayne and I.
Q Okay. All right. Did you have any other involvement with the Rivergate project, other than as a partner of WW&LB?
A No.
Q Okay. Did you try to sell any units at Rivergate?
A No.
Q Did you market or advertise any units?
A No.
Q Did you supervise any of the construction at Rivergate?
A In the beginning.
Q Okay. Tell me about that, please.
A Well, I was down here. Wayne was in Pennsylvania. And I was on the job site, out there checking. If anything goes wrong, I would contact him. That was basically that. Just like the overseer.
Q Okay.
A Uh-huh.

A **No. I can't remember.**

MS. BURTON: If you would pass this down to her. Thank you.

(WHEREUPON DEFENDANT'S EXHIBIT NUMBER THREE WAS MARKED FOR IDENTIFICATION PURPOSES, HOLD HARMLESS INDEMNIFICATION AGREEMENT.)

BY MS. BURTON:

Q Mr. Bellamy, you have just been handed a document that has been marked as Exhibit Number 3 to your deposition. Do you see that document?

A **Yes.**

Q Is that your signature?

A **Yes.**

Q Okay. Do you recall signing this Hold Harmless Indemnification Agreement?

A **Yes.**

Q Okay. Do you remember that that related to the concern by Amy and Braxton Lewis about --

A **Yes.**

Q -- not putting the gravel in, and not doing what the plans say?

A **Yes.**

Q Okay. Did you ever talk with Wayne Winderman about the Hold Harmless Agreement before you signed it?

A **No, I didn't.**

STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY	DOCKET NO.:10-CP-26-3901
	(CIVIL ACTION NOS 2007-CP-26-0228 AND 2008-CP-26-4690 WERE CONSOLIDATED UNDER 2008-CP-26-4690 BY ORDER FILED 3/31/09)
RIVERGATE HOMEOWNERS' ASSOCIATION, ET AL.,	
PLAINTIFFS,	
VS.	
WW&LB DEVELOPMENT COMPANY, LLC, RWG, INC., AIELLO ASSOCIATES, DANIELS ENGINEERING, INC., RIVERGATE HOMEOWNERS' ASSOCIATION, RIVERGATE HOMEOWNERS' ASSOCIATION BOARD OF DIRECTORS, WAYNE WINDERMAN, INDIVIDUALLY, MARCOS SOARES, INDIVIDUALLY, AND D/B/A/ M.S. CONSTRUCTION, WILLIAM C. DE SOUZA, INDIVIDUALLY JAMES EASON, INDIVIDUALLY, AND D/B/A JAMES EASON & COMPANY, D&D CLEANING AND CONSTRUCTION, INC., JOEL'S FRAMING, JO FREZA, AROLDO GARCIA, JOAQUIN GERALDO ZEFERINO, INDIVIDUALLY, AND D/B/A ZEFERINO FRAMING, LEO TROMBLEY, JUDY SCHULTZ, J&D INTERIOR DESIGN, JOSE DASMERCES D/B/A J.P. CONSTRUCTION, SCOTT CHANDLER D/B/A COASTAL CUSTOM WINDOWS & DOORS, R&D CONSTRUCTION, NICASIO RAMIREZ ZUNIGO, WALCHIR MORAIS,	DEPOSITION OF SALVATRICE FORAN COPY

MARCO TREBBI,)
BLAKENSHIP ROOFING, INC.,)
DLJ CONSTRUCTION, LLC,)
DEWAYNE BATES,)
THE BATES GROUP, LLC,)
BRIDGES CONSTRUCTION, CO.,)
BREWER CONSTRUCTION, INC.,)
SPEEDY CONCRETE,)
REB-FEL, INC.,)
MARK MYCHAJLUK,)
ERIC JAZWINSKI,)
SOUTHERN FRAMING CORPORATION,)
AB CONSULTING ENGINEERS, INC.,)
WWI DEVELOPMENT COMPANY, LLC,)
MICHAEL DAWSON CONSTRUCTION, INC.,)
ASPHALT PAVING & MAINTENANCE CO.,)
INC., AND)
CHUCK'S CONSTRUCTION CO., INC.,)
)
DEFENDANTS.)

DEPOSITION OF SALVATRICE FORAN, TAKEN BEFORE WENDY SHANNON SULLIVAN, PROFESSIONAL VERBATIM REPORTER, AND NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH CAROLINA, COMMENCING AT THE HOUR OF 10:19 A.M., ON THURSDAY, THE 20TH DAY OF OCTOBER, 2011, AT MCANGUS, GOUDELOCK AND COURIE, 2411 NORTH OAK STREET, SUITE 401, MYRTLE BEACH, SOUTH CAROLINA 29577

Q Okay. Do you remember what month that was in 2002, that you moved to Rivergate?

A Let me think. I think it was in March. I'm not sure.

Q Okay.

A I mean, I have it at home, but I don't remember.

Q That's fine. That's fine. All right. Well, let's talk about that a little bit, when you purchased your unit. Who did you purchase your unit from?

A I purchased my unit from -- at the time, Select Realtor, was the realtors on the property in a mobile home.

Q Okay.

A And Mr. Bob Barber was the agent at the time.

Q Okay. How did y'all find out about the Rivergate Community?

A A girlfriend was in town, and we were riding around. And we always wanted a house with a garage. Because my husband is always doing handy things, and stained glass. So my girlfriend and I went, and we saw this little complex. There's nothing there yet. No homes were built. Nothing.

Q Okay.

A And I went and spoke with these gentlemen. And they showed us plans of the house. And it was interesting to me, because there was a garage.

your design. I said, but the house is laid out wrong. And only because I knew of the work that I did before, and all the designers that I worked with, and all the architects I worked with. They gave me some insight on how the houses should be laid out.

And I says to him, I have a plan that I want to show you. Do you think you'd like to take a look at it? And he looked at it. He looked at it and his eyes popped out of his head, because it was the same home, but turned around in a way that they had front doors now instead of a side door.

And in a way it worked out very good to have a front door, because the side doors, the side of the homes were always flooded. We always had -- there was always a drainage problem at Rivergate. And if he had put those side doors in there, there would have been no way for people -- it was always flooded. There was always some kind of drainage problem.

So he stopped the cement man from coming in. They were going to pour cement. And he had the trainers, I guess -- I don't know what you would call them, come and change the plans around to make the front door in the front. And the same rooms he had, but to make it more accessible for the people to come in the front door instead of running into the bedroom to see who is

coming into the side door. He changed it. And it came out beautiful. The houses really came out nice with the front-door entrance.

And in the long run, he saved them a lot of problems, because there was a terrible drainage problem between the homes. And that's how I got in the house, and how everything was turned around, and how it looks so much nicer.

Q So now, when you told him about, kind of, your design, had you signed the contract to purchase?

A No.

Q Okay.

A I said, if you do this house this way, I would probably buy it.

Q Okay.

A That's what I said to him. If you would turn this house the right way, where my neighbors would be able to approach from the street and not to the side, I would probably buy the house. That's what I said, never thinking he would really turn it around.

Q That he would really do what you were recommending, right?

A What I recommended.

Q Do you remember what time -- was that in 2002 that you were talking to him?

A All of us were.
Q Can you tell me a little bit more about that?
A Oh, God. Well, let's see. I know that a lot of my neighbors were complaining about how the drainage was going in the area.
Q Okay.
A They were complaining about some of their homes and the construction. I was disgusted because I heard my neighbors were disgusted. They were my neighbors, and I felt bad for them, with what was going on, and how things weren't being done right for them. Like I said, my house -- I only had one leak in my roof, and the water came down in my living room. But Blakenship took care of that immediately.

That was the only problem I really had, aside from cracking. Because, you know, concrete cracks. And I had a crack. But really, I think I was disgusted because I think he was lying to people. And I felt so bad for them, for everybody. You know? Especially because I was trying to showcase the houses in a good light, with my house, and how much I loved my home.
Q Uh-huh.
A And how much I loved living there. And I was trying to tell these people, you know, how beautiful it was. And then, when I saw these people's problems, I really felt

Q Okay.
A **And I will tell you why they had drainage problems.**
Q Yeah. Tell me.
A **My neighbor next door -- we were attached. They moved out before me. If you look at the house, on the side, it was all mildewed on their vinyl. And mildew had started coming into their room, their bedroom. And it was really -- a lot of houses were starting to get mildew. Now, you know, you power-wash a home. I mean, we power-wash our home once a year. But whatever they did, the mildew would just come back, because the water, on the side, was just sopping wet, on the sides of everybody's home. I don't know what it is now, because I haven't been there. And they complained about the drainage. And they needed to drain it. And we were back-to-back with the golf course. We were back-to-back with the golf course. So the drainage was horrible. And that was a big problem that people were having.**
Q Okay. What unit was that, where you were talking about, they had drainage problems?
A **I think it was 6B, I think. I don't remember. The people next door to me. It was one of the 6's.**
Q What were their names?
A **They were the Chadwick's.**

-- I like to go golfing, I like to go bowling. I like to stay busy. That's how I am. I am very hyper, as you can tell.

Q You've got a lot of energy.

A Yes.

Q That's good. All right. So that was about 2005 that you sold your home at Rivergate?

A Yes, 2005. It was actually March, I think, of 2005.

Q Okay.

A And I moved in my new house in July.

Q Okay. And who did you sell your house to?

A You're not going to believe it. The people I sold my house to are now my neighbors. They moved to Carriage Lakes. Their name was Browickey.

Q Can you spell it the best you can?

A I think it is B-R-O-W-I-C-K-E-Y -- Browickey. I don't remember what his name is.

Q Okay. Okay.

A But they live in Carriage Lake. I can give you their information if you need it.

Q All right.

A They are my neighbors around the corner.

Q Now, during your three years there, how many units were built?

A We lived there four years.

before y'all moved?
A Yes, they did.
Q So they would have sold their house to someone else?
A Yes, they did.
Q Okay. And the other person to whom they sold the house, moved in before y'all left?
A No. I don't think so. No.
Q And do you know whether the problem with the mildew was taken care of?
A I have no idea.
Q Other than drainage, are you aware of any problems or complaints that anyone else at Rivergate had that was not repaired, or taken care of, once they notified Mr. Winderman, or Donna Dawson, or any of the contractors?
A To be honest, the complaints were still going on when we moved. So I don't know what happened after that. All the complaints were still continuing when we decided, let's go. And I don't know if they were taken care of, or what happened.
Q And drainage, did that develop over a period of time, or was that a problem?
A It was a problem.
Q Now, that problem you described as being between the buildings, was it on both sides of the building or just one side?

A Both. It was the way the homes were built. They were built -- and then the sides came like this. And the water was always laying, because the foundation was up a little higher. And it went like this. So there was really nowhere for that water to go. And it just sat. And it was sopping and sopping. And eventually, from the rain, the water would just come up towards the home, because the ground was always wet. And it was always a problem, always a problem. And I think part of it was because the golf course was there. There was a golf course behind it, and there was really no drainage.

Q As far as your house, you never had the problem with the water coming into the house?

A Oh, no. It never came in my house. No. It was always out there, though.

Q And your description about the -- or your perception of changing the contractors and that, is it something that, initially, the construction was better, and it got worse at the end? Or was it the same? As far as the actual construction, did you see that having any effect upon the quality of the houses or anything?

A I don't know. I really wasn't in there looking at how they were building. You know? I wasn't watching what they were doing there. I just knew there were a lot of

Q Okay.
A **He was, like, livid. Gina Siregino was the one I was telling you about, with the 2A where the floor was bad, and they had to do that whole floor over.**
Q Okay.
A **And the driveway, the problems were -- I think, if I'm not mistaken -- I'm not sure now. I really can't remember because I'm not there. I think the problem with the driveways -- actually, where was my house? My house was here. I think the driveways were -- yeah, down at, I think, 16D and 16 -- that area there, 15. That are there, there were problems there with the driveways, with the angle.**

MR. MCCUE: Is that all of the units in 15 and 16?

THE WITNESS: I think so, sir. Yes, I think so.

MR. MCCUE: Okay. Sorry, Christy.

BY MS. MAHON:
Q Oh, that's fine.
A **I know there were problems. I don't really remember, so many years back, what they actually were.**
Q And I am going to ask you about some specific units. But looking at that map, do you have a recollection of any other complaints from any other unit owners?

A **Oh, God. I worked from -- I worked about eight or nine hours a day.**

Q Five days a week?

A **Yes.**

Q Okay. I want to focus -- my client is the civil engineer.

A **Okay.**

Q I want to focus your attention on issues that are alleged in this lawsuit relating to the outside, the exterior of the buildings.

A **Okay.**

Q You mentioned, in your testimony earlier, that there was always a drainage issue at Rivergate, and that there were terrible drainage problems between the homes. I want to make sure I understand your testimony about that. Tell me what the drainage issues were, if you can list them for me, the drainage issues that you recall either seeing yourself, or hearing somebody else complain about.

A **I've seen myself, where you would walk between the homes -- like if you had to go to the backyard. If you were in your front, and you want to go to your backyard. Like I explained before, where the properties sat up high on their foundation, how it would just grade down. And when it would grade down,**

the water would lay between the gradings.

And then, if we would have very, very, very bad rains -- and sometimes we would have -- well, you know how it is here, how it rains. The water would eventually start to -- the drainage would start to come up. The grass would start getting wet, and it would get close to the foundation. And a lot of times it was very close to the foundation, the dampness, the wetness.

Q So I want to make sure I understand. You're saying there was, basically, a low spot between homes?

A Uh-huh.

Q And then water would accumulate there, particularly when it rained?

A Yes.

Q Was that condition only on the homes that back up to the golf course?

A Yes.

Q Okay.

A As far as I know, yes. I don't remember anybody complaining about the drainage at the quads.

Q Okay. And the condition on those homes, that you've just described, that backed up to the golf course, when did you first observe, or become concerned about that condition?

A I guess we started all getting concerned when the grass starting coming in, thinking that that was being taken care of. And once the grounds were landscaped, we thought that would go away, you know, that that would be taken care of. But it wasn't. It didn't seem to subside. And that was an issue. And I often think that if the homes were ever built the way he was going to build them, on the side, instead of changing my diagram, I often think to myself, how would people have gotten into their homes, the way that grading came?

Q So when you say, initially you hoped that the landscaping would cure that, but it didn't, are we talking about 2001?

A Yeah.

Q Okay. Did you ever complain about that condition to Mr. Winderman?

A I don't know if I did. But a lot of people did. A lot of the neighbors did complain about that.

Q Do you know whether they brought that to Mr. Winderman's attention? Or were they just fussing at you?

A No, I think they brought it to his attention. They would see him on the property. Let me tell you, he was like a celebrity. People would just get on him. A lot of people would just, you know, have a million

questions for him.

Q Okay. So when he would come to the site, the neighbors would --

A Oh, yes. When he was there, they would find out, and they would make sure they went to him.

Q Was there any repair attempted to fix this water condition between the homes that backed up to the golf course?

A Not to my knowledge.

Q Okay. Focusing on the homes on the opposite side of Rivergate Lane, did anybody ever complain to you about drainage problems at those homes?

A The only problem we had with the roads, is when you first came in. On that first turn, there was always water laying there. But it would actually subside and go away. But the roads were fine. There was no -- I don't think there were any problems with any of the roads at the time I was living there. This is going back six-and-a-half years ago now.

Q When you say, in the first turn, there was an area where water accumulated?

A Yeah.

Q Are you talking about the turn-off of 17, or off of Baker?

A Off of Baker. Off of Carriage Lakes. When you come

off Carriage Lakes Road -- oh, where am I going? Rivergate Lane. I'm confused. When you come down Rivergate Lane, when you make that first left, there was always water laying there. But like I said, it would, you know, puddle, and then it would eventually go away.

Q Did anybody ever complain to you about that condition?

A No.

Q It was just a condition that you observed?

A Yes.

Q Okay. Did you observe any areas where you thought the asphalt of the roadways was cracking, or there was settlement of the roadways?

A No. Six years ago, I don't remember having seen that. I don't remember that six years ago. No.

Q Did anybody ever complain to you about any problems with the roads, the asphalt of the roads, or settlement or cracking of the roads?

A No.

Q There was some testimony by either Mr. Shirav or Mr. Medlin -- I can't recall which, last week about a second coat of asphalt that was promised to be placed on the streets. Do you know anything about that?

A Yeah. It was never done. It wasn't done when I was there. I was only there, like, four years. I thought

it was going to be -- he had said that when the construction job was done, and everything was finished, and all the trucks were out of there, there would have been a fresh layer of asphalt to finish the roads off. I don't know if it was ever done, because, like I said, I left. But I think he said when the project was completely done, and all these trucks had stopped, it was going to be done.

Q When you say he, are we talking about Mr. Winderman?

A Yes.

Q And he told you that there was going to be --

A No, he didn't tell me. He told everyone. And you know, it was like, I guess, at one of the meetings, or something, that eventually things would be taken care of. I think one of the homeowners might have brought it up. And he said, when the project was done, it would be taken care of.

Q So this discussion about the second layer of asphalt occurred in a homeowners' meeting?

A I think it was in a homeowners' meeting. I think someone mentioned it at a homeowners' meeting.

Q Okay. You mentioned issues with steepness of the driveways.

A Yes.

Q And I want to make sure I understand that. Can you

tell me, again, what units you thought the steepness affected?

A **It was the end units. I think it was, like, 16, that area there, 16, 17, that area there. I know the driveways are very steep.**

Q The folks that lived in those units complained about that to you?

A **Not to me. But they complained. Because I was out by then. By then I was done with Mr. Winderman. But you know, when neighbors sat in the street and talked, you would say, oh, my God. And they would say, I can't get out of my car. I have to go in the driveway. I have to get in the garage to open my door. There was a lot of that going on.**

Q So it was casual conversations?

A **Yes.**

Q Was that issue, about the steepness of the driveway, ever brought up in any of those homeowners' meetings that you attended?

A **No, I don't know.**

Q Did you ever hear any complaints about standing water, other than the standing water between the buildings that back up to the golf course? Did anybody ever complain to you that they had standing water in their yards?

A **Yes.**
Q Okay. Tell me about that.
A **I've got to think who it was now. It had rained very bad. And of course, with the golf course there, there was no drainage. And we were right on top of the golf course. And one of the neighbor's homes -- I think, looking at my house, it was the left from me, if I was looking at my home. They always had a problem with the drainage in the yard. And it was the lady in 10. I know she had a problem with the drainage. 10A and 10B, they had problems.**
Q Do you know who those folks were in 10A and 10B?
A **The woman's name in 10A was Teresa something. But I think she has passed by now.**
Q Okay.
A **She used to live up in Maggie Valley. And that was her second home. And she was always having a problem down there with water and the drainage.**
Q And that was a discussion between you and this lady?
A **Yes.**
Q While you still lived in the neighborhood?
A **Yes.**
Q Okay. And what about -- was she in 10A or 10B?
A **I think she was in 10A, the very last unit before you go into the other subdivision. They had put a wall up**

there. Yeah. Put some kind of retaining wall. And when they put the retaining wall there, the water stayed in her wall. Because there was a swamp, like, between her house. Then there was a little road going over to the other subdivision. And when you put the -- I am trying to visualize this. When the retaining wall went up, that woman's yard got saturated. It was a mess.

Q Okay.

A And she couldn't do anything back there.

Q And when you say there was a retaining wall, are we talking about one of those little block walls?

A Yeah. It was a block wall. If you go there now, you'll see. There's still a retaining wall there.

Q Okay. And so, that lady had water standing in her yard after the retaining wall was constructed?

A I think always. I don't know when the retaining wall was constructed. I don't know if it was there before we moved in, after we were there. But she always had water in her yard.

Q Okay. Anybody else complain to you about water in their yard?

A No. I don't think so.

Q Did anybody ever complain to you, or did you ever observe any areas of erosion?

STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS
COUNTY OF HORRY FIFTEENTH JUDICIAL CIRCUIT
CASE NO. 2010-CP-26-3901

RIVERGATE HOMEOWNERS' ASSOCIATION,
Plaintiff,
vs.
WW&LB DEVELOPMENT COMPANY, LLC, RWG, INC.,
Defendants.

(Caption Continues)

DEPOSITION OF: CHRISTOPHER SARRATT
DATE: October 12, 2011
TIME: 10:00 a.m.

LOCATION: McAngus Goudelock & Courie
The Founders Center
2411 North Oak Street, Suite 401
Myrtle Beach, SC
TAKEN BY: Counsel for the Defendants
REPORTED BY: Roxanne M. Easterwood, Registered Professional Reporter

A. WILLIAM ROBERTS, JR., & ASSOCIATES

Fast, Accurate & Friendly

Charleston, SC (843) 722-8414
Hilton Head, SC (843) 785-3263
Myrtle Beach, SC (843) 839-3376
Columbia, SC (803) 731-5224
Greenville, SC (864) 234-7030
Charlotte, NC (704) 573-3919

What do you use it for?

A. It's a bedroom.

Q. How do you access that room above the garage?

A. Through the stairs inside the house.

Q. Your home has, including that one, has how many bedrooms?

A. Three bedrooms: one bedroom upstairs, one bath and two bedrooms, two baths downstairs.

Q. And the one bedroom upstairs is the one over the garage?

A. Right.

Q. Were you present when Right Way came to repair the leak in the window over the garage?

A. No, but a neighbor called and I did come home while they were there and the guy was very nice.

Q. Do you recall his name?

A. Not a clue, no.

Q. Let me ask you this, when did you and your wife actually move into this home?

A. Right after we closed.

Q. Sometime in June?

A. End of June 2005.

Q. About how long after you moved in did

A. I don't think so. I don't remember.

Q. I want to ask you just briefly about the homeowners' association. You indicated that you have never been an officer or director of that group; is that right?

A. Correct.

Q. I assume you have been a member of the homeowners' association?

A. Yes.

Q. You have to pay annual dues for that?

A. Monthly dues.

Q. Have you gone to homeowners' association meetings?

A. No.

Q. Never since you've lived there?

A. Never.

Q. Tell me, I want to focus -- instead of on the inside of your home, I want to talk about things on the exterior.

I noticed in the documents you brought with you you have a typed up document that says it's a fax regarding complaint. Can you find that? I think it's attached to the submission you made to the South Carolina LLR.

A. Yes.

Q. Is that right?
A. Uh-huh.
Q. Turn to the second page of that typed list, if you would. And you have a little heading that says Grounds at the very bottom. Do you see that? It looks like this.
MR. HELMS: Your typed list.
THE WITNESS: Yes.
BY MS. BURTON:
Q. Is that list a document you prepared?
A. Yes.
Q. Do you see a section of your list that's labelled Grounds?
A. Yes.
Q. I just wanted to make sure I understood the items on your list. The first one says: The sprinklers in front of house under the windows and the one in front of the front door aren't working; is that right?
A. That's correct.
Q. Was that an issue, that the sprinklers just were spraying water? What was the issue there?
A. They weren't working at all.
Q. They just didn't come on?

A. Right.

Q. Was that issue ever addressed and repaired?

A. They have had so many people out there with the sprinklers. Yes, they did. They did get them working at some point. At this time, no.

Q. I'm sorry, I want to make sure. This typed up list, you typed it up for what purpose?

A. For the LLR complaint.

Q. The second item you listed under grounds says: Low area in front of the house. Paved area is to be redone so water will not stand per Donna Dawson, Beach Realty.

Do you see that?

A. Uh-huh.

Q. Can you tell me what the concern was that you're describing in that item?

A. That was in front of the house. In front of the living room is -- the ground kind of slopes down and there's a driveway that's basically from maybe across the street, directly across, that is concrete, like a concrete pad, and then there's asphalt running back down the street, and there's a big dip in that whole thing, and that whole thing is like a bathtub that holds

water.

Q. I want to make sure I understand. When you talk about a concrete pad, are you talking about your neighbor's driveway?

A. Yes.

Q. So you have a driveway -- if you went and looked out of the front of your house, there's a driveway directly in front?

A. Right.

Q. Across a road?

A. It's directly in front of my house.

Q. In front of your house?

A. Yes.

Q. And the water from the driveway I gather is running off the driveway to your front yard?

A. Yes. Well, the house across sits up on a steep incline, and of course all of the water runs down toward my house. But there's a drain out there and it catches some of that water, but there's just -- they just didn't complete the roads and smooth them off so that the water would drain properly.

Q. You mentioned earlier in response to Mr. Helms' questions that you didn't think the

roads had been completed. I need to try and understand what you mean by that.

A. That's what Donna -- I said, what about all this water out here, Donna. She said, we're in the process of repairing that.

Q. The water that you're complaining of, is that in the grass in front of your house?

A. No. It's in the street.

Q. In the road itself?

A. It's in the road.

Q. So it just sits in a dip in the road?

A. Yes.

Q. You discussed that condition specifically with Ms. Dawson and she said that was going to be repaired?

A. Yes.

Q. Did she give a description for you of how that was going to be repaired or who was going to repair it, anything like that?

A. No.

Q. Was it ever repaired?

A. No.

Q. So that condition still exists in front of your house?

A. Yes.

Q. Does it still hold water when it rains?

A. Absolutely.

Q. Does that water just sit in the indentation or does it roll towards your house?

A. My house is on a little bit -- the front yard is on a little bit of an incline toward the street, so it does not get up toward my house.

Q. I see. So the water doesn't rise up towards your door?

A. That's right.

Q. You mentioned in response to some of Mr. Helms' questions concerns that you had with the roadways in your neighborhood, and you described this concern in front of your house.

Have you observed any other areas where you have concerns about the roads?

A. Pretty much all of them have that same issue. All the side streets to the -- when you pull into Rivergate from 17, everything runs downhill. Then you have all of the side streets to the left, and at the ends of those they all have these water issues.

Q. At the end of each side street?

A. End of each side street, yes.
Q. When did you first observe any issue with the roadways?
A. When it rained.
Q. So as soon as you moved in you observed that condition?
A. Uh-huh.
Q. Did you observe it throughout the neighborhood initially, or you mostly were focussed on the one right in front of your home?
A. I have a little dog, so we walk around the neighborhood. Yes, I noticed.
Q. Shortly after you moved in -- I think you told us you moved in in June of 2005?
A. Correct.
Q. Shortly after you moved in you started to observe the concerns with water standing in the road; is that fair?
A. Correct.
Q. Did you discuss that concern with Ms. Dawson relatively soon after your moved in?
A. Yes.
Q. Is that when she told you the areas that were going to be repaired?
A. Yes.

Q. Did you ever follow up with her about whether they were going to be repaired or when they were going to be repaired?

A. Just verbally, yes.

Q. What was her response?

A. Well. That's generally the response she gave.

Q. Just a --

A. Well.

Q. Something nonspecific I guess?

A. Yes.

Q. Did you talk about that concern with Mr. Dunn when he came around about the ad hoc committee?

A. Absolutely.

Q. Did he indicate that he was aware of that concern to you?

A. Yes.

Q. Tell me as best you can recall generally what discussion you had with Mr. Dunn about concerns about the roadways.

A. Well, I don't know his background, but he seemed to be knowledgeable about those kind of things. He was hot on somebody's trail.

Q. To work on that?

A. To do something about that.

Q. Other than the roadways that you and I have just discussed, have you observed any areas where you have seen standing water in the neighborhood?

A. Yes.

Q. Where?

A. Several places.

Q. Can you help me with those?

A. I'm at the end. I'm in the end unit on the left-hand side street. There is a -- and the property slopes downhill, so there's like a ditch that runs beside my house, beside Baker Street, and all of the water channels that direction, and water stands in a lot of those areas. And when you get down to the very last street, that street, there's a street that crosses there that goes to Baker Street.

So you can get in the development from there or 17 from Baker Street. And they have had lots of problems with that road and the water. They just didn't install a drain or whatever they needed to do to handle that water.

Q. So focussing on that street, you're talking about the street furthest away from

Highway 17?

A. Yes.

Q. And that street cuts through to Baker Street?

A. Right.

Q. Tell me what the water problem is on that particular street.

A. It just backs up.

Q. Onto the street itself?

A. Well, the street and going back toward the units, back towards 17.

Q. So back toward the units that are closer to 17?

A. Yes.

Q. When you say back towards the units, are we talking, it sits in yards, sits in ditches?

A. Yes, sits in people's yards, and there's a row of shrubs that's up on like a berm in between that. So, you know, it just channels that water all toward that one location. When it gets there it has nowhere to go.

Q. When did you first observe standing water in that location?

A. Right away.

Q. Have you ever discussed that condition

with Ms. Dawson?

A. I don't know. I really don't know.

Q. Did you discuss that condition with Mr. Dunn?

A. Yes.

Q. So standing water in that area was a concern by the ad hoc committee?

A. Absolutely, yes, and the people living right there.

Q. Do you know any of the folks that live in those buildings?

A. No. That lady, the one lady in particular that's right beside that, she moved. I don't know what happened to her, but she sold and moved.

Q. So she's gone?

A. Yes.

Q. Another area of standing water that you mentioned, and I want to make sure I understand, apparently related to a ditch along Baker Street?

A. Well, it's between the berm, the shrubs and my unit beside -- facing Baker Street. There's just a ditch that runs all the way down.

Q. And water stands in the ditch?

A. And some spots are flat and they stand. All the units there on those left-hand streets, when you pull in the units on the left sit up on a pretty steep hill. I'm on the right, so I sit on fairly level ground. They're all like that. So the streets, all the water just channels to the streets, but it's kind of in a fold between the houses and the streets, so the water stands.

Q. In the roadways right next to it?

A. In the roadways. And a lot of the neighbors, they have constant water coming from the high, from the left-hand side down into the road. And I don't know why that is, but it never stops. It doesn't rain for weeks, there's still water in the road coming from somewhere.

Q. Have you observed -- other than the locations you have described to me so far, have you observed standing water in any other locations?

A. No, not really.

Q. Other than water, have you observed any other condition of the roads or driveways themselves that give you concern?

A. No, not really.

Q. Have you observed any areas in the

neighborhood where you thought there was significant erosion?

A. Specially at that street, the side street going to Baker Street. It was washing that street out, so they keep patching the asphalt.

Q. So there have been areas of asphalt that have washed away?

A. Not that I know of other than right in that particular area.

Q. So that very last street that runs to Baker Street, you have observed asphalt degrading?

A. Yes.

Q. That's been repaired by patching?

A. Uh-huh.

Q. Have you seen any repair efforts other than the asphalt patching you mentioned to the roadways or to any of the drainage features?

A. Not that I know of.

Q. So the condition with the roads and water, standing water, have existed essentially since you moved in to the present?

A. Yes.

Q. Were those issues with roads and drainage and standing water discussed early on with Mr. Dunn?

A. Yes.

Q. You mentioned the ad hoc committee that you gave the $100 check for. Other than Mr. Dunn, who else was on that committee?

A. I don't know exactly. It was people that lived in the neighborhood. I know that.

Q. Was it a big ten-member committee?

A. I don't know. Maybe five to ten maybe.

Q. Do you know the name of anybody else who served on the committee other than Mr. Dunn?

A. I don't know.

Q. Have you discussed any of the issues with the roads or drainage or standing water with any of your adjacent neighbors, the Medlins, the Herrings? Have you ever talked about any of those issues with any of those folk?

A. Other than we're unhappy about it. That's about it.

Q. Are you close friends with any of the folks that live in the subdivision?

A. That's relative. But the Medlins and I are fairly close.

Q. You said that they don't live there full time, that's a second home?

DIVISION OF LEGAL SERVICES
OFFICE OF INVESTIGATION AND ENFORCEMENT

COMPLAINT FORM

For Consumer Complaints Against:
Residential Builders, Residential Specialty Contractors and Home Inspectors

Please complete and return to this office for review in order to determine if this complaint falls within the scope of the statutory authority of the Residential Builders Commission. Please answer all questions so that your complaint can be processed as soon as possible. Failure to answer all questions could result in delays in processing and/or request for additional information. You will be notified of receipt of your complaint and how it will be handled.

Your Name: (Complainant)

SARRATT Chers G.
Last First M.

4311 Rivergate Lane
Mailing Address

Little River, SC 29566 Horry
City State Zip Code County

(843) 663-4311 843-457-3778
Home Phone Day Time Phone

Same as above
Address of Property Involving Dispute

Complaint Against: (Licensee/Respondent)

Winderman Wayne
Last First M.

WW & LB Development Co, LLC
Company Name

1414 Woodview Rd.
519 Florendon Ct.
Mailing Address

Yardley PA. 19067
City State Zip Code

(215) 321-0114
Day Time Phone License #

I. Facts Regarding Your Complaint:

A. About your agreement:
(1) Did you enter into: written contract ☑ verbal agreement ☐
(2) Is a copy of your contract attached to this complaint? Yes ☑ No ☐
(3) Total cost for work to be performed: $ _____

B. Work performed for: New Construction ☑ Repair/Remodeling ☐ Home Inspection ☐
(1) Is a copy of your building permit attached (if applicable)? Yes ☐ No ☑
(2) If new construction, has Certificate of Occupancy been issued? Yes ☑ No ☐
(3) What is approximate age of the home? June 2005 - 3 months
(4) If repairs or remodeling, date work started July 2005 date work completed Not complete

Rev. date:

DEFENDANT'S EXHIBIT 3 Sarratt

C. Have you hired an attorney to assist you in this matter? Yes ☐ No ☑
If answer is yes, please provide name and address.

Name of Attorney _____ Name of Firm _____

Mail Address _____ City _____ State _____ Zip Code _____

Phone: ( ) _____

D. Explain your complaint specifically. List items needing correction. Describe events in the order in which they occurred. Attach additional sheets if necessary.

(See attachment)

II. Additional Information Regarding Dispute Resolution

A. Does your contract contain an arbitration clause? Yes ☐ No ☑
B. Have you and Licensee/Respondent begun arbitration concerning this construction? Yes ☐ No ☑
C. Have you begun a civil action concerning the items in Your complaint? Yes ☐ No ☑

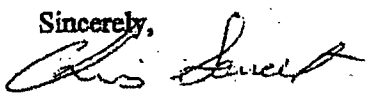
D. Explain Complaint Specifically

My wife and I closed on our home June 27, 2005. I am a realtor for Condolux Real Estate Sales in North Myrtle Beach. I made a punch list prior to moving in and per her instructions gave this to the On Site realtor, Donna Dawson of Beach Realty of Little River LLC- Broker-Owner. The project did not have a superintendent for this project. The developer, WB & LB Development Company, LLC, used Donna Dawson to act as their construction superintendent. I was assured by Ms. Dawson that all of my items would be completed but as of this date it is not completed. We have asked Ms. Dawson to repair items on numerous occasions and have had a few items completed. Most neighbors we've learned have given up on repairs due to negligence by the Developer. The Realtor assured us of a one year warranty by the Developer.

I'm sad to report that many things that were promised in the Sales Presentation by Ms. Dawson has not happened. For example, the electrical light switches were backwards, one switch in a bedroom closet was on the wrong wall, and no ground fault circuits in baths or kitchen–Ms. Dawson's response to this was " we fired the electrician". This was, of course, after our closing date. We have also recently learned that the Rivergate Homeowners Association, run by the developer Wayne Winderman, has the buildings insured for approximately 40% of the property values which means each homeowner has 60% risk for full or partial damage claims. I spoke with the insurance company representative and was told that they had requested that Mr Winderman carry the proper coverage but he has denied updating the policy. This can only be done by Mr. Winderman according to the insurance company.

If we ever wanted to sell our property, the Residential Property Disclosure would , in my opinion as a realtor, severely hamper the sale of our new home. Please help with our concerns as you seem to be our last resort.

Sincerely,



Chris Sarratt
4311 Rivergate Lane
Little River, SC 29566
843-457-3778

Outline directions to site of property involving dispute. Directions should be to a specific reference point in your area to allow the Investigator to proceed directly to the location. Attach a map or on the back of this page, draw a sketch using highway and road numbers, names and other landmarks.

Take Hwy 17 from North Myrtle Beach And Travel North To Little River. Take 1st Right Past Eastport Golf Course. Sign will Say Whispering Woods on Top and Rivergate on Bottom. Take ~~Right~~ Left on 6th Street Down. House is last on Right. House #4311.

9-30-05
Date

Complainant Signature

Sworn to before me this 30th day of September, 2005

Notary Public
State of South Carolina My Commission expires July 6th, 2011

Return completed form to:
SC Department of Labor, Licensing and Regulation
Office of Investigation and Enforcement
Post Office Box 11329
Columbia, South Carolina 29211-1329
Telephone: (803) 896-4470
Fax: (803) 896-4656

I-D Facts Regarding Complaint

Interior Punch list

✔ indicates has been completed

Front Bedroom

Light switch in closet is on the wrong wall per door opening.

Master Bedroom

Outlets on the outside wall are upside down.
Molding around window at the bottom is damaged.
Attic opening in walk-in closet is painted shut.

Master Bathroom

No ground fault outlet. (Code violation) ?
Light switches not in correct order (backwards).
Shower drain pipe is to high. ✔

Upstairs Bedroom

Attic door in closet is painted shut.
No ground fault outlet.

Upstairs Bathroom

Hole in wall foot from the floor at the door jam. ✔

Hall Bathroom

Floor covering not glued properly. - have tile now

Dining area

4"
Hole in floor under carpeting near right of pantry door. Our personal carpet installer filled in.

Kitchen

Cabinet door needs to be hung.✔
Heard from a neighbor the microwave could be a fire hazard due to improper installation.

Den

Front door has air gaps from door frame when closed at the top and bottom.
Sliding door handle is missing a screw. ✔
Sliding door screen has no hardware so screen can be locked/secured.

Garage

Air gaps at each end of the garage door.
Hot water heater (overflow hose)
Naked wires on wall for cable, etc. near hot water heater.
No insulation around hot water heater pipes.
Hot water hook-up for washing machine leaks. ✔
Popcorn on ceiling needs to be repaired.
Dryer vent is supported with straps instead of brackets.
Doorway wasn't cut properly before entry door was installed leaving a large gap above the top molding.

Grounds

Sprinklers in front of house under the windows and the one in front of the front door aren't working.

Low area in front of the house (paved area is to be redone so water will not stand) per Donna Dawson (Beach Realty).

General

Floor covering isn't cut properly throughout the house.
Door and wall moldings not flush with floor throughout house.
Concrete floor in entry hallway isn't level.
Dots on drywall throughout house. - lots of imperfections

Exterior Doors

Keys had been made for entry doors several times at different places and keys never would work. Keys given at closing never worked properly so we never could lock doors. Knobs need to be changed. ✔