THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM BERKELEY COUNTY

Court of Common Pleas

Honorable Dale Van Slambrook, Master-in-Equity

CASE NO. 2004-CP-08-1855

APPELLATE CASE NO. 2018-001993

Ronald E. Price and Diana R. B. Price, Respondents.

v.

Belinda Fox and Gerry Fox, Appellants.

RECORD ON APPEAL

VOLUME II

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could go ahead and call Ms. Price to the stand.

THE COURT: All right. Let's do that. Ms. Price --

MR. JACKSON: Your Honor, let me consult with my client first, please.

THE COURT: Okay. All right.

MR. JACKSON: Thank you, Your Honor. Appreciate it. Can the witness be excused?

THE COURT: Sir?

MR. HUBBARD: I'd like to be excused for a second.

THE COURT: Sure. Let's take a break until quarter till, and then we'll figure out what to do from there, okay. Thank y'all.

(A brief recess was taken from 2:33 p.m. until 2:48 p.m.)

THE COURT: Are we ready?

MR. JACKSON: Yes, sir, Your Honor.

THE COURT: All right, Mr. Jackson.

MR. JACKSON: I call Merrill Cox to the stand.

THE COURT: Mr. Cox, come on up. Good

afternoon, Mr. Cox.

THE WITNESS: Good afternoon, sir. It's been a while.

THE COURT: It has been.

(Whereupon, the witness, MERRILL COX, was duly sworn.)

THE COURT: Thank you, sir. Have a seat. Give your name, spell your last name for the court reporter, please.

THE WITNESS: My name is Merrill Cox, C-O-X. The first name is M-E-R-R-I-L-L.

- - - - -

DIRECT EXAMINATION

BY MR. JACKSON:

Q Mr. Cox, what's your occupation?

A I'm a retired attorney.

Q Okay. And where do you live?

A I live at 206 Foxborough Road, Goose Creek, South Carolina.

Q Did you have a -- did you purchase property in Eagle Harbor?

A My wife and I did, yes.

Q Okay?

A It was put in her name.
Q Okay. And how did that come about? Your purchasing of that property.
A We were familiar with, one-time friends with, the people that were starting the Eagle Harbor boys home, Danny Gilbert and some others. Our idea was to buy some acreage out there, put horses out there, help with the boys home, at least the horseback riding parts of it, volunteer basis, of course. And we purchased the land in March of 2003.
Q Okay. Do you know which part or phase of Eagle Harbor you purchased in?
A Phase two.
Q Okay. And what was your understanding about the amenities and things like that to develop Eagle Harbor?
A Well, there was a lot of talk about horse pastures and the lake being developed and riding trails. In fact, myself and others, we got out there and we actually cut riding trails. They weren't finished, but they were cut.
Q Okay.
A And fencing for the horse pastures. All of that, we helped with some of that. We put that up.

Basically, it was to be a Christian environment. You didn't have to be a Christian. No one ever said that to buy there. So a lot of the people in our church, Northwood Church, purchased land out there. One of the pastures, purchased some land. People that we know -- knew in the church, the Evansons (ph) the Androsics (ph). It was kind of a community centered around Northwood Assembly, but it wasn't limited to that. But many people in Northwood -- many of the people there were associated in one way or another with Northwood Assembly.

Q Okay. And did you engage in any kind of contract or agreement with Mr. Gilbert?

A Signed a contract, yes -- no. Actually, we did not. The contract -- we purchased our land from Sarah Winn.

Q Okay.

A Mr. Gilbert -- Sarah Winn purchased her land, which was several lots, from another party. I never purchased anything from Danny Gilbert or Eagle Harbor.

Q Was he involved in the sales process at all?

A Oh, absolutely.

Q How was he involved?

A Oh, well, he was the person that was pushing the sales and he was the architect on-site so to speak. And architectural review committee was essentially him, at least according to him. He was drawing the plats and getting, in theory, the sewage situation, you know.
Q Why do you say "in theory"?
A Well, because he didn't do it.
Q Okay.
A It was a mess.
Q How was it a mess?
A Well, my lot perked. And so, we bought it. Of course, we made sure it perked before we bought it. But I'm an attorney so didn't even think about that. That's just what you do. The people on the other side of me, on the next block up, they purchased but they didn't -- they didn't perk. One day I came in and there was a sewer line stretching from their land into mine. Because mine perked, theirs didn't. I had some words with Danny about that.
Q Did he ask your permission to use your land to do that?
A He never said anything to me. I just walked out one day and saw some dug up dirt going across my

land. And I looked at the drainage ditch and there was the sewer pipe. It was still laying out in the bottom of the ditch. He hadn't covered that up.

Q Okay. Did you ever hire Danny to do anything for you specifically?

A Danny was supposed to do the architectural drawings for the house. And I don't know if you've ever gone through this process, but we must have looked -- and I'm not kidding you -- we must have looked at a hundred different set of house plans and books and things before we finally found the set of plans that suited us. So we engaged Danny Gilbert to draw these -- because I thought he was able to do that. And --

Q And why do you say -- why do you say that you thought?

A He presented himself as an architect. And I don't know. I'm not sure that he was ever registered, but that's beside the point. The point is I paid him $5,000 for a set of house plans.

Q Okay.

A And the first of house plans that we got from him were nothing, not even remotely similar, to what we gave him.

Q Okay.

MR. FERRARA: Your Honor, respectfully, I would have a relevance objection.

MR. JACKSON: Be glad to address that, Your Honor. We have an unfair trade practices cause of action. And the potential for that repetition and actual reputation to an actual resident or formal owner of Eagle Harbor certainly competent to testify about similar activities.

MR. FERRARA: Respectfully, Your Honor, the witness has been allowed to testify. And his testimony is that he did not enter into a contract with Danny or Eagle Harbor and that he didn't have a contract.

MR. JACKSON: He also testified that Danny was the central guy doing the marketing, drawing all the plans, and the architectural committee. And he also testified that he had a direct contract with Mr. Gilbert.

THE COURT: I'll allow it.

MR. FERRARA: Thank you, Your Honor.

BY MR. JACKSON (Continuing):

Q So did he ever produce plans as you requested?

A We gave him -- I call them book plans. Somebody somewhere produced plans in a book of architectural drawings for houses. We had settled on this and we wanted different changes made to it, but we gave him all of that. And, eventually, he produced a set of plans that was nowhere near. I mean it was about as far away from what we asked for as you can get. He was supposed to redo them, and we didn't get them, and we didn't get them. And finally we started complaining about it. And we were referred to his partner. I don't think his partner existed because we went to where the partner was supposed to have an office, and there was no office there. There never had been an office there for this guy. So we asked for the money back. And he got unfriendly when we started demanding our money back.

Q What do you mean by unfriendly?

A Well, you know, we were all good friendly church folks; amen, brother, good to see ya, how ya doing. And now, you know, you want your money back because it's not produced. And it was hard to get him on the phone or even talk to him. But he was out there a lot, so I could find him when I wanted to.

Q Okay.
A Eventually -- my daughter died within days of all this happening. And my wife and I were very upset. Not at Danny but the cause of the death. And I just didn't want to mess with it anymore. I mean, honestly, that was just one more trouble in a really troubled time. I took $2500 and called it quits.
Q Okay.
A And we went back to the drawing board so to speak with the land. But he never produced anything that we wanted or even close to it.
Q Okay. Now, you mentioned before that he trespassed on your property and put a sewer line. Was there any other time that he came and used your property?
A Well, it was pretty constant. We -- originally, the land went back and backed up to -- well, the land backed up to near the area where the boys home was supposed to be built. And there was a little trail through there. And we were not on real good terms. And one day I came out and checked it. It was obvious somebody had been using it as a four-wheeler course. Didn't like it. Got upset about it. So I put -- I put up a

wire across, you know, a gate. I put poles in and put a wire across it.

Q This was on your land --

A My land, yeah.

Q Okay.

A I put poles in. I put a steel wire across it. Put the steel wires through PVC piping so it could be seen. It wasn't, you know, something to trap somebody. Came back and he had cut down the whole back swath of timber off my land so he could have a little road back through there.

Q Okay.

A You know, he just does what he wanted to do. He didn't care. He never talked to me about it.

Q Okay. Did you ever have -- attend a meeting of the homeowners where the restrictive covenants were discussed?

A Yes. And it was the strangest thing. We went out to Oscar's, I think it was, in Summerville. Danny was there; Mr. and Mrs. Evans was there; a lot of the people from the subdivision where there. And in essence they were going over the covenants and restrictions and answering. There were a lot of complaints from different people about different things and he was trying to handle that. But when

we bought the lot, there were no covenants or restrictions on it.

Q And that was in '03 you said?

A March of '03.

Q Okay.

A After we bought the lot, Mr. Gilbert filed covenants and restrictions. Of course, he never owned the land to file it. His Eagle Harbor Inc., Eagle Harbor, none of those people are in the chain of title.

Q Okay.

A So when he came forward with all these issues that were being discussed about -- I don't remember all of them. One of them was lighting, streetlights. And everybody had to put their own streetlight up. Little small ones, not the great big ones. And other issues that had to do with the type of architecture that was supposed to be there, what you could do and couldn't do. Of course, it was all nonsense because, at least for phase two, because Danny didn't have any right to put any restrictions on the -- it came down to a pretty big fur ball before it got finished. There were a lot of tempers. Nobody said or did anything out of line, but, I mean, there was a lot of anger

there.
Q Okay. Did you eventually sell the lot?
A I did.
Q Why did you sell?
A This was supposed to be land that we could subdivide and put a house for my children. I had three children. And we were going to try and make kind of a family compound there. But when my eldest daughter passed away, we just lost interest in it. Well, for one thing, trying to do anything with Mr. Gilbert was just a horrible situation. We couldn't get anything accomplished and -- at least I couldn't. And I just got tired of dealing with him. I just didn't want to mess with him anymore, so I sold it.
Q Okay. Was there any other instances that you remember? And you mentioned the trespass and the tree lines. Is there anything else that you can remember?
A Well, the theory behind all of this was that it was supposed to be a ranch where young men could be raised as foster children, an institution-type thing. The wife and I brought three horses that we owned. Put them out there to -- she's an instructor, 40-plus years of teaching horseback

riding lessons with the Girl Scouts. She was gonna volunteer her time for doing that. Supposed to be a barn. These are all amenities that went with the Eagle Harbor subdivision. And nothing was being accomplished until -- in fact, we got to the point where we didn't want to give him any more money. We went up to him one Saturday. We sat down, calculated the cost of putting the correct kind of fencing in for the horses. You know, you tear them all up if you put barbwire up. You got to put better quality fencing than that. I don't remember exactly what the total bill was. We were on the computer with the fencing company, and we worked up the order. It was well over 10,000, and it may have been closer to $15,000, in fencing material that we were going to donate. So we got ready to give the money. We were actually going to do a transaction I think over the -- I don't know. That might not be right. But anyway, we were going to cut a check to the fencing company for the delivery of the fencing materials. We were going to donate the fencing for the -- at least the horse fencing. Now, there's some ornamental fencing that was gonna go up, and we weren't paying for that, but horse fencing. And

when we got ready to cut the check, Mr. Gilbert wanted it cut to him personally. That didn't suit. And we discussed it. Danny, why wouldn't you want us to pay for the fencing? We'll ship it in. We'll help put it up. No, I want it to me, personally. And that -- well, with the other things that were going on, I wouldn't give him a dime today.

Q And you said other things that were going on. What are the other things?

A Well, I was an attorney. And it seems like -- still am. It seems like people I knew, friends that I knew, would call up and have issues about things that he did or didn't do. And it was a lot of that kind of talk going on. That's what led up to this meeting at Oscar's, frankly. I just didn't feel comfortable that he was applying the money that he was collecting for the boys ranch to the boys ranch.

Q Were you familiar with Heritage Classic Homes?

A Is that -- that might be a manufacturing concern for manufactured -- no.

Q No. That's okay.

A I don't know. No.

Q Okay. All right.

MR. JACKSON: That's all the questions I have. Answer any questions that Mr. Ferrara may have.

THE COURT: Mr. Ferrara?

MR. FERRARA: May it please the Court, Your Honor?

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CROSS-EXAMINATION

BY MR. FERRARA:

Q Mr. Cox, my name is Paul Ferrara and I'm representing Belinda Fox and Gerry Fox in this lawsuit brought by Mr. and Mrs. Price. Let's be clear, I know you said you purchased -- you and your wife purchased property from the Winns. Do you remember what lot you would have purchased or what the street address would've been in general?

A Let's see. Let me think. I went and looked it up. I've got the TMS number. Actually, I can't tell you what the lot number was on the plat. And that was another thing, the plats were not what you would expect. They were deficient and they didn't give information. And Mr. Gilbert would take it on himself to change things. And after you sell the land, that gets to be difficult.

Q Right. So was your address, sir, or your lot on Saddlehorn?
A Yes, it was.
Q Okay. Because I think the Winns purchased lots -- what would've been Lots 1 through 9 or so on that side of the Saddlehorn. And so, do you know Mr. and Mrs. Price?
A I do. In a general sense, we met them. We go out in the evenings walking, walking around. And on more than one occasion, we would be out there walking and we'd see them working in the yard, go over and talk to them. Just say hey.
Q When did you -- Mr. and Mrs. Price purchased their lot in November of 2003. Did you and your wife purchase your lot before or after that?
A We purchased ours March 21, 2003.
Q Okay. And before you purchased your lot on Saddlehorn -- I think you made reference to this earlier -- but did you -- as an attorney, did you take a look at the recorded plat at Berkeley County or look at the title work prior to --
A Which one? I mean, there were revisions on revisions on revisions.
Q Sure. But did you look at the subdivision plat --
A Oh, yes. Absolutely.

Q -- that called out your -- do you have a copy of your recorded deed in your folder with you today?
A I do not.
Q Okay. And I'll ask you, the plat -- I'll hand you Defendant Fox's Exhibit No. 1, sir. See if that looks familiar to you.
A (Witness reviews document.)
Q It's not a full -- a full-blown, you know, a large copy, but it is a full copy of the plat.
A Yes, sir. I'm actually somewhat familiar with it.
Q Okay. And that plat was recorded when you and your wife purchased the property, correct?
A Let me see about the recording date on it. 5/3/20- -- no, that's something different. Let's see. April 25th -- yes. Yes, this was approximately one month after we purchased our property.
Q That plat was recorded one month after?
A Yes.
Q Okay. So there must have been a plat prior to?
A Yeah. Like I said, he kept changing the lines.
Q Okay. Let's see. The issue that you testified about with Mr. Gilbert and the sewer line coming on your property, did you ultimately resolve that with Mr. Gilbert?

A I did not.
Q You did not?
A I told him to get the line off my property.
Q Did he do it?
A You know, I think he did because we sold the land and it was gone, I believe. I mean, working on a little foggy memory there, but I believe he did actually remove that. Or else Mr. Androsic did. I think he was the owner of the land.
Q Let me see if I can hold that plat. Thanks. What --
A It didn't show up on the plat when we sold the land. So I'm gonna say yes.
Q Okay. Did you and your wife have any wetland studies done or other studies done other than the perk test you testified about?
A No. We bought highland. It was one of the highest lots out there, which is why I bought it.
Q Sure. And that transaction, you said you bought the property from the Winns. Was that lot purchased an as-is transaction? If you recall.
A No.
Q No, it was not?
A No. I hired a lawyer. He did the title search, gave me title insurance. We went through a whole

schmo.
Q Right.
A A plat -- the plat was given to me and we checked ahead of time to make sure that it perked. And I talked to Berkeley County about different issues. Checked the setbacks on it so I could be sure when we got ready to put a house on there I know what I was doing. No, it was not -- it was not as is. It had a clean title and it perked. And I think all the various conditions in the contract of sale were acceptable.
Q Okay. Thank you, sir. You testified that you and your wife purchased that lot with the intent of splitting it into smaller lots?
A Not exactly.
Q No?
A I was going to build a big house and have kind of a mini farm. And then I was going to maybe have a guesthouse or something off to one side for the kids to come. You know, I expected to have a lot of grandkids and whatnot. We were going to play on the farm and -- that all went away.
Q And I'm assuming you checked -- that was something else you checked with Berkeley County prior to closing to make sure that you could do what you

had intended to do on that lot?
A Well, there were no covenants and restriction, first of all, at all, on it. I think it was -- I think that was zoned single-family residential. Although, it may have been flex zoned. I have -- I served for several -- four years on Berkeley County Council. And, unfortunately, I was on duty when we redid the whole zoning in the County thing. So I didn't have any concerns that I'd be able to put a few chickens out there. Pigs may have been an issue, but chickens I think was okay.
Q I'm just representing Mr. and Mrs. Fox. And with respect to your transaction with the Winns, you didn't have any contact with Mr and Mrs. Fox, Gerry or Belinda Fox, did you?
A Well, they went to the church I went to.
Q I mean with your lot transaction?
A No. No. I knew them. My wife -- one of my daughters would babysit for them. I'm familiar with them. But they had -- they didn't own the land. They're not in the chain of title.
Q And being an attorney, you understand this. The Prices have brought a lawsuit here against my clients and are claiming that they're potentially participating in unfair trade practices by

repeatedly selling lots, assisting Danny in selling lots, to unsuspecting buyers. As you sit here today, sir, you didn't have any interaction with my clients?

A I didn't have any interaction with your client. Now, I don't know if y'all picked this up, but there was a no sale order that came out from Berkeley County that Danny Gilbert and his Eagle Harbor mess could not sell any more lots. And he ignored it and kept selling lots on top of it.

Q Well, we're not aware of that. But my point is is that with respect to Gerry and Belinda Fox and your lot, no contact with them and there were no representations, of course, made by Gerry or Belinda to you or your wife --

A No.

Q -- about Eagle Harbor?

A Nothing. We may have said hello. They did not make any representations to me at all. All that went through Mr. Gilbert.

Q Now, you've mentioned about the covenants. And we have Exhibit No. 2, which were recorded covenants on February 3, 2003, that referenced the plat I showed you earlier. Were you -- I'll hand these to you, sir, and see if you are aware of those

covenants being recorded.
A Yes. Yes. And in fact, at some point, I even got ahold of the covenant that is -- Danny was playing around with. I'm not sure whether he gave it to me or how it came around. But, yes, I went online actually and read this.
Q And those covenants were recorded prior to you and your wife purchasing your lot, correct?
A Let's see when they were recorded, 2/3/03. They were, but Eagle Harbor didn't own the land.
Q Right.
A I mean, they could've put -- they could've put a covenant -- covenants on the Cooper River Bridge, but it wouldn't have been of anymore in effect that is.
Q Now, do practice real estate law?
A I did.
Q You do. Okay. And if the Winns, for example, with respect to you and your wife's lot, if the Winns were developers of this property, being that they subdivided and they were the declarants of the property -- if the Winns were the developers and the declarant, since they're in your chain of title and they've agreed implicitly for their lot, your particular lot, to be attached with these

covenants, would you --
A Well, let me see them.
Q Sure.
A Sir, these covenants and restrictions are unsigned. They've been recorded blank.
Q Right.
A So I have no idea what the Winns agreed to or didn't agree to. But, certainly, the covenants and restrictions are seriously deficient.
Q I understand, Mr. Cox, that's your opinion. But I'm saying, you know, as a layperson, but I want to be clear because you are an attorney. Did you render any type of legal opinion to the homeowner's association or concerned citizens as they're called now about the applicability of these covenants?
A No.
Q Okay. You were just making a comment about, in your opinion, these covenants didn't apply to your lot, correct?
A I think it's a pretty good opinion. I've been practicing 42 years.
Q If the covenants state that the declarant, or anyone who wants to be subject to these covenants, agrees to be party to these covenants would agree,

in your opinion, wouldn't the covenants attach to those lots if the owner of the lot agrees?

A You do realize that these things have to be in writing? Issues touching real estate must be in writing.

Q Sure. Yes, sir.

A So if you're asking me if the lot owner wrote a document saying I agree to be bound by the covenants and restrictions, dated, and in page number so and so of the RMC office, and had it properly notarized with two witnesses, then yes, that would be absolutely right. But for somebody to say, "Yeah, those are pretty good covenants. I'll probably do that." Not a chance.

Q Right. And respectfully, sir, I agree with you and the statute of frauds applies. But I was just asking you that since you had the knowledge of the neighborhood about whether -- you've already testified your opinion is you don't believe these covenants attached to your lot?

A But the thing is is that most of the people out there did believe that. And I don't -- Danny and I got to the point where we could barely speak to each other. I mean, there were issues -- and it's not relevant to this, but there were reasons why I

seriously did not like that man. And I wasn't going to have anything more to do with him than I had to. And I didn't intend to go around, stirring up, you know, going to the Androsics or the Evans or any of the other people that I knew and saying, "Okay, you got to know this. You know, this is bad and that's bad." I didn't do that. I mean, all I did was -- I wanted to live my life by myself. I wanted to put my farm up there or actually just a horse. We were gonna have a little stable with a horse. That's all I wanted. And the less I had to do with the rest of those people as time went on. The turmoil, you know, the whole road thing blew up. We just are -- got the point we didn't want to mess with him anymore. So the question being about how other people would've reacted to this? I didn't get involved. I mean, as an attorney, you know, you don't go around giving out advice, legal advice, and opinions to people who haven't retained you. This is a very ungood thing. So that's the answer.

Q Okay.

MR. FERRARA: Thank you, sir. That's all the

questions I have.

THE COURT: Mr. Hubbard?

MR. HUBBARD: Thank you, Judge.

- - - - -

CROSS-EXAMINATION

BY MR. HUBBARD:

Q Mr. Cox, I'm Carl Hubbard. I represent Heritage Classic Homes and Eagle Harbor, Inc.

A Okay.

Q Danny Gilbert. Sorry. I'm gonna bring this plat back up. I'm just gonna direct you right here. If you could take a look at that and maybe publish to the Court, if you could read that. That's pretty small print.

A Document 000081023, Plat Cabinet P, page 281A. Filed and recorded on 9/26/02.

Q Thank you.

A And this was signed by, oh, Eagle Harbor Incorporated.

Q Thank you. I was not up here when -- did you ever identify where your lot was on this plat? Is it 8?

A There's a little turnaround here.

Q Right down here at the end.

A Yeah.

Q Is it 8? I'm not sure.
A Yeah. I think it was either 8 or 7.
Q Okay.
A One of those two.
Q Okay. Can you see this dotted line running across the front of that? Can you read that language right there?
A Sewer something.
Q Can you make the word easement out of that?
A I can see easement. That's on the right-hand side of Lot 8 and the left-hand side of Lot 9. I didn't own Lot 9. I may have owned lot 8. But here's a good little bit, the line that was put down came from Lot 7, and it came about a third -- well, I don't know -- maybe 35 feet from the front of the road and across. It was nowhere near sewer easement that is delineated on the plat.
Q Okay. Thank you. When did you -- if you've already testified to this, I apologize. You got a date of purchase on 3/21/03. When did you sell the lot? Do you remember?
A It was two years later. I can give you the exact date. Sold it on January 3, 2005. I should remember that. That's my birthday. Well, January 3rd anyway.

Q Do you remember what you paid for the lot?
A $37,800.
Q Do you remember what you sold it for?
A $50,000.

MR. HUBBARD: I don't think I have any more questions.

THE COURT: Any follow-up?

MR. JACKSON: Just real quick.

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REDIRECT EXAMINATION

BY MR. JACKSON:

Q You've mentioned there was a no-sale order from Berkeley County. Can you tell us more about that?
A Danny was having a great deal of issues with Berkeley County Planning. And he didn't use me, okay. But being a former county councilman and knowing all these people and being an attorney involved in land deals, I got on the phone to Berkeley County because I had issues about how things were being done. And I believe that there is on the Internet a document that says he was, at least for a time, Berkeley County issued -- it was the Planning Department not the Court or anything of that nature -- not sell any more lots. This

was also because of, oh, you have to have the roads at a certain width. They have to be graded to a certain level. They have -- you have to put ROC down to a certain depth. You have to add so much asphalt to the roads. And all that was in a big blur of what can we do, how can we do it? Danny Gilbert actually contacted my wife for a hundred-thousand-dollar loan so he could put the roads in. And we turned him down.

MR. JACKSON: No further questions, Your Honor.

THE COURT: Any follow-up?

MR. FERRARA: Nothing, Your Honor.

MR. HUBBARD: Nothing.

THE COURT: All right. You can step down, Mr. Cox. Thank you very much.

MR. JACKSON: Your Honor, I would call Diane Cox to the stand.

THE COURT: Ms. Cox.

(Whereupon, the witness, DIANE A. COX, was duly sworn.)

THE COURT: Thank you, ma'am. You can sit down. Give your name and spell your last name for

the court reporter, please.

THE WITNESS: My name is Diane A. Cox. C-O-X is my last name.

THE COURT: Thank you, ma'am.

MR. FERRARA: Respectfully, Your Honor, same objection, relevance. And if it's more of the same of Mr. Cox's testimony, that it would be cumulative.

MR. JACKSON: Your Honor, I'll try to avoid any cumulative. And if it is cumulative, I don't want to put it up. But I do think I'm entitled under that unfair trade practices to show the pattern of practice of activity.

THE COURT: I'll allow it. Your witness.

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DIRECT EXAMINATION

BY MR. JACKSON:

Q Okay. Mrs. Cox, I don't want to rehash everything that your husband has already testified. Do you have any personal knowledge of any other issues or problems involving the subdivision or Mr. Gilbert?

A I tried to stay out of it. My job was to help establish a stable, bought my horses and everything.

Q Okay.

A Nothing ever came. Danny constantly changed. Honestly, the reason why I left was because Mr. Gilbert, with the house, he never even sent us plans. Okay. I asked for my 5,000 back. Mr. Gilbert came to us at church one day, stepped in my face and started screaming after church was over in the lobby. He followed my husband and I out to our car screaming and yelling. This is a side of him that not a lot of people know. There's a side were he's totally dishonest. And there is this side he comes across as a nice man, but, oh, if he doesn't get his way, he is absolute hellion.

Then when I was by myself -- by the way, he had promised pastures, a barn, everything. I brought my three horses out. There basically was a half-acre paddock. Because of the fact you shouldn't keep horses, three horses, on that, okay, my husband and I -- I paid extra for hay, everything else. I kept the place immaculate. With Northwood Church, I had started a group called Horsing Around. All right. Horsing Around was to train volunteers to safely be able to work with the boys and the horses. This never happened. All right. Sir, he came out, he still

hadn't -- he came up behind me one day. I was by myself. I was in the pastor grooming my Marsh Tacky mare, Honey. He came up to the fence and started yelling at me. I turned around. I continued grooming my mare. I totally ignored him. And he yelled and he yelled and he yelled. He had a huge explosive temper tantrum. If you please --

MR. FERRARA: Respectfully, Your Honor, this is a narrative that's being testified to. And I respectfully request her to answer any questions that counsel may have.

MR. JACKSON: Sure.

Q Can you tell me about any events involving the horse pasture or the paddock?

A It was not in his grand plan that he had told everybody. In other words, by the time that -- in 2003, we were supposed to have a barn. We were supposed to have pastures. This was, this little spot, the only place that was fenced in that you could keep horses. All right. He did not keep his word. He did not have a barn built. He did not -- the fences, all the beautiful fences, they

went to make the place look good. They didn't go anywhere with horses. The side of Mr. Gilbert that I know is that he is a liar. He is a thief. He is a bully. And he is a coward. To come up behind me -- my daughter hadn't even been dead for a year -- and scream and yell at me over a measly $5,000. This is who he is. And here I sit. I never -- this is -- I'm sorry. But he did not keep his word. He did not keep -- all the plans that he showed when we sat down for Eagle Harbor, he didn't do it.

Q Okay.

A Okay. I'm sorry. But, I mean, this is just -- sorry.

Q Let me ask you. You said there was a plan to be able to train the children to safely ride horses. First of all, what's your background in horses?

A My background is I have been teaching lessons since 1981. I teach dressage which is classical riding. I teach hunt seat. All right. I taught at various stables around the state. I have taken lessons from -- riders. I know what I'm doing with a barn. I know how to run a barn. I also know how to keep children safe as well as anybody working with the horses. Basically, he kind of

left it to me because he didn't like horses. Don't ask me why he had a ranch, but he said he didn't like horses.

Q Were you ever able to use it to train the kids?

A No. What happened is I believe -- I either started in 2001 or 2002 a group. They're called C Groups (ph) where -- simple interests.

Q Okay.

A So I had a C Group called Horsing Around. The big thing, the whole reason for it was to train adults and -- instructor to know exactly what you do with horses to keep them safe, to keep boys safe -- excuse me. Is there water?

Q I'll be glad to get it for you. Take a breath. Take your time.

A Thank you.

Q Sure.

A All right. First we had to stay -- we had -- a little cafe or my home. And, actually, I have all the paperwork, everything. All the lessons that we worked through and everything. I then -- I had a mare at Black Bottom Stables. We went out there so that I could give hands-on teaching so they would have it. Believing Mr. Gilbert, I purchased two more horses. I brought them out on -- let's

see, it was a Thursday. Amy's accident was on the 31st. The Thursday before my daughter's car accident, put the two horses in there. Later, I brought my mare from Black Bottom, okay. There was nothing. There was no cover. There wasn't anything. As a matter of fact, one of the pastors from our church, Doug Cotton, and his son-in-law at that time went and cut a dead tree down because it was hanging over the horse pasture. Well, that's a safety issue. It has to deal with the fact that, you know, storm, sooner or later, if a horse is in that area, it's gonna fall on top of it. The bottom line is no stable, no pastures at that time except that dinky little pasture, okay. Nothing that he had said would had happen. I continued after my daughter's death, which was May -- she had her accident March 31, 2003. We declared her dead on April 3rd. The day that we had to meet and declare her dead, I was supposed to be at the barn out there with a man from Clemson who was gonna talk about how the pastures, how -- have the best grasses, how to have things that would be suitable that would have, you know, for the horse, to keep it healthy. Even on that day dealing with everything else to do with my

daughter and saying goodbye to my daughter, I sent another horsewoman, Katie Dotty (ph) out to meet with the man from Clemson. I can tell you that honestly the reason why I sold my property was because I wanted nothing to do with Mr. Gilbert. To be screamed and yelled at church, after church, to have this man run across the parking lot screaming and yelling at us, have him come up behind me and scream and yell at me.

The rows -- he had a little place to store things for the horses. I went out one night to this place, okay. I kept a bale of hay at my home. And I kept grain that was specifically in case I forgot to have everything. I went out to feed my horses. You have to feed horses same time morning, night, okay. He locked the place up. There was no way to get -- in the rain or anything. It was very fortunate for my horses that I thought ahead of time and just for emergencies and I had grain. So I drove home, went got the grain, and came back. The road that went to this storage area that he had, was a total muddy mess. As in sliding on it, okay. I have four-wheel drive. Even with my four-wheel drive I almost slid off the road. Now that was

disconcerting to me seeing as how my daughter's accident was coming off of a road. Mr. Gilbert didn't care. Doug Cotton went and worked with him to get the road fixed.

Q Okay. So you mentioned -- we know about the $5,000. We know about him -- his inability to get the horse, the pasture, the stable, the stables.

A Yes.

Q Is there anything else? Is there any other specific incidents that you can remember?

A No. The same with my husband. There's a specific incident, other than feeling, like, not safe around Mr. Gilbert, he put -- mowed down our trees in the back. Okay. That treeline was going to be there to kind of act as a buffer. You know, we'd look out on the woods between our property and the house and the boys home. And one day we went out, and the whole -- it's all plowed down. And I remember I cried because at that time -- well, it was really tough. Amy hadn't been gone that long and I was grieving. The bottom line was I could remember crying because he'd taken down with a bulldozer, bulldozer tracks, beautiful little dogwood tree. Everything that was back there that was growing, he just mowed it down. He didn't ask

for permission. He did it because that is what he does.

Q Okay. Let me ask you specifically what were some of the representations made by Mr. Gilbert relating to the property?

A The property -- okay. Originally, I looked at some property up front, but going out after rain, it was like total disaster. So I went ahead and bought the highland in the back. His thing was, you know, we're all kind of kumbaya kind of thing. We're all gonna live together. We're gonna have the boys ranch. This is wonderful. That's why I stayed even after my daughter died and even after his garbage. He did that -- an example is -- and next thing you know we go out one day and there's ATV tracks across our property. Now, our property had been graded, okay. We went to Mr. Gilbert. Well, okay, it will stop. It didn't stop. We had neighbors -- and I have no idea what their name was. It wasn't the Androsics. It was the ones that -- okay -- said we've seen them there. I came out and another time and we actually -- his son and another boy were coming across our property. In other words, there were no -- it was -- with him and with the property, it's

whatever Danny wanted, whatever laws he wanted to break. And by the way, if somebody looks it up, there is in Berkeley County, there is the paperwork when he was ordered not to sell the land and he sold a lot.

THE COURT: Ms. Cox --

THE WITNESS: Sorry.

THE COURT: Not to interrupt you, but I've got to concern myself with --

THE WITNESS: I know.

THE COURT: -- is there any specific representations that Mr. Gilbert may have made prior to y'all purchasing the lot that you considered in going forward with the purchase? Anything specific?

THE WITNESS: Roads. Roads. There was supposed to be good roads. All right.

THE COURT: What else?

THE WITNESS: I think they had to go back with -- spaces for fire engine turnaround. The roads, the fact that, you know, there would be a barn, there would be stables. I believe the lake is there now and the kids can fish in it, and that's good. But all these different amenities

that never happened at all at the time before we left.

THE COURT: When you say amenities, tell me what you mean.

THE WITNESS: Amenities would be, well, having a lake stocked with fish, which was done after we left. Having pastures for the various horses and for horses that came later that we would teach the boys with. They have to -- it's basically an acre to a horse, okay. Everything was supposed to be done to the fences. Everything -- no, not done. He didn't go through with it. I know, sir. It doesn't have anything to do with the roads. But Mr. --

THE COURT: I wasn't asking just the roads. Is there anything that y'all --

THE WITNESS: And the fact that he -- he put it as a place that everything was going to fall in sequence, one, two, three. And this was gonna be done with phase one. This is phase two. This is phase three. He didn't. He didn't have it on time. He didn't do it. The road was laughable. It was absolutely laughable.

THE COURT: What year did y'all sell it?

THE WITNESS: We sold it on January 3, 2005.

THE COURT: Okay.

THE WITNESS: And that was because I honestly didn't want to be around this man anymore.

THE COURT: All right.

MR. JACKSON: I don't have any further questions, Your Honor.

THE COURT: Any cross-examination, Mr. Ferrara?

MR. FERRARA: No, Your Honor.

MR. HUBBARD: No, sir.

THE COURT: Thank you, ma'am. You can step down. I appreciate it.

THE WITNESS: Thank you, sir.

MR. COX: Your Honor, may we be excused from the trial?

THE COURT: Any objections from excusing Mr. and Mrs. Cox?

MR. JACKSON: No, certainly not.

MR. FERRARA: No objection.

THE COURT: Yes, sir, you're excused with thanks to the Court.

MR. JACKSON: Your Honor, I have one final witness who is Mrs. Price. I'm not sure we'll be able to get -- certainly with direct and cross, we would not be able to finish today. So I'd rather

start her in the morning if that's possible rather than to break that up.

THE COURT: Well, what do we have in store for the defense? Who is going to testify and how long do you think that's gonna take?

MR. FERRARA: Your Honor, I would prefer to start Mrs. Price today because she has the most knowledge. And I think there's gonna be several hours of testimony just on the cross-examinations side of it with respect to damages. And then to answer the Court's question, Mr. Gilbert, Mrs. Fox, and Mr. Ty Adley and potentially Mr. Gerry Fox if necessary. So I just didn't want to, you know, have us start tomorrow and then it runs -- and we're at the same spot tomorrow with two or three witnesses left.

THE COURT: I understand. We probably need to go ahead and keep going forward.

MR. JACKSON: Yes, sir. I call Diana Price to the stand.

Your Honor, I believe I already passed out exhibits related to Mrs. Price. They would be the ones starting with Exhibit No. 12. Do you have those in the stack?

THE COURT: I believe I do. If not -- and we

do have to come to a hard stop a few minutes before 5:00 because everybody else in the courthouse has to --

MR. JACKSON: Yes, sir.

THE COURT: -- has to be able to leave.

MR. JACKSON: Sure.

THE COURT: So I'd ask you try and time it out. And we can go straight for about an hour and then reach a breaking point, please.

MR. JACKSON: Yes, sir.

THE COURT: Mrs. Price. Were you sworn before?

THE WITNESS: Yes, sir.

THE COURT: You're still under oath, okay.

THE WITNESS: Yes, sir.

THE COURT: Thank you, ma'am.

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DIRECT EXAMINATION

BY MR. JACKSON:

Q Mrs. Price, I'll skip the usual background. We've already established a lot of that. But if you could tell me a little bit about your educational background.

A I have a master's degree.

Q Okay. What do you have a master's degree in?

A Human resources and business administration.
Q Okay. And what about -- did you have military service?
A Yes. Twenty-two years.
Q And what was your final rank?
A Master sergeant.
Q In what branch?
A Air Force.
Q Okay. Now, going back to the time when you and your husband first came to South Carolina, when was that?
A To live or just to visit?
Q To look for a home?
A Well, the first time that I really remember looking for a home was in May of 2003.
Q Okay. And what did you do on that visit?
A Well, we got in contact with a realtor. And she had some ideas on some homes that we might be interested in. We also looked around, drove around, to see what we could find on our own. So we spent quite a bit of time driving around and talking to realtors about places that were up for sale.
Q Okay. And what drew you to Eagle Harbor?
A Well, my husband told you about the Cottons. We

ran into the Cottons. They had their house for sale. And I couldn't tell you for sure where that was. I guess it was Hanahan because that's what he remembered. But it was the daughter that had talked about Eagle Harbor. And it was a new development and they were familiar with the boys home scenario that was going on out there and a nonprofit, and, you know, big support kind of thing. It was kind of enticing. I mean, we had never run into anything like that. And it sounded like it might be something we might really want to be involved with.

Q Okay.

A So she sent us to Eagle Harbor.

Q And when you say "sent us to Eagle Harbor," where did you go?

A We went out to the development, to Eagle Harbor, in Gilbert's trailer that he had set up there for Heritage Classic Homes.

Q Okay. And what did you discuss?

A Well, what lots do you have for sale.

Q Okay.

A And he was very eager. He, in fact, took us to Lot 20. I don't even think we really looked at much else because he seemed to be pretty focused

on that one.
Q Okay.
A And so, you know, we were not opposed except for when we got to talking and looking, we told him we didn't need this much space, you know, this much acreage.
Q Okay. And how did he respond to that?
A Well, he jumped up and he quickly said, oh, you can subdivide and sell off some of it. You know, pay for the land, pay for your house. And I said, wow, that's cool.
Q Okay. Did you ever discuss possibly having a place for your children to build a house or something?
A I don't think we did at that point. We were just, like, you know, looking, and why would we need this much space. And so, he offered an idea that was very enticing. But, yes, my husband and I talked about it later as a potential for at least one of our children could maybe come out there and live. If that didn't happen, we could still sell off. Not necessarily within any particular time frame, but that it was a good idea.
Q Okay. Did he make any other representations to you at any of those meetings?

A Well, he actually told us that the lot perked. And, of course, that was a word that wasn't familiar to me or my husband. And I quickly said, well, you know, what do you mean? He said, oh, you can put a septic system on it. And I said, why would we think you couldn't? I mean, you know, that was my response to that because it was such a large lot. So it sort of, like, dropped at that point, but it was sort of like a shock.

Q Let me ask you this: What condition was the lot at that time? Was it -- was it bare? Was it wooded? What was the state of the lot when you were looking at it?

A Well, it was rough. It was rough. It was dry. We walked around. There was quite a few -- you know, there was a lot of brush. So it was a little bit difficult to walk around. But, I mean, it looked good. It looked like it was gonna need some work leveling. And that didn't -- that didn't sound like a lot of fun or didn't appear to be a whole lot of fun. But at the same time, we expected something like that if we were gonna get acreage.

Q Okay. Let me ask you about Plaintiffs' Exhibit No. 2 that's been offered. And what do you recall

about this contract, if anything? Do you recall discussing the provisions of that contract?
A Yes. I remember this, yes.
Q Okay. What did you discuss about the contract?
A Well, we didn't -- we didn't see this on that first trip. It was our next trip before we actually saw this.
Q Okay.
A We did communicate with him from the first trip. It was sort of he wanted to keep us interested and --
Q You say him, you're referring Danny Gilbert?
A Yes. Yes.
Q Okay.
A And so we kind of said, okay, we'll be back there and we'll be looking seriously to make a purchase.
Q Okay.
A So that's when we saw this.
Q Okay.
A And, you know, we're not familiar with the normal contracts in this area. We had never lived in South Carolina. So we didn't look at it and say, well, this is weird or this should be different or, you know, anything quite like that. We just looked at it and kind of made sure some things he

had already mentioned like the subdividing. We made sure that was gonna be in there because he had said that. And he said there were CCRs in place, the columns for the gates were up. It was gonna be gated. The roads would all be nice, private. The amenities, there would be many amenities for this boys home. And all the people living around would be able to use those.

Q Okay.

A And he, you know, he spit out some things. And he did show us the master plan. Now, we might have seen that on the first trip. But I think he kind of showed that to us again. We didn't see any other plat. We saw the master plan. He didn't offer any of the plats to us, and he didn't suggest that there was anything else that we needed to look at besides that master plan.

But we did notice, of course, when we saw this that Belinda Fox's name was on it. He had never said anything about somebody else. We assumed he had owned -- he owned the property. That he owned all the property, that he was a developer and he was the builder; not necessarily exclusive builder, but it was his plan to build and sell. Didn't seem like an unusual thing

because I think that happens in a lot of subdivisions.

Q Did you ask about Belinda Fox?

A Well, we -- I did. In fact, I particularly asked him, you know, who is this and why is she on here? Well, she's my partner.

Q Okay.

A We work together, you know. I'm her salesman.

Q Okay.

A And actually, down here at the bottom, you see his name for her. So it just looked like he was representing her like -- I guess like a sales agent. We didn't ask him if he had a realtor's license. We didn't get into any of that. We didn't see that that was an issue. But once he kind of explained it that way, it didn't seem like a problem. So that was kind of the end of that discussion.

Q Okay. Now, let me show you a few of these other documents. We'll move through those quickly because I don't want to replow old ground. Do you recall the construction contract and agreement?

A Yes.

Q What do you recall about deciding to do that with Mr. Gilbert?

A Well, I mean Mr. Gilbert was a very enticing kind of guy, and he was very convincing that he was our man to build our house. He could do it all. And we believed it.

Q Okay.

A We believed the building. We believed the developing. We believed the whole nine yards. And the whole idea with this nonprofit and these boys homes was, wow, what a story. So we didn't -- I mean, we made, you know, some questions. Obviously, he didn't have this contract with these attachments. When we started doing this and working this up, we put in the attachments. We said we need these attached, you know. These places in here, we have to have drawings that back up what you're telling us, you know. We have to have this cost estimate. He offered the porch estimate. He already had that.

Q Okay.

A We attached that because we were going to have a big porch. It was going to be three levels. Pretty much of a wraparound porch. We asked for the draw schedule, and he had it. He had it from National City Mortgage. And we put that in because we needed to know, you know, how that

process worked. So all the attachments were put in by us.
Q Okay.
A And Mr. Cotton was there at the time that we actually signed this, and that's the reason why his name is on here.
Q Okay. Let me ask you about what has been marked as Plaintiffs' Exhibit No. 9. And this is actually like a combo e-mail, an e-mail from Danny dated December 29th, and then you have a response at the top. Can you tell why you -- what were your concerns in that response?
A Well, my very first sentence says I'm concerned about the time line.
Q And what's the date of your e-mail?
A The e-mail is the 30th of December.
Q Okay.
A He had written us an e-mail the day before.
Q Okay. Why were you concerned about the time line?
A Well, it didn't appear that there was much going on. And we were now, like, six weeks after the closing.
Q Okay.
A So we were concerned.
Q All right. Have that back. Let me show you

what's been marked as Plaintiffs' Exhibit No. 11. It appears another e-mail from you to a Patty Zerbst. Can you tell me about the context of that e-mail?

A Well, she was the lender or the closer, I guess, for this particular loan that we were trying or had gotten. And so, we went back to her and kind of asked her some questions about what we thought. I understand this, I understand that. So we were kind of getting clarification. And this was kind of what our plan based on what Gilbert was telling us that he was needing a draw, he was needing a draw. But we weren't getting information.

Q That was my question is why did this become important?

A Why did going to her become important?

Q Yeah. Why were you concerned about getting details about the drawing scenario?

A Because were already now -- this is 13 January. That last e-mail was the end of December. We're now two weeks later. And Ron's saying, telling me, because I'm not really so much there as he is. I'm kind of back in Ohio.

Q Okay.

A But things weren't happening and yet he was

wanting this money. So he was giving us this idea of how these were going to happen like in this very short period of time. We just wanted to be sure we had our ducks in line, T's crossed, I's dotted because we weren't going to give anybody any money until we knew things were done properly.

Q Okay. And let's move on to some of the exhibits we had designated for you.

MR. JACKSON: Do you have your copy, Your Honor? Starting -- because I have an extra copy, I think.

THE COURT: Which one are we looking at?

MR. JACKSON: It starts January 22, 2004.

THE COURT: I do not have those.

MR. JACKSON: Pass this up to the Court.

THE COURT: Thank you. Are these already in?

MR. JACKSON: Yes. They are in. It looks like these are the rest of those. I don't know why they weren't -- these should go on the bottom in that stack, Your Honor.

THE COURT: Okay. They are already in?

MR. JACKSON: Yes. We've already stipulated to all of those exhibits.

THE COURT: All right. Now, if I can find

the marked stamp.

MR. JACKSON: Your Honor, I think I had them over here.

THE COURT: I'm not sure these -- this stack you have is marked. So when you're talking about them, I want you to identify what they are.

MR. JACKSON: Yeah. Yeah, we have -- and I'm trying to say I just had it, the marked stack.

THE COURT: Trying to keep tract.

(Brief pause.)

BY MR. JACKSON (Continuing):

Q Okay. Let me show you what's been marked as Plaintiffs' Exhibit No. 12 and ask can you identify it? Do you recognize that letter?

A I do.

Q What was the purpose of that letter?

A Well, we had just found out that he didn't have a septic permit.

Q Okay.

A And we had been -- apparently, the last couple of days before this, we had been talking to him and we met with him.

Q Okay.

A And he was giving us some information which was becoming pretty alarming. He was telling us, like, for example, on the cost estimate, he said the Boozer package is gonna be $23,000. Now, that's -- the plan of the house never changed.
Q Okay.
A And it was at that point in time it was now 55,000.
Q So what was it originally?
A 23,000.
Q Okay.
A And that was on the cost estimate. Now, if you do the percentage on that, that's a 144 percent increase from September to January.
Q Okay.
A Then he was telling us other things like the builder's risk insurance and things like that.
Q Did he ever explain why the increase was so great?
A He just said materials were going up.
Q Okay.
A So all these things that are listed here are basically taken with quotes that he had given us and now giving us different figures.
Q Okay.
A And in fact, I think he had actually produced some

receipts and invoices. And some of this was outrageous. And then we found out he didn't have a septic permit. He never would produce a septic permit.

Q Okay. Was that a condition of his draw?

A Yes. Absolutely.

Q Pursuant to his contract, was he required to get all permits?

A Absolutely.

Q Okay. Let me show you what has been marked as Plaintiffs' Exhibit No. 13 and ask if you can identify it? First of all, what's the date of that document?

A 22 January, same day. I had gotten this from the permitting -- permitting department. Bonnie Watson had given me this.

Q Okay.

A And I actually attached that to this letter and took it, hand-delivered it, to Mr. Gilbert.

Q And what does that letter say? The January 22nd --

A Well, it doesn't have the attachments with it. But there was a whole stack of attachments that were all about the building permit that Danny had gotten erroneously. Because the application that

he had submitted which was also part of this, he had neglected to mark the septic permit. He just didn't mark it.

Q Okay.

A They didn't pay attention. They processed and gave him a building permit.

Q Okay.

A And then she said, oh, we have to stop work. And that's what this is. It's a stop work. He can't do anything else. I'm sending this to him. And I said can you give me a copy? I'll make a personal delivery. And that became a part of this and that's the reason why we did this. We actually labeled it negligence.

Q Okay.

A And we told him you got to fix this stuff. We're giving him an opportunity with this letter and this information. How are you going to fix it? We're not firing him yet. We're asking him how are you going to fix it?

Q Okay.

A And at that point in time, he didn't have much to say.

Q Okay.

A I've left it with him. We mailed it to him. So

he received it by certified mail as well.
Q Okay.
A And I think he got a copy from Ms. Watson, county permitting, too.
Q Okay. Let me show you the next document, Plaintiffs' Exhibit No. 14 and ask if you can recognize it?
A Yes. This is my -- this is the same day. I got the septic permit applied for.
Q Why did you apply for the septic tank permit?
A Because it hadn't been done yet.
Q Okay.
A And as far as we were concerned, we were way behind schedule, and this needed to be done.
Q Okay.
A And we didn't know why it wasn't done. I mean, there wasn't, you know -- there was not any justification for that. In fact, it was the neighbor, a neighbor that was building out there, that told us he would call DHEC and find out if we had a septic permit because he knew how to do that. We didn't even know how to do that. So he called them, and they said, "Oh, no. They don't have a septic permit."

MR. HUBBARD: I object to what somebody might've said that you weren't privy to.

THE WITNESS: I'm sorry.

MR. HUBBARD: That's hearsay.

THE WITNESS: Oh, okay.

THE COURT: Yeah, don't tell us what other folks told you, okay?

THE WITNESS: Okay.

A He called, though. He actually did call in front of me, and he got off the phone. And that's when I really found this out.

Q Okay.

A So I went and did this so we would have a septic permit.

Q Did you ever get something as a result of your application?

A Yes. Yes. We did get -- we did get a permit from DHEC.

Q Okay.

A And it was not too long after this. It was pretty quick.

Q Okay. Now, let me show you what's marked as Plaintiffs' Exhibit No. 15 and ask if you recognize or can identify it?

A Yes. Because in January, we were saying that there was no way that we were going to be able to get through this construction done in time for this construction loan.
Q First of all, who is that letter from?
A Well, it's actually from the loan officer, National City Mortgage.
Q Did you make an inquiry to them about your interest rate?
A Yes. Yes.
Q Why did you do that?
A Because we were saying we were not going to be able to get this construction done. I mean, it was unrealistic to believe after all this time that we could actually meet this target date.
Q What was the target date in there?
A They had given us until 24 May. Even though the contract was set up to be completed by 1 February, they still set up the construction loan for a six-month period of time. So I went to them and she gave me this letter as here's how this is gonna be handled.
Q And what happened --

THE COURT: Hang on a second. I don't think

I've got a copy of that one. Let me see what you're looking at.

MR. JACKSON: I'm sorry. It's a letter from NCM mortgage.

THE COURT: Thank you. Go ahead.

Q So what's the penalty or what happens if you don't close by May of 2004?
A She was telling us that if we didn't hit that target date of 24 May, our interest on this construction loan was going to double.
Q Okay.
A And there was no caveat to that.
Q Was there any way to change that, alter it, or do anything?
A Not at that time. There was -- I mean, she didn't say anything else besides give us this.
Q Okay.
A She said, basically, her hands were tired.
Q Were you able to meet that target date?
A No, we were not.
Q Were you charged a penalty interest rate?
A As far as we know, yes.
Q Okay. Now, going back to your negligence January 22nd letter, did you ever get a response

from Mr. Gilbert?
A Well, we handed it to him. Yes, we did. Because, you know, just a few days later, we met with him.
Q Okay. What happened at that meeting?
A He just said he was done. He hadn't done anything. He wasn't justifying anything. He wasn't explaining anything. He sort of threatened to lien the property. And he basically said I quit.
Q Okay. Let me show you the next document. And this is a letter dated January 30, 2004, and it's Plaintiffs' Exhibit No. 16, and ask if you recognize it?
A Yes. This is the letter that came next to Danny.
Q And what is that letter?
A This is the contract termination in accordance with the contract of September 13th. The SF agreement that we had from the general conditions document contained within that contract.
Q Okay. And what was your basis or cause for termination?
A He wasn't doing any work. He had quit. There were violations. The notice saying, hey, these are problems. This has got to be fixed. He just kind of ignored it. I think he thought he was

going to threaten us into liening our property and make us back off. But we didn't see that we had an option except we had to terminate that contract.

Q At that time, had one of the piers fell over?

A I don't think so. This was -- this was just soon after those piers were actually up.

Q Okay. Let me ask you about this next letter and ask -- this would be February 9, 2004, letter, Plaintiffs' Exhibit No. 17. Ask you can you identify it?

A And I think this was the next letter to Danny Gilbert.

Q What happened -- what was the context of that letter?

A Well, the first thing is we referenced the discussion because Ron and I were there. We had a discussion when we handed him this. And we had basically kind of said, you know, we'll transfer the permit over to us because we thought we could, really. We thought the building permit could be transferred. We found out -- in this letter, we told him we can't transfer it because it's an invalid permit.

Q Okay.

A It never should have been issued. We talked to him about the builder's risk. We asked him to take down the power pole that he had put up. We just kind of asked him to cooperate. You know, that we needed to get on with getting our house built. We also had gone to the president of the homeowner's association thinking there was one. And there was a lady that was running that. And we had gone to her with the letter and kind of informed her of what was happening.

Q Why did you inform her?

A Because we thought she should know.

Q Okay.

A We thought that he should know too that we had gone to the homeowner's association.

Q Okay. Now, let me show you the next letter, and it's a letter dated February 19, 2004. It's Plaintiffs' Exhibit No. 18. And ask if you can recognize that?

A Yes. And this is Mr. Gilbert sending us a letter.

Q Okay. Why did he send you a letter?

A Well, like I said here, the homeowner's association, I actually wrote them a letter.

Q Okay.

A Well, she, the president, Ms. Evans, took it to

Danny.
Q Okay.
A So Danny took it upon itself to come back to us. Your recent letter and notes from our past conversation with acting homeowner's association president Tonya Evans has been turned over to me.
Q Okay.
A So in this letter he's basically telling us that oh, by the way, the arch fee that's in the CCRs that I wasn't charging you before because I was doing your building, I'm now charging you. You owe us 500 -- you owe me $500.
Q Okay. And did they expect you to still have some kind of plans or something approved or anything else? Or just pay the $500 fee?
A Well, it says -- yeah. It says that our plans had to be approved by his arch. And that is assuming that approval was already in hand was incorrect. We were now going to have to get the approval, fill out the application, pay the $500. And, oh, by the way, if we didn't do it, he threatened us with some articles in the CCRs about fines for noncompliance with him.
Q Okay. All right. Show you what's marked as Plaintiffs' Exhibit No. 19. It's a mechanics

lien. Ask do you recall this document?
A Yes. This is his filing a lien on us. This is dated the 20th of February which was right after this letter.
Q Okay. And to your knowledge, was that ever served on you? A statement of accounting ever served on you?
A I don't think we got it by service. I think we got it somehow. I'm not sure exactly at what point. I believe it was through the attorney that he hired that sent this to us.
Q Okay. Before that was filed, do you recall ever being served with a notice of lien and statement of accounting?
A No. No. He had threatened. You know, he had threatened that he was gonna lien our property. But as far as actually being served or being noticed, I don't recall that happening.
Q Okay. So what did you do about it? The lien.
A Well, we had to get a bond. We had to bond him off.
Q How much was the lien for?
A He actually wrote on here $23,700.
Q Okay.
A Now, it's not itemized. It's just a total number.

But his attorney actually sent us an itemized list that sort of backed up this figure.
Q Was it before or after that was filed?
A It was well after this.
Q Okay.
A Or well after the date of this.
Q Okay.
A I'm not exactly sure when we got it.
Q All right. Let me show you what is marked as Plaintiffs' Exhibit No. 20 and what appears to be surety bond.
A And this is the bond that we had to get --
Q Okay.
A -- to bond off that lien.
Q But did you incur cost and expense to pay for a bond?
A Of course.
Q Okay. Show you the next letter and it's a letter dated May 13, 2004, and it's Plaintiffs' Exhibit No. 21. Do you recall what this letter relates to?
A Yes. This is another letter to Mr. Gilbert because he was holding our property hostage. And he had willingly put in his little storage building, before we started building -- and, in

fact, at the time that we, you know, kind of entered into the contract, he offered up this storage. So sometime after we did the contract, not exactly sure when, my husband had brought these items because we didn't have them in our household goods, which was being handled through that government contracting civil service. So he was holding our property hostage. He wasn't letting us get to it. He wasn't letting us get it out. And I had gone down -- I had done homework. I went to small claims court and said how do you do this stuff? So we found out we had to do this right to cure letter.

Q Okay.

A And give him ten days to give us back our stuff. And if he didn't do that in ten days then we would have a position to file a small claim against him.

Q Well, let me ask you this: Did you just ask for your stuff back?

A Several times.

Q And what was his response?

A We couldn't get in. He never could be there to let us get our stuff. Let's see, I have to read this a little bit and see. "We've been requesting that you give us access for six weeks. This is

our personal property. It has no bearing on your claim of money that you say we owe you." And then it's a notice that's basically saying by the -- as required by the magistrate small claims court, you're given a ten-day notice.

Q Okay.

A And we listed all the property that he had stored in his warehouse.

Q Okay. Did you finally get your property back?

A We did.

Q Okay.

A Soon after. Soon after this.

Q Okay. Let me show you what has been marked as Plaintiffs' Exhibit No. 22. And it's dated May 18, 2004, and it's a letter from DHEC. Do you recall what that letter was?

A Yes. We got a copy of this through a Freedom of Information request.

Q Okay.

A And it's written to Danny Gilbert. And it says that the Department is in receipt of the final recorded plat of Eagle Harbor, phase two, and the recorded encroachment permit.

Q Okay.

A From the SCDOT.

Q Okay.
A It is now allowing -- or is now approving the easement for the remote drain field for sites -- in the Lots 1, 2, 19, and 20.
Q Okay. Now, did you have a problem before then about getting -- I think you said you applied for a permit. Is that right?
A Right. But soon after we applied, they revoked it because this encroachment permit was not obtained by the seller, by the developer, by anybody in advance. So without that encroachment permit to get to our drain field, they couldn't give us a septic permit.
Q Why did they need an encroachment permit?
A Because it runs through -- the drain field is actually on the other side of a state road on another piece of property.
Q Okay.

MR. JACKSON: Your Honor, Court's indulgence while I wrestle some of this paperwork. I think there is an exhibit that I don't see that I thought was in here. (Brief pause.)

Let me mark these. I don't see why --

COURT REPORTER: I don't even know where we

left off.

MR. JACKSON: I'm sorry. Thirty --

COURT REPORTER: Thirty-eight I think?

MR. JACKSON: Yeah. These two.

COURT REPORTER: So 39 and 40.

MR. JACKSON: Yes.

THE COURT: Are both those 38?

MR. JACKSON: I think she said 39 and 40.

THE COURT: Thirty-nine and 40. So the one to Ms. Price is 39 and the one to Mr. Gilbert is 40. Is that right?

MR. JACKSON: Yeah. I'll publish these to the Court in just one second. Yeah. Because that other one -- yeah, it's a little bit out of sequence now.

BY MR. JACKSON (Continuing):

Q Let me show you first the one that has been marked Exhibit No. 39. And this is the February 26, 2004, letter and ask if you recognize that? I don't think -- yeah, that's different. That should've been later.

(Whereupon, Plaintiffs' Exhibit No. 39, DHEC Letter, was marked for

identification.)

A Chronologically out of order.
Q Yeah, a little bit. Just one, one set. So where is that letter -- first publish the date and what is it about?
A It's February 26th of '04.
Q Okay.
A And it's from DHEC. It's a local.
Q And who is it addressed to?
A It's addressed to me.
Q Okay. And what is it about?
A Well, it's telling me that the Eagle Harbor subdivision has yet to obtain written permission from SCDOT allowing four separate borings under Leisure Drive for four separate lots in subdivision in which Lot 20 is one. Per your recent discussions, I regret to inform you that our agency has no choice but to temporarily revoke your septic tank permit for Lot 20.
Q Okay. Now, that was 47, right? Exhibit 47?
A Thirty. Thirty-nine.
Q Thirty-nine. That's right. I'm sorry. Okay. And let me show what has been marked as Plaintiffs' Exhibit No. 40. And have you seen a

copy of that before?

A Yes.

(Whereupon, Plaintiffs' Exhibit No. 40, DHEC Letter, was marked for identification.)

Q Okay. What is that letter and who is it addressed to?

A This is addressed to Mr. Gilbert.

Q Okay.

A Same day, February 26th.

Q Okay. And publish the letter.

A What it says is Mr. Gilbert on February 7, 2002, you were sent a letter from the Trident District on-site wastewater supervisor regarding a preliminary evaluation of your proposed 20 lot subdivision called Eagle Harbor, phase two. The purpose of that evaluation was to determine if each proposed lot contained a suitable site for an on-site wastewater system in accordance with SCDHEC. The letter outlined the findings of the evaluations of each lot. These lots -- looks like 12, maybe, lots listed, 1, 2, 3, 4, 7, 8, 15, 16, 17, 18, 19, and 20, did not meet current minimum

SCDHEC standards for any type of approvable sewage treatment and disposal systems.

Q Okay. And on the second page, what does it inform Mr. Gilbert?

A It says final approval of the plat by Berkeley County Planning Commission does not constitute final approval under DHEC regulation. No lot shall be sold in any subdivision where on-site systems are proposed as the method of sewage treatment and disposal unless the owner or agent has received a written approval from the Department.

Q Okay. Now, that also references, I guess, the same thing that you were notified that your septic tank permit was revoked?

A Right.

Q Okay. And then I guess you have the other exhibit that shows when it finally got approval to get a septic tank. And when was that again?

A May. The middle of May.

Q Okay. So how did the delay in getting a septic tank affect you?

A Well, I mean, we couldn't get construction going. We were just sitting and waiting while this was being resolved. So we had to pay all these extra

things. We had to pay our household goods storage. We had to pay personal storage. We had to pay rent more often. We had to -- whatever else is involved with just sitting and waiting. Because we were in temporary hold status.

Q Okay. Now, did you tract your rent, storage, and interest damages by some method?

A Well, I created a spreadsheet at some point in time. Of course, at that point in time, we weren't really -- I mean, we weren't really necessarily planning anything of any magnitude. But later on we found that we have to have, you know, documentation to back up -- according to the contract, our construction contract, to back up whatever costs are involved with building that house.

Q Okay. I'm gonna show what has been marked as Plaintiffs' Exhibit No. 24 and ask can you identify that?

A This is a recent, pretty recent, update of a spreadsheet I had done back in 2007.

Q Okay.

A Yeah.

Q All right. So tell me for right now how did you go about preparing that spreadsheet?

A Well, I was taking the receipts, credit cards, checks, bank statements, information that we had obtained to kind of say, okay, this cost this on this day and sort of keeping a running -- it wasn't exactly chronologically in order because I was stacking this stuff up somewhere until I started doing a spreadsheet.

Q Okay. Let me show you -- and I guess we can mark it if y'all want to. I don't really care. Is this a copy of the source documents where you got some of that -- the data that you put on that summary spreadsheet?

A It is.

Q And what's in this volume?

A Copies of checks, canceled checks, credit card receipts. In some cases there's a credit card statement with an invoice. So it's the work, the interest that we paid, the lodging that we paid, the storage that we paid. It's all pretty much in that. Now, I wouldn't say it's all there, but I'd say most of it's there.

Q Okay.

A There's stuff that was lost. I mean, I, you know . . .

Q Okay. All right. But you would -- for example,

when you got a credit card receipt or something, you would transfer that information to your spreadsheet?

A Well, yes, when I started putting it together.

Q Okay. Now, what items do you contend are delay damages?

A Well, the things that, you know, that are -- you're having to pay every month that you weren't going to pay because that house was gonna be built, you know, back in February. So extra rent, extra storage, extra interest. We're being charged interest every month even through we're not being able to build.

Q Okay.

A And then we ended up, of course, later on after we did get built, we ended up refinancing because National City Mortgage wanted to charge us an arm and a leg for a permanent loan. So a lot of things. We took money out of savings. We took money out of retirement. We incurred a lot of interest with these things that were going on. So I tracked them on here the best I could.

Q Okay. Now, what time frame do you contend you're entitled to for delayed damages? For what time frame?

A Well, I guess if you -- I mean, there's a couple of different ways of looking at it. First of all, we shouldn't have got the -- the lot shouldn't have been sold to us on the day it was. It shouldn't have been -- we shouldn't have closed on it because it wasn't eligible to be sold. And then you go to January, there's a stop work letter that you could use. Then you could go to the contract, the SF agreement, and look at the date of substantial completion. And you've got kind of all these different dates that you could say, well, this was wrong, that shouldn't have happened, this, you know -- so what date do you actually pick? My husband and I seem to think that the best day is 22 January when the County said you can't work. I mean, you can't build.

Q Okay.

A And that's the same day that we had to apply for a septic permit.

Q Okay.

A So that was the date that we came up with as a fair date. But some people would say, well, it should've been from the time of substantial completion. Well, that's reasonable too.

Q Okay. So from January 22, 2004, when were you

able to resume construction?
A Well, although DHEC said it's good to go in the middle of May, we still had to actually get our contractor in place. We had to get the PE hired to inspect that structure. Mr. Kahler, we had hired him actually in February because we thought we were going to be build right away. So we gave him money up front. We did a new contract. He wanted more money in that contract. We had to send National City Mortgage another $20,000. And Mr. Kahler said, well, that structure is not sound. And really he was the one that kind of got us thinking, you know, we're not doing anything right. Now we might as well get a PE over here and check that out. Because Mr. Kahler gave us an estimate. He said here's how much it's gonna cost you to fix that structure based on my opinion, and here's how much it's going to cost you to start over. So he was doing that at the same time the PE was doing his inspection. So we got the information together and we got this estimate from Mr. Kahler. It was only gonna cost $2500 to start all over.
Q You mean to demolish the existing foundation?
A Right.

Q Okay.
A And we wouldn't have to spend the time waiting to get that torn down or get that -- you know, if he could really repair it. I mean, we were not really sure. I mean, the PE's report said this and this and this and this. And oh, by the way, I don't know about this and I don't know about that. But that could be a problem. Like the mesh, he didn't know. He couldn't tell. And so here we are gonna take the chance of going in and repairing and spending almost $20,000 to repair it when it may not be sound enough to even repair.
Q Okay.
A So we just moved over, left it there, and started over again.
Q Okay. So that didn't cause you any delay further beyond that once you were able to start somewhere else?
A Right.
Q Okay. Now, let's look at your spreadsheet. How did you show what was rent, what was interest, and what was storage? How did you designate that on your spreadsheet, Exhibit No. 24?
A Well, the first part of it, of course, is just basically a running tally of everything.

Q Okay.
A And then I kind of took -- I sort of color-coded it a little bit. So the first thing you see is basically what we acknowledge as the owners from that SF agreement that we would pay for.
Q SF standing for what?
A The contract, the construction contract. So in that agreement it said owners are paying for this or this and this and this. So, you know, the first part of this is what we acknowledge was our responsibility.
Q So if it's coded in yellow, then that's the owners' responsibility?
A Right. And I can't tell you that that's everything we paid for, but that's a pretty good picture.
Q Okay.
A The next part is basically what we consider damages: delay, legal costs, the mechanics lien, loan cost, survey, inspection, the PE inspection that we had to do. We had to do another inspection to make sure the Boozer package was sound.
Q Okay.
A Because by the time we got it and actually could

use it, it had been weathering.
Q Okay.
A So we had to -- so we considered all those things damages.
Q Okay. And how did you code those on your spreadsheet?
A They're green.
Q Okay.
A And that's really the only two areas that I broke out.
Q Okay. So you lump the delay damages and the legal stuff together?
A Right. To me -- to us, those are all costs way above and beyond what we should've ever had to endure.
Q Let me see that. Now did you, on this last page, did you break out the legal from the delay on that page?
A No. No. The delay and other I have a column I called Delay and Other.
Q Okay. And what's the total of that?
A 58,949.
Q Okay.
A Now, there might be a plus or minus in there, you know, based on the dates of something. But

that's, you know, that's kind of a ballpark.
Q That's a combination of legal fees and delay damages?
A Right. And other than like the PE report, the demo. We put that in that column.
Q Now, you used the word ballpark. But those are actual figures from actual receipts that you plugged in there. Is that not right?
A Right. Right.
Q Okay. Now, did you also do a calculation about the construction -- the difference between the construction costs of your home by Mr. Seibel's and as per Danny Gilbert?
A Well, actually, John Kahler, that's when the construction -- the contract on the construction went up.
Q Okay.
A But it wasn't -- it wasn't -- Mr. Kahler did work for us for about six weeks when he actually did get to work. But Mr. Seibel took over for him and he didn't change the amount.
Q Okay. So how much did the Kahler contract increase by?
A Almost 20,000.
Q Why did it increase? Why was it more?

A Well, he wanted more money for his work. That was one thing. And then, you know, he gave us a cost estimate. It's attached to that contract. So he came up with this is how much he thought it was gonna take.
Q The Seibel's contract?
A And that wasn't -- well, no, Mr. Kahler's. And that wasn't really going to be everything because, you know, the chances were we were still -- he was telling us this still isn't gonna cover all these other little things.
Q Okay. Now, did you total up the amount under that contract? In other words, how is that coded on your spreadsheet?
A Okay. So what I did here, I didn't break out all the construction costs because it was pretty lengthy. So what I did was I broke out the delay, other cost. I broke out our cost, what we accepted. And then I broke out the -- well, wait a minute. Let me look at this. Okay. And then I put in the stipulated sum.
Q Okay.
A And took it from the total and came up with a construction amount which is right here.
Q Okay.

A Now, all those calculations are labeled.
Q Okay. Now, on your spreadsheet where it says "Contractor," and it's in white, what does that mean?
A That's a construction.
Q So all those total up to the construction amount that you have for the new contract? The actual extra construction. Is that what those figures are?
A It all totals up to $309,000. And then you take the stipulated sum of 185 from that figure and you get -- the difference is 97,000.
Q Okay. Let's move on from the spreadsheet for the time being. So it's your understanding then you're claiming for damages is 97,000 as being the difference between what you had to pay for the construction of your home versus what the stipulated sum was?
A Right.
Q Okay. Now, let me show you what has been marked as Exhibit No. 25.

MR. JACKSON: Which one of these were you objecting to or did you say? One of these I think you had objections to. You want to show me which

one.

MR. FERRARA: Twenty-six and 27.

MR. JACKSON: Twenty-six and 27?

MR. FERRARA: Yeah.

MR. JACKSON: Okay.

Q Let me show you what has been marked as Plaintiffs' Exhibit No. 25 and ask can you identify it?

A Yes. This is the request that we made for the wetlands determination.

Q And why did you make a request for wetlands determination?

A Because somehow or another -- and I think it was this neighbor that said --

MR. HUBBARD: Object to what the neighbor is going to say.

A -- wetlands study. Okay.

THE COURT: I'll allow it.

A It was somebody else that gave us the idea to do this.

Q Okay.
A And so we did.
Q Okay.
A It sounded like a good idea.
Q Okay. And so you fill that out and where did you send it?
A Well, my husband actually filled it out.
Q Okay.
A So there's an address at the top. It went to the Army Corps of Engineers.
Q Okay.

MR. JACKSON: Now, Mr. Ferrara has an objection to these next two exhibits, Plaintiffs' Exhibit No. 26 and Plaintiffs' Exhibit No. 27. Plaintiffs' Exhibit No. 26 is a letter addressed from the Department of Army to Ronald Price. And Plaintiffs' Exhibit No. 27 is the delineation by the Army Corps of Engineers for the Prices.

So you want to state your objection?

THE COURT: What's the nature of the objection?

MR. FERRARA: Hearsay, Your Honor.

MR. JACKSON: They can identify that this was a result in the letter that they requested and

that was sent to them. And it's a public -- I mean, it's a public agency and a public record.

THE COURT: I'm having trouble finding those letters. Is that the November 7?

MR. JACKSON: Yes, sir. These two letters right here.

THE COURT: What's the purpose for these to be offered?

MR. JACKSON: I'm offering these for results of their request for delineation of two acres of wetlands determination. It's addressed to them as a result of their request. And again, I would contend that it was a public document from a public agency in the performance of a public duty.

THE COURT: We're gonna -- I'm gonna take this as a time for an appropriate break. I'll take a look at these --

MR. JACKSON: Okay.

THE COURT: -- and make a ruling on that when we come back tomorrow, okay.

MR. JACKSON: One matter of housekeeping, I think. There was an exhibit -- I think my appraiser expert ran off with the exhibit that he had in his hand. And so, we have multiple copies of the identical thing that he was testifying to.

And I would just ask that one of those be substituted for it. They're identical.

THE COURT: Any objection with that?

MR. FERRARA: No objection, Your Honor.

MR. JACKSON: Is there any other ones that I did not have in there?

COURT REPORTER: No. That's the only one I don't have is 38.

MR. JACKSON: All right. If we can mark that as a substitute.

THE COURT: All right. So we will start again tomorrow at 9:00. All right. And we'll go forward with Ms. Price. Mrs. Price, you are in an uncomfortable position. You are under oath. You're on the stand. You're really not supposed to go and discuss this with your lawyer or your husband.

THE WITNESS: Okay.

THE COURT: So that frees you up. You don't have to talk about it tonight, okay. And then you get to come back tomorrow and then we'll finish up. After you get off the stand then you can talk all you want. But don't talk to these folks while you're on the stand, okay?

THE WITNESS: Okay.

THE COURT: All right. Anything else, gentlemen, that we need to touch on before we --

MR. FERRARA: Yes, Your Honor. Just a matter of housekeeping. With the Court's permission, I was going to pass up a copy of that motion to dismiss memorandum.

THE COURT: I had forgotten about that.

MR. JACKSON: That's fine.

THE COURT: Hand me that. I'll take a look at those as well.

MR. FERRARA: May I approach, Your Honor?

THE COURT: Yes, please.

MR. FERRARA: Thank you.

THE COURT: Anything else for today, gentlemen?

MR. JACKSON: I don't think so, Your Honor.

THE COURT: All right. We're gonna lock the courtroom up. So he's gonna lock the courtroom so if y'all want to leave some, all, or part of what you've got, it's certainly safe to do that. Okay.

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(The proceedings adjourned for the evening at 4:47 p.m. and resumed on Friday, May 4, 2018, at 9:05 a.m.)

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THE COURT: All right. Are you all set? Ready to go?

MR. JACKSON: I'm ready to proceed.

THE COURT: We got everybody? All right. So where did we leave off?

MR. JACKSON: Your Honor, I believe we left off, I was examining my client on Exhibits 25 and forward. There was an objection to Exhibits 26 and 27 from Mr. Ferrara on a hearsay basis.

THE COURT: Twenty-six and 27?

MR. JACKSON: Yes, sir. And I'll show you the copies. Those were the -- yeah, these were -- basically, they're the letters and delineation by the Army Corps. And I would submit they're admissible under 803(8), which specifically provides for the admissibility to the hearsay objection for reports and data compilations of public agencies and their activities. And I think it fits like a glove for that. And, specifically, it says reports -- agency.

THE COURT: Mr. Ferrara, response?

MR. FERRARA: Yes, Your Honor. May it please the Court? It's still the -- Court's indulgence one moment. I just want to make sure of the language of 803(8). (Brief pause.)

Your Honor, the admissibility of Plaintiffs' Exhibit No. 26 and Exhibit No. 27 is clearly hearsay because there is no one here testifying from the Department of the Army. I've got -- I believe that Mr. and Mrs. Price can testify about, you know, what they understand, you know, pursuant to letters they've received. However, the admissibility of these documents to prove the matters asserted therein is clearly hearsay. And 803(8) in public records and reports discusses duties and it talks about police officers. That's --

MR. JACKSON: I'm sorry. Go ahead. Please finish.

MR. FERRARA: It talks about matters excluding -- it says however in criminal cases observed by police officers and law enforcement, the notes and opinion are not admissible. Accident reports, we have a statute on that that Your Honor is looking up. And it's still hearsay. The public records doctrine, Your Honor, respectfully would be, for example, Defendants' Exhibit No. 1 and Exhibit No. 2. Those are official recorded documents that the RMC office or Register of Deeds office for Berkeley County, they

have a seal on them. They're authenticated as original documents. And that's why those are not hearsay. But Plaintiffs Exhibit No. 26 and Exhibit No. 27, we don't have the original document in our possession, and we don't even have an affidavit from Tina or anyone from the Army Corps of Engineers that explains that these documents are regularly kept in the ordinary course of business. There's not a seal on them. I'm not calling into accounts -- I'm not challenging the credibility of counsel's representation that these are letters that were purportedly received. But the cross-examination component that's so vital to non-hearsay is lacking for my client. The representations in these letters I anticipate I cannot ask the Prices about because I don't know that they're qualified or have personal knowledge of the hearsay statements by the Department of Army Corps of Engineers. So I would just respectfully request that these be excluded.

MR. JACKSON: Your Honor, if I may. If I can publish for the Court 803(8), and it's pretty clear. It says records, reports, statements, or data compilations in any form of public office or

agency, which obviously the Army Corps of Engineers is, or subparagraph B, matters observed pursuant to a duty imposed by law as to which matters there was a duty to report. And then it goes to the exclusive for criminal cases. My client submitted an identified delineation for wetlands request to a public agency. Under the code of regulations, they delineate the wetlands and send it back to here. I don't see any clear example of a public record or report.

THE COURT: In that part of the rule, doesn't it exclude opinions, judgments, and conclusions?

MR. JACKSON: Yeah. But that is for police officers and other law enforcement personnel. Then it says provided the investigative notes of those. So if it's a criminal case, they don't want the officers saying, well, I think this was -- you know, in my opinion, this was a drug dealer or something like that. For a public --

THE COURT: It's that -- I don't have the --

MR. JACKSON: Is says -- well, here's how it reads directly on the thing, Your Honor. It says, it gives A and B, which I just said. Then it says "provided however" in italics. It goes, "Excluding, however, in criminal cases, matters

observed by police officers and other law enforcement personnel provided, however, that investigative notes, opinions, judgments, and conclusions are not admissible." And then it goes -- on it says a separate thing for accident reports. So my -- that applies to police officers, accident reports.

I'd also note, Your Honor, that in the appraisal submitted by Mr. Carter, this exact document is part of that appraisal, and Mr. Ferrara cross-examined him on the difference between a preliminary report and a final report. So, you know, I think in fairness, it can come in under that as well.

MR. FERRARA: Respectfully, Your Honor, he was qualified, Mr. Carter was qualified as an expert. He's allowed under the rules of evidence to testify to matters not in evidence.

THE COURT: He's allowed to rely on those as well.

MR. FERRARA: Yeah.

MR. JACKSON: But if he's cross-examined on that specific report, that should open the door especially under this 803(8) which provides for the admissibility of public agency reports that

they observe.

THE COURT: That's where I think I'm different with you as to where -- once it contains the opinions, judgments, and conclusions. I read that sentence to mean that in addition to the exclusion regarding the police officers, any of those public records that include something such as opinions, judgments --

MR. JACKSON: Well, this is not really a judgment or a conclusion. It's just a delineation that they actually walked the property and drew on a map where the wetlands are affected. And the actual letter, too --

THE COURT: Isn't that a judgment or a conclusion as to whether it exists or doesn't exist as wetlands?

MR. JACKSON: Perhaps. But, you know, at that would -- at a lot of the public reports are going to have some kind of statement or conclusion or fact or something in those. But again, I think the reason why we have confidence in them is because they're public agencies. They're, you know, authorized under the code to give reports. And so, therefore, it's not a reason to have bias or something like that creep into those.

THE COURT: At this point, I'm going to disallow them based on the 803(8), my reading as to the -- it contains the opinions, judgments, and conclusions that would not be allowed. And that's as to 26 and 27.

MR. JACKSON: Okay, Your Honor.

(Whereupon, Plaintiffs' Exhibit No. 26, Army Corps Letter, was marked for identification.)

(Whereupon, Plaintiffs' Exhibit No. 27, Army Corps Letter, was marked for identification.)

THE COURT: We still have Mrs. Price?

MR. JACKSON: Yes, Your Honor.

THE COURT: Okay. Mrs. Price, come on back up.

(Mrs. Price resumes the witness stand at 9:13 a.m.)

THE COURT: Mrs. Price, you are still under oath, okay?

THE WITNESS: Yes, sir.

THE COURT: Thank you, ma'am. Yes, sir?

BY MR. JACKSON (Continuing):

Q Let me show you what's been marked as Plaintiffs' Exhibit No. 28. It's in evidence. Ask can you identify that?

A This would be the second recording of CCRs that EHI did.

Q Okay. With regard to that, what was the date of that recording?

A October 25, 2004.

Q Okay. Is that before or after you bought your property?

A After.

Q Okay. And who is the declarant listed on that?

A It's Eagle Harbor, Incorporated.

Q Okay. And publish for the Court the first whereas clause in that document as to ownership.

A "Whereas declarant is the owner of certain real property located in Berkeley County, South Carolina, and more particularly described in Exhibit A."

Q Okay. And we'll get to Exhibit A in a minute. But who is the declarant listed on the page 6?

A Eagle Harbor, Incorporated.
Q Okay. And who executed the declaration?
A Eagle Harbor, Incorporated, or Mr. Gilbert.
Q Okay. Now, let's look at the --

THE COURT: Excuse me, Mr. Jackson. You looking --

MR. JACKSON: I'm sorry, Your Honor. Yeah. I'm looking at --

THE COURT: I'm having trouble keeping track.

MR. JACKSON: Yeah. I think it's 28, Your Honor.

THE COURT: Okay. Just want to make sure.

MR. JACKSON: Yeah, it's 28.

THE COURT: I want it in front of me while you're talking.

MR. JACKSON: Sure. Yeah. I'm sorry. It's 28.

THE COURT: All right. Hang on. Let me find it. (Brief pause.)

I can't put my hands on it this second. Do you have another one for me that I could possibly use, please?

MR. JACKSON: I think I gave out all my copies. See if there's another copy up here.

THE COURT: I believe you provided me copies, and it's under . . .

MR. JACKSON: That's all right, Your Honor. I don't believe I have another copy. But I will be glad to -- there's only a few points I want to make and then I'll move on to the next exhibit.

BY MR. JACKSON (Continuing):

Q Would you read the description, the legal description, it says in Exhibit A?

A "All those pieces, parcels, and lots of land shown on a plat entitled on Final Plat of Eagle Harbor, Phase 2, St. James, Goose Creek Parish, said plat dated July 25, 2002, prepared by Stantec Consulting Services, recorded on September 26, 2002, as document number 21023 in Plat Cabinet at page 281A in the Office of the Register of Deeds for Berkeley County and relates to TMS numbers 194-00-02, 031, and 194-00-0 --

Q You don't have to read the rest. What -- so what phases does that specifically mention as it applying to?

A Phase two. It goes on to address phase three and also phase one.

Q Okay. Now, and it refers to a plat. Let me show

you what has been marked as Exhibit No. 29.

MR. JACKSON: And, Your Honor, Exhibit No. 29 is a copy of a plat, two-page copy of a plat, recorded plat.

Q I think we actually have a better copy in one of the other exhibits in the defendant's and ask that you look at that. And I know it's in very tiny print. Can you see that that matches up with the description, the recording information? Let me show you. It may help you.

A The plat cabinet?

Q Yeah. If you'd look right there, it's very tiny.

A Right.

Q It's recording information. And I think it matches the Exhibit A plat cabinet. That's the property they're talking about.

A I does appear to, yes.

Q And is your lot 20 among that?

A It is.

Q But at that time of recording, you already purchased your property. Is that correct?

A Yes, sir.

Q Okay. And do you know if Eagle Harbor in your chain of title ever had title to your property?

A They did not.
Q Okay. Now, did you ever make a request of an agency to determine if your property could actually be subdivided?
A Yes.
Q Show you what has been marked as 31. Fist -- yeah, it looks like -- I'm sorry. It's 30 on this list.

MR. JACKSON: Your Honor, this is a May 17, 2000, letter, Plaintiffs' Exhibit No. 30.
Q And ask do you recognize that letter?
A Yes. This is a letter we received from DHEC, Columbia.
Q Okay. And publish that letter, please.
A Read the whole thing?
Q Well, just the high points.
A Okay. We had sent them a letter.
Q Okay.
A Requesting information on subdividing our property. We actually asked them to reevaluate it because the local DHEC had told us you can't subdivide it.
Q Okay.
A The only way you're gonna be able, possibly, is go

to Columbia and ask them.
Q Okay.
A For a reevaluation. So that's basically what we did. And they came back and said no, that they had been out to check and they found that the soil would not -- it just didn't allow for that. So there was no subdividing, no second -- no drain field capability on the lot itself, and we couldn't subdivide for any residential reason.
Q Okay. And you specifically asked them could you subdivide for residential reasons?
A We did.
Q And they said that you could not?
A Could not, yes. And they did say that engineered systems would not be suitable for the property as well.
Q Did you ask them about the drainage and your drain field for your existing property?
A We did. We thought perhaps our drain field would work for a second residence. They said no.
Q Okay. Now let's get back to your spreadsheet and your construction -- let's kind of zero in on that a little bit.

MR. JACKSON: And these are Plaintiffs'

Exhibit No. 24, Your Honor. And I'm going to introduce Plaintiffs' Exhibit No. 23. Twenty-three is the long one like this, and 24 is the more -- the wider version that --

Q First, let me show you Plaintiffs' Exhibit No. 23 and represent that's a recapitulation of the same thing on your spreadsheet, Exhibit No. 24. And I believe you mentioned yesterday about the total of construction.

A Correct.

Q And you labeled that as contractor. That's how -- on your spreadsheet, Exhibit No. 24?

A We did.

Q Okay. And I think in the blue there's a summary for all the costs for the contractor?

A It appears that way, yeah.

Q Okay. Could you publish what the total of all that was?

A For the contract?

Q Yes.

A Okay. Are you talking about -- you're not talking about the sum difference?

Q No. I'm talking about the total for the contractor.

A Okay. It's 283,011.83.

Q And you compared it to your existing stipulated sum?
A And the amount difference was 87,836.83.
Q Okay. Now, let's look at your Exhibit No. 24 for a minute.

MR. JACKSON: And I moved Exhibit No. 23 into evidence. I guess it was stipulated to so it's already in evidence.

Q Exhibit No. 24, let me ask you about some of these specific costs on there. Now, as I understand it, you broke it down by the purpose. You have who is responsible, contractor, seller, and what type of receipt or other thing it relates to. So lodging, for example, does that fall under rent?
A Yes.
Q Okay. And why are you asking for rent?
A Because we had to pay more rent. We had to pay rent longer.
Q That would be part of your delay damages?
A Correct.
Q Okay. Now, you have listed here -- I noticed you had a closing refinancing charge. Why are you asking for a refinancing charge?

A Because of the result of the construction taking so long and the interest rate increasing with National City Mortgage, we would have to refinance to get a better rate.
Q Okay. So let me clarify that. On your original closing, did you have a permanent loan in place?
A We had a loan to set in place at the end of the construction.
Q Okay. And so you refinanced after that because of the interest rate problem?
A We did.
Q Okay. And if it had closed on time, would you had to have refinance?
A If we found better financing, we might have pursued that. But we definitely had to do it based on the rate change.
Q Okay. And you also included legal costs, and you're asking for the Court to award you legal costs under some of your causes of action?
A Yes.
Q Okay. So let's clarify one more time. What categories are your delay damages? What are the main categories for your delay damages?
A It would be rent, it would be storage, and it would be interest.

Q Okay. And I think you just testified about having to refinance. Okay. What about -- now, did you have to demolish the previous foundation?
A We did do that, yes.
Q And how much did that cost?
A It was $3,000.
Q Okay. And you did that based on the expert's report saying it was faulty?
A We did. And based on also Mr. Kahler's estimate of what it would cost if he attempted to repair it.
Q Okay. Now, what is your understanding of what the contract provides for recovery in the event of termination for cause?
A Excuse me?
Q What is your understanding of your construction contract for recovery in the event you terminate a prior contractor for cause?
A That if you build a house at a higher cost than the stipulated sum that that difference would be owed back to by the contractor.
Q Okay. And that's provided in the general terms and conditions of your contract?
A Yes, it is.
Q Show you that and ask that you publish the

relevant part of 14.2. 14.2.4 I think.

THE COURT: Which exhibit are you looking at?

MR. JACKSON: This is -- I think it's 3 -- 4. No, I'm sorry. It's 5, Plaintiffs' Exhibit No. 6. It's the general terms and conditions of the contract, and it's, I think, 14.2.4 . . .

Q Really all of 14.2 addresses that issue. Can you just publish that section of 14.2.4?

A 14.1.3?

Q 4.

A 4. Oh, I see. "If the unpaid balance of the contract sum exceeds the cost of finishing the work including compensation for the architect services and expenses made necessary, thereby such excess will be paid to the contractor. If such cost exceed the unpaid balance, the contractor shall pay the difference to the owner."

Q Okay. And that's what you're asking the Court to award you for damages for breach of contract for the difference?

A Correct.

Q Okay.

MR. JACKSON: That's all the questions I have of this witness.

THE COURT: Mr. Ferrara?

MR. FERRARA: Thank you, Your Honor. May it please the Court?

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CROSS-EXAMINATION

BY MR. FERRARA:

Q Good morning, Mrs. Price. I got a few questions about the damages that you're claiming against my clients Belinda and Gerry Fox. And before we get to that, if you could, let's take a look at Exhibit No. 2, the contract.

MR. FERRARA: Your Honor, may I approach the witness?

THE COURT: You may.

Q Ma'am. I'm handing you Plaintiffs' Exhibit No. 2. And your husband testified, and I think you heard his testimony yesterday, but I'll ask you the same question. The agreement between you and your husband and Belinda Fox to purchase lot 20 is completely encapsulated in Plaintiffs' Exhibit No. 2, is it not? The two-page document.

A Completely?
Q Yes?
A Are you saying everything on this document is the only thing applicable?
Q No. I'm asking you when you and your husband purchased Lot 20, the only contract that applies that you're aware of to Lot 20 is this document in your left hand? This two-page document.
A This would be the written contract.
Q Right. Well, let's go through that. I asked your husband these questions yesterday, and I'll ask you because I haven't had a chance to ask you yet. But, ma'am, if you look at --
A I have a question. I have a copy of this myself that I brought.

THE COURT: Ma'am, you don't get to ask questions. Okay. All right. Mr. Ferrara.

MR. FERRARA: Thank you, Your Honor.

Q Ma'am, if you can look at paragraph 8A.
A 8A.

MR. FERRARA: And, Your Honor, respectfully, Mrs. Price is looking at some notes that she has

and I didn't want her to testify from notes or something else she's marked up but rather just answer the questions about the Court's admitted exhibit.

THE COURT: I think she's entitled to refer to her notes if she wants to. You're certainly entitled to ask about the notes now.

MR. FERRARA: Sure.

Q Ma'am, did you bring some notes with you today?
A I did.
Q Would you mind if I take a look at those?
A Certainly. It's the same. So identical contract.
Q Sure. Okay. Well, looking at Plaintiffs' Exhibit No. 2, paragraph 8A, the buyer is purchasing property as is, correct?
A That's what it says.
Q Ma'am, you brought a lawsuit against my clients. This is you and your husband's opportunity to explain to the judge about your case. I'm just asking you that in this two-page agreement, you and your husband understood that Lot 20 was going to be purchased from Belinda as is as it is stated in the contract, correct?
A As is means by and accordance with subdivision

regulations.
Q Can you show --
A That's what "as is" means.
Q Really?
A On this contract, that's what it means.
Q Where does it say it on that contract?
A It doesn't have to say all that. That's what it is.
Q Where did you learn that information?
A When land is subject to subdivision development regulation, which is not just local, it's also state. It's also federal. Those laws apply. So as is does not mean that that does not apply. It does apply. And that is exactly how we read that.
Q I understand. So you read the words "as is" in quotes in paragraph 8A to mean as is subject to other the things that are not written in this document?
A No. Right up at the very top it talks about the subdivision.
Q Sure.
A The TMS. Which I did a little homework on this last night.
Q Right.
A This TMS information is incorrect.

Q Okay. Great. Now, you're claiming some damages here for Westlaw and other legal research that you performed in Plaintiffs' Exhibit No. 23. Do you recall that?
A I do.
Q Okay. Is that where you're getting your information about the "as is" that you just testified about?
A No. I'm not saying in total I got it there.
Q Why do you think that my clients need to pay you and your husband for Westlaw research that you did well after you purchased this lot?
A That research does not confirm, have anything really to do with the "as is" clause in this contract.
Q Agreed.
A We signed this contract in 2003. I did some research when we became pro se in this case to help myself to understand what was going on and what was available. That is not where I got the clarification of "as is." It doesn't mean that I didn't get some information there. It simply means that when you have a contract to buy land that is in a development subdivision that is subject to local, state, and federal law, those

things apply. And in fact, in this whole thing there are numerous errors. Because, for example, it says contingent upon drain field site soil test. And those were already done and not disclosed.

Q Ma'am?

A Which is required by law.

Q Ma'am, if you could just please answer the questions I'm going to ask you.

A Okay.

Q Exhibit No. 23, page 2 -- I'll hand it to you -- you have a line item charge of damages that you just testified about with your attorney of $1572.90 for legal. Is that correct?

A I do. I remember writing that it.

Q Okay. And that was for Westlaw research that you did in April of 2007 to December of 2008, correct?

A Yes, it was.

Q Okay. So --

A I had the subscription for that period of time. It could have been longer.

Q Did you have any other lawsuits besides this lawsuit and the Investors Title lawsuit that you were doing legal research on during that time?

A I don't think so. Maybe.

Q What other lawsuits were you involved in between 2007 and 2008?
A We filed a title insurance complaint.
Q I mean beside -- we heard about that yesterday. But I'm saying besides that title insurance complaint and this lawsuit that we're here on today, are there any other lawsuits?
A No.
Q That you did research on that you're claiming damages for today?
A No.
Q Okay. So that $1572, part of that is for this lawsuit you contend and part of it is for the Investors Title lawsuit?
A Well, not exactly. What was the end date on that? April 2008?
Q December of 2008.
A December 2008?
Q Yes, ma'am.
A Well, we had started the Investors Title. So, yes, there would've been a combination of the two actions.
Q Okay. But let's go back to closing first and we'll come back to that, ma'am. Exhibit No. 2 that you're looking at.

A. Okay.
Q. At the time that you and your husband entered into a contract, which was September 13, 2003, you testified you understood it to be as is in paragraph 8A. Ma'am, did you also understand that paragraph 8C says that you would receive a copy of the covenants and restrictions from your closing attorney at closing?
A. It says that we would've done that. It would've happened.
Q. Right. Well, let's look at it. Who -- are you -- you and your husband supposed to get copies of the covenants and restrictions from?
A. The seller.
Q. Okay. Again, I'd like you to read paragraph 8C out loud if you don't mind.
A. It says we're supposed to get them there from the closing attorney. But actually, you're supposed to get them from the seller. That's --
Q. Is that something else you learned on Westlaw?
A. No. It's sort of a mistake. I guess I should -- should have said from the seller.
Q. You and your husband don't want this -- this contract was a big mistake. You don't want the judge to consider this contract. Is that your

testimony?
A Did I say that?
Q You said it was a mistake. You said the contract --
A I said that particular statement is incorrectly stated because you get them from the seller.
Q Okay. Well, did you understand that the seller was supposed to give those to you at the time that you signed this contract with Mr. Gilbert and Mrs. Fox?
A No. It doesn't say that.
Q Right. I know it doesn't.
A It says at the closing.
Q Right. The closing attorney.
A Which the seller should be at the closing.
Q Ma'am, if you could please just answer the questions.
A I'm trying. I'm trying.
Q Let's go to page 2 then while we're still talking about closing. The very bottom. You and your husband or your husband negotiated this last sentence below the signature block, did you not, in this contract?
A Yes. I had that put in there.
Q You had that put in there which says upon

execution of this document, buyer will be consulting an attorney as well as Jeff Spell concerning that "correctness and duplication of items listed above"?

A It does say that.

Q You bargained for that language in this contract, correct?

A I put that language in there to have the option to contact Mr. Spell or any attorney. I did not put that in there as an absolute that I would be doing that. It was simply to let Mr. Gilbert, let Mrs. Fox know that we may be contacting an attorney.

Q And did you contact an attorney other than Jeff Spell?

A We did not.

Q Because you and your husband decided that you didn't want to pay an attorney to review this contract?

A No.

Q Why didn't you?

A We decided there was no reason to. We did not see anything going on at this point in time.

Q Well, let's go back here because your eye is so critical. You made a determination when

bargaining for this statement at the bottom that you wanted to make sure that the contract that you signed was "correct" and didn't include any duplication of items.

A It did appear that when we were reading it, some things were duplicated.

Q That's right.

A And said in different ways. But it didn't mean that it was a problem. There's several errors on this contract in all. So once you look at it in total, there were numerous things that were not done: buyer, the seller, the representer. I mean, if you really look at the whole thing, there's a whole lot of mistakes. We didn't take -- the closing didn't happen and take possession by the 30th of October.

Q I understand your concern, ma'am. But I just want you to ask -- answer these questions. True or false: You had concerns about the correctness of the contract --

A Of course. You always have concerns when you sign a contract. That's not unusual.

Q Despite those concerns, you and your husband chose not to contact Jeff Spell about this contract --

A That's right. We did try to call Mr. Spell.

THE COURT: Mrs. Price. Mrs. Price, the court reporter is trying to take everything down. So if y'all talk over each other it's real hard for her.

THE WITNESS: I'm sorry.

THE COURT: So let him finish and then you speak and then he'll let you finish. Okay?

THE WITNESS: Okay. Okay. I'm sorry.

THE COURT: Thank you, ma'am.

Q You and your husband chose not to contact Jeff Spell prior to closing. Is that correct?

A Well, we didn't follow up on it. I did call him a couple of times. And I'm not even sure if it was before the closing or after.

Q Right. Then after Mr. Spell did not call you back, you and your husband made a conscious decision not to consult another attorney as he referenced in the bottom of page 2?

A We did not because we did not feel there was any reason, that nobody gave us any big indication there was a problem.

Q You and your husband --

A We were very trusting people.

Q Right. And you and your husband rolled the dice

on this contract by not seeking your own counsel either through Mr. Spell or through another attorney and proceeded forward with closing. Isn't that true?

A No. We didn't roll the dice at all. There are requirements --

Q When I say roll the dice, I mean figuratively. You and your husband took a chance because you -- you didn't contact another attorney?

A No. We didn't really take a chance. When you start looking at this very closely, there are things just like my husband had asked Mr. Gilbert about the soil test. He said, oh, that's done, everything is fine. Well, those kinds of things are all material to this.

Q Sure.

A And the seller has responsibility in this contract to disclose things that are done. There was already the seller's responsibility to handle that, for example.

Q Do you know based upon your legal research or did you learn what the law in South Carolina is with respect to purchasing an empty piece -- a non -- a residential piece of property without a home on it in South Carolina? Are you familiar with that?

A Would you --
Q Are you familiar with caveat emptor, buyer beware?
A No, I'm not.
Q Okay. Well, you and your husband are from Ohio? Or lived in Ohio at the time of contract?
A I was still in Ohio, yes.
Q You were in Ohio?
A Yeah, we were there.
Q And neither one of you had purchased property in South Carolina before, correct?
A We had not.
Q Okay. Don't you think that it would have been prudent for you or your husband to consult with a South Carolina attorney to make sure the contract was fully correct, not duplicative, and these other items that you're suing about, okay, like the covenants and subdivision plat, that those things would be in order prior to closing on Lot 20?
A No. We really didn't because as you read this, all of those things are obligations of the seller, and they are obligations by subdivision development law. So it wasn't a risk on our part. It was a risk on the seller's part.
Q You don't have an attorney or someone else to come

in here and testify that this contract that you and your husband signed is null and void because of these things you've just talked about, subdivision and other things, that needed to be done, correct?

A Why would I need an attorney to do that?

Q Because you're not an attorney. And you don't know what the law in South Carolina is when you're purchasing a lot, correct?

A I'm not any more responsible for that than the seller would be.

Q Well, let's talk about that. You agree that you and your husband are at least 50 percent responsible for the actions in this contract. Yes or no?

A Fifty percent?

Q Sure. I mean, do you bear any responsibility for proceeding forward on an as is contract and not doing a wetlands study and not checking the County for recorded covenants and recorded plat?

A Well, since you brought up the wetland study, that should have been done before the contract was done.

Q Sure.

A It should've been done before the plat was filed.

It should've been done before this agreement to buy and sell was ever presented to us. So, yes, you're right.

Q No. I mean, you and your husband should've done that?

A There are numerous things in here -- I'm sorry.

THE COURT: Let her answer the question.

Q Sorry. Go ahead. I'm sorry, ma'am. Go ahead.

A There are numerous things in here which the seller is responsible for. And at minimal, disclosure of the information they had access to and knew of at that time whether it was Mr. Gilbert or Mrs. Cox. I mean Fox. Either one. They had responsibilities to disclose to us anything that is relevant in this contract.

Q Right. Paragraph 10, ma'am. Does it not say that it is your responsibility to do the inspection, environmental concerns including hazardous waste, wetland study, and radon gas in paragraph 10?

A Here again, sir, it is not our responsibility after the fact that the seller was already supposed to do that.

Q That's not my question, ma'am. Does --

A No. It was not our responsibility.
Q Even though the written contract in paragraph 10 says wetland study is buyer's expense and the buyer shall have the privilege and responsibility of performing that?
A It was not our responsibility because it was the seller's responsibility before ever presenting the contract.
Q You're saying that now to try to overcome the language that's in the contract that you and your husband signed?
A I'm saying that now because that's the way it is. That's a fact.
Q You and your husband are suing Belinda and Gerry Fox on Plaintiffs' Exhibit No. 2, this contract, correct?
A Yes. There are things in this contract that the seller did not do and did not -- or did do and did not disclose. One or the other.
Q And you and your husband are claiming that Belinda Fox as the seller did not give you a copy of the covenants and restrictions, that she did not have a final subdivision plat recorded, that she did not check with the developer to allow subdivision of property into two lots or three lots, correct?

A I am saying that those -- you were saying and I am saying the special stipulations that are in here, these are all responsibilities that the seller had. She had the responsibility to put the CCRs on the property before it was ever sold to us.
Q Let's go through paragraph 10, ma'am. The last sentence of paragraph 10.
A Paragraph 10?
Q Yes, ma'am. Does it not say if buyer fails to notify seller or listing agent of the results of such inspection on or before day stipulated -- and I think that means referring to the closing -- or referring to the date above -- buyer shall be deemed to have waived the privilege of any inspections?
A That would apply if the seller had knowledge and known of the conditions of the property and selling it to us. They did know the conditions. Those were not disclosed. That is not overwritten in this contract. The seller disclosure is required by law. So first and foremost, it's the seller's responsibility to tell you that these things have been done or what has been discovered. Correct?
Q You have -- are you asking?

A I'm sorry.
Q I'm sorry. You have no evidence -- you have no evidence that the seller, Belinda Fox or Danny Gilbert, had knowledge of any wetlands on Lot 20 prior to your closing, do you?
A I have knowledge of the fact that the plat itself says that no wetlands studies were done.
Q And that would've given you and your husband an inkling that you need to perform a wetland study because you can't rely upon that?
A No. We didn't even have the plat at the time. And the information on this agreement does not refer to the plat that is actually recorded. So they are inconsistent as well. We did not have any information about the recorded plat. What we had was the master plat -- plan that Mr. Gilbert had given us. We had no reason to believe that anything existed that would be contrary to that. We later learned about the no wetlands -- the no wetlands study. We later learned that as with all those documents that started coming into our home from the OCRM or Army Corps of Engineers investigating the wetlands because there had not been those studies that were required by law prior to selling any of those properties in Eagle

Harbor, phase one, phase two and phase three.
Q Okay. Now, paragraph 2A of Exhibit No. 2 states that the lot that you and your husband are purchasing contains 7.861 acres on a plat entitled Eagle Harbor Track A. It has the TMS number. Does it not?
A That does not exist. That plat does not exist.
Q Well, let's take a look here at Defendant Fox's Exhibit No. 1, which is the plat.
A Right.
Q Is that not a plat showing --
A It is a plat.
Q That's a recorded plat, correct?
A It is.
Q Okay. And you might've heard, and I asked your husband, but this plat was recorded what date, ma'am, if you could look? It's tiny print. I apologize.
A It does show September 2002.
Q Right. September 26, 2002?
A Right.
Q That plat is recorded in Berkeley County, and it contains Eagle Harbor, correct?
A It does say Eagle Harbor.
Q And it's your street which is Saddlehorn?

A Right.
Q And it also shows Lot 20 on there, correct?
A It does.
Q And it shows Lot 20 being the same acreage of 7.861 acres as referenced in your contract?
A It does.
Q Now --
A But the TMS is wrong.
Q Right. Now, the TMS, do you --
A The Parent Track A subdivision TMS is incorrect.
Q Now, when you and your husband hired or agreed by contract to have Jeff Spell do the closing, correct?
A He's on there as the closing attorney. We did not actually hire him.
Q Okay. Well, paragraph 6 says Jeff Spell is going to be the closing attorney?
A It does because it was preprinted on the contract.
Q Okay. But you could've marked it out or added to it, correct?
A Well, certainly. There's a lot of things on here that could've been marked out.
Q Sure.
A Just like the seller could've marked out this part down here about the wetlands studies or the soil

test being done beforehand. There's a lot of things that could've been marked out.

Q Right. Well, back to Mr. Spell, when Mr. Spell performed the closing or his associate at the office -- your husband testified he didn't see Mr. Spell at the closing. He appeared on your behalf. Your husband appeared on your behalf with power of attorney. My question is that when Mr. Spell did the title search, he or his abstractor would've seen that recorded plat that's in your hand. Do you agree?

A Possibly. I would think at this point in time Mr. Spell did not do a title abstract.

Q You think he just rolled the dice?

A I think Mr. Spell just didn't do it or he did not disclose the reality of what he found. One or the other.

Q You think Mr. Spell bears some responsibility for this contract that you and your husband are suing upon?

A Not at this time, I do not.

Q Do you think he ever did at any time?

A Possibly. I can't say for sure.

Q Okay. Now, let's go back to the soil test you mentioned, paragraph 21, ma'am, page 2 of the

contract.
A Right.
Q In the contract you have -- there's 21 paragraphs that are all important. And you and your husband signed this. You testified about that. This contract is wholly contingent upon a drain field site soil test in paragraph 21, correct?
A That's what it says. But it doesn't say and, oh, by the way, the soil test has already been done.
Q Right. And that's very important because it doesn't say a soil test has been done in this contract, does it?
A No. But as I said before, and you know as well as I do, that is required to be disclosed and it was not on this contract.
Q You're not asserting that the South Carolina Residential Property Disclosure Act has anything to do with this case, are you?
A I am asserting that by law a seller is required to disclose to a buyer the conditions that they know that exist with the property they're about to sell.
Q Now --
A And like my husband said, he asked Mr. Gilbert. Mr. Gilbert said all done.

Q Doesn't it make sense --
A Should've been --
Q Sorry.
A Nonapplicable. It should've been nonapplicable on this contract.
Q Right. So if the soil test has already been done and you and your husband actually heard those statements and relied upon that, wouldn't you and your husband, considering your sophistication, have lined through paragraph 21 and said this doesn't apply because, Mr. Gilbert, you already told me the soil test has been done?
A No. Because there are several things over here that could've been lined through.
Q Sure.
A And they weren't.
Q Okay.
A They weren't by us and they weren't by him and they weren't by Mrs. Fox before the closing took place.
Q So Mrs. Price, importantly, I understand you and your husband claimed that you relied upon Mr. Gilbert in the soil test representations. But the contract still would allow you and your husband to demand Mr. Gilbert prior to closing to

present you with the soil test or a DHEC permit or a septic approval. Do you agree?

A No, I don't. Because like I said, we had absolutely no real reason to suspect anything was wrong. The closing took place. Mrs. Fox did not call us and say, by the way, we have some errors in this contract. She did not let us know anything like that. Mr. Gilbert did not either. And even though he said, oh, this has already been done, we didn't line it out. It didn't become an issue to us. He represented that. And, yes, we could've done that. He could've done that. It didn't happen.

Q Right. If Mr. Gilbert did in fact represent that to you, would it not be prudent for you and your husband between the time of contract, September 13th, and the time of closing, November 26th, demand Mr. Gilbert, as you did after the closing, show me a copy of the DHEC septic permit? Show me a copy of the soil test?

A No. Even when we asked him for the DHEC septic permit and he kept evading giving us that, we didn't even really understand all that was going on at that time. That came because of the draw. The draw procedures required that that septic

permit be presented. He did not present it.
Q That's after this transaction. So my question --
A That's true.
Q -- then to you is this: If you and your husband carefully looked at paragraph 21 and held Danny and/or Belinda's feet to the fire and say, "Danny, you told me there was a septic approval or a soil test permit -- a septic permit or a soil test done, and we need that. Give us a copy of it or we're not going to close." If that happened and Danny did not produce it to you, you and your husband would not have closed on this lot, correct?
A This is all very hypothetical.
Q I'm asking you.
A It didn't happen. We had no reason to believe that Mr. Gilbert was not telling us the truth.
Q It didn't happen because you and your husband didn't perform any studies or research as the contract required?
A It did not require that above what the seller was required to tell us that already happened. And that's a big factor here. I don't know why you want to avoid that. We had no more responsibility with the soil testing than the seller and/or

Mr. Gilbert had in disclosing to us what had happened already.

Q Yes, ma'am. Let's go to paragraph 11 of the contract. And before I ask you this question, you and your husband carefully read the contract before you signed it, correct?

A We read it. I'm not sure I define that as carefully. We did read it.

Q No dispute that page 2, Mrs. Price, has your signature on it and your husband's signature on the signature blocks, correct?

A It does.

Q Okay. Now, let's go back to paragraph 11 on page 1. Paragraph 11 essentially says that the entire agreement and all promises between the buyer and seller are contained in this two-page document. Do you see that?

A I see that written in there, yes.

Q Okay. That's really important, isn't it?

A Well, it's important in the fact that the seller and/or Mr. Gilbert would've told you the truth even before these words or you signed on to these words.

Q Right.

A Yes. It's all important.

Q Okay. I just wanted to make sure that I understood that you and your husband understood how important that paragraph 11 is. Now, additionally, ma'am, only a subsequent written instrument signed by both parties can change it. That is stated in paragraph 11 as well, correct?
A I see that in there.
Q And this last sentence, "Buyer and seller acknowledge that they have not received or relied upon any statements which are not expressly stipulated herein." You agree that paragraph 11 says that?
A I agree that is says that.
Q And you agree --
A But I keep going back to the same thing. The are words in this contract that shouldn't even be here because of what the seller and Mr. Gilbert already knew before this was even done. Certainly, we see that written in there just like we've already established the fact that several things should've been lined through, changed on the spot, but they weren't. It was realistic to even use this 1 October date for inspection. It says you have to have it done by the 1st of October. That's only two weeks after we actually signed this.

That would've been impossible to actually get done. So there's several things in this contract that are not applicable, shouldn't have been there, should have been lined out by the seller even before we were asked to sign it. Did we know all that really at the time? No. Because if we really had been very closely looking at it, we would've said, well, you know, this inspection thing is pretty important; 1 October, that's not reasonable. But we didn't do that. We're just like the average couple walking around looking at property and trying to buy and build a house in a new location we've never been in before. We trusted Mr. Gilbert. We trusted when we saw Mrs. Fox's name on here that she would be at the closing. That if anything in this contract was wrong or not disclosed, that she would have made that known to us at least before the closing took place.

Q Paragraph 18 that talks about default, you agree that you and your husband, if you really did rely upon statements that Danny made that were outside of this contract and you thought that those representations, for example, the soil test, were false, between the time of contract and closing,

you could've told Danny and/or Belinda, "Hey, Danny, you are in default. You have not provided us with this soil test that we relied upon. You haven't provided us with any other approvals. You haven't provided us with the covenants. And we're holding you in default," as you did in Danny's builder contract. You agree you could've done that?

A We could have if we had thought that was a problem, but we didn't think it was a problem. If you look at that, it says buyer or seller, failure to perform any covenant. Well, if you go back to item 8 under special stipulations, without a doubt, the seller was required to have put CCRs on the property before selling it as CCR property. That's even listed twice in the special stipulations of this contract.

Q Right.

A And the seller did not do this. So right there there's a default of this agreement before you even get out -- out of the cage.

Q But you and your husband didn't exercise the alleged right of default you just testified about. And, yet, still chose to proceed forward with closing on Lot 20, correct?

A We had no reason to believe that there was anything wrong. We would not have proceeded with closing had we thought that. We did not think that. Just like I said and have said, numerous things in this contract, after the fact, you can look at it and see there's many things wrong.
Q Sure.
A But nobody made an issue of it then. We didn't see that before the closing. And here again, it still comes back to the biggest responsibility goes to the seller selling you the property, especially with this covenant and stipulation that CCRs are on the property. That's a very significant part of this.
Q Right. And I'm glad you mentioned that because that's the next area I want to turn to.
A Okay.
Q You just testified and had you and your attorney introduce covenants and restrictions from 2004, correct?
A He did show me that, yes.
Q Those covenants from 2004 were after your closing on Lot 20, correct?
A They were.
Q Okay. So those covenants don't apply unless you

and your husband, then owner of Lot 20, agreed for those to apply, correct?

A I agree.

Q Okay. Now, Defendants' Exhibit No. 2 are recorded covenants that were recorded in Berkeley County, ma'am. And I'll hand those to you. And what is the date of recording on those documents?

A February 2003 which was before we bought the land.

Q Right. And as I understand your testimony is that you believe that because the covenants that are being held in your hand right now, although being recorded prior to purchasing your Lot 20, because Belinda Fox's name is not on those covenants that you don't believe they are attached to Lot 20. Is that in essence your testimony?

A We did not think that initially when we first got this. We did not see that nor did we understand that. Later on, that came to our attention when we had a new title abstract done after we hired an attorney. That title abstract confirmed that these CCRs are not in our chain of title because --

Q Do you have an attorney who is testifying in this case to that point? That those covenants do not attach and did not attach to Lot 20 at the time

you closed?
A Do I have an attorney showing up to say that?
Q Yes.
A Of course not.
Q Right. You know why? Do you have an attorney that provided an opinion of that?
A We did, yes.
Q Okay. Well, did that attorney review with you the fact that the declarant and others can add their property to be subject to covenants of Eagle Harbor?
A And others being who?
Q I'm just asking if the attorney advised you of that.
A The attorney advised us of a new title abstract. The new title abstract was done in 2005. That title abstract said these are not in your chain of title.
Q Okay. Well --

MR. FERRARA: I would respectfully request, Your Honor, that that last bit of testimony be stricken from the record as hearsay.

THE COURT: No. You ask her.

MR. FERRARA: Okay.

Q All right, ma'am. If you could turn to 2.2 of the covenants.

A 2.2.

THE COURT: Which exhibit are we looking at?

MR. FERRARA: Exhibit No. 2, I believe, Your Honor.

THE COURT: Before you go forward, let me make sure I got that in front of me.

A 2.2.

Q Yes, ma'am.

THE COURT: Hang on a second. Let me make sure I got them.

A You want me to read that?

Q One second.

MR. FERRARA: Your Honor, I do have an extra copy.

THE COURT: If you do, let me have those so I can quit digging around for them.

MR. FERRARA: Your Honor, may I approach?

THE COURT: Yes, please.

Yes, ma'am. What were you looking at?

Q Yes, ma'am. If you read 2.2 1 of the covenants.
A 2.2 1?
Q 2.2 1 or 2.2.1.
A Okay. Additions by the declarant?
Q Yes, ma'am.
A "During the declarant control period which runs through" what? What period was that?
Q I'm not sure.
A Okay. I see that.
Q I'm going to ask Mr. Gilbert. Go ahead.
A "The declarant should have the right without further consent of the association or any owner to bring within the plan an operation of this declaration or to consent thereto the whole or any portion of any property" -- you want me to go on?
Q You can stop there. And I'll ask you do you understand that section to be that any owner can consent to the covenants?
A Owner? Owner being one of the homeowner association owners?
Q Any of the property owners?
A I guess I don't really understand that sentence.

It says the association or any owner. Which the association implies it's the homeowner's association, right? I'm a member of the homeowner's association.

Q No. I mean --

A An owner within the association.

Q Right. Any owner, any lot owner in Eagle Harbor can agree to be subject to these covenants?

A Oh, yeah. At a later -- yeah, sure they can.

Q Sure. Sure.

A They can sign on and accept them. I agree with that.

Q Right. And so did you or -- did you or any of your attorneys ever ask Belinda Fox if she agreed to have her lots subject to these covenants that were recorded at the time you sold -- you purchased your property?

A We never saw any document like that.

Q Right. Right. And if you look at page 51 of the exhibit, it specifies the lots subject to the architectural review and the covenants. And Lot 20 is on there, is it not?

A Yeah. Lot 20 is listed here.

Q Sure.

A So is lot 21, which is a drain field.

Q Right. We're not in this lawsuit, ma'am, respectfully, about lot 21. We're just talking about Lot 20.
A Okay.
Q But I agree with you. Lot 21 is subject to the covenants as well.
A Well, no. I'm not saying that I agree that they're subject to the covenants. Because you would have to accept these after. These were recorded. But at the time they were recorded they specifically say that Eagle Harbor, Incorporated, owned that property which is not the case. Once that property was sold to us, I agree, we could accept these just as if we could accept the October 2004. But that's not what we did. We haven't done that yet.
Q In this lawsuit, aren't you and your husband asserting that Belinda Fox was an agent of Eagle Harbor and the declarant?
A An agent of Eagle Harbor?
Q Yes.
A No. I don't --
Q You're not?
A We're not asserting the fact that she was working for Eagle Harbor.

Q So --
A Eagle Harbor, Incorporated, is a boys home. It's a nonprofit, correct?
Q You've asserted in this lawsuit, ma'am, that Eagle Harbor was the developer of this neighborhood. Am I missing something?
A We have found out that Eagle Harbor, Incorporated, although he suggested he was the developer, he was not actually the owner of the property, which he made known to the County after several of these properties were already sold.
Q Ma'am, you're assuming that Eagle Harbor is not the developer despite recorded documents and admitted documents in this case that established that Danny Gilbert and Eagle Harbor were the developer?
A He did apply as the developer, yes. We found that out through the Freedom of Information request.
Q Sure.
A But he also told the County later that he wasn't the developer, that he didn't own the property.
Q Okay.
A It was sort of like he misled the County right from the beginning.

THE WITNESS: Sir, may I -- I need to go to the bathroom.

MR. FERRARA: Oh, sure.

THE COURT: Certainly. We'll take a break. You can step down. We'll be in recess.

THE WITNESS: Thank you.

(A brief recess was taken from 10:16 a.m. until 10:21 a.m.)

THE COURT: All right. Come on back up here.

(Witness, Mrs. Price, resumes the stand at 10:21 a.m.)

THE WITNESS: Thank you, sir. Can I get back my notes or not?

THE COURT: Mr. Ferrara, do you have her notes?

MR. FERRARA: One second, Your Honor, I may. Yes. Yes, I do --

THE COURT: -- exhibits.

MR. FERRARA: -- yes. Yes, sir.

THE COURT: All right. You are still under oath. Mr. Ferrara?

MR. FERRARA: Thank you, Your Honor. May it please the Court?

BY MR. FERRARA (Continuing):

Q Mrs. Price, I wanted to turn to your claim for damages now which is exhibit -- Plaintiffs' Exhibit No. 23. And I'll hand that to you, ma'am, for reference. You agree that the total legal expense that you and your husband are claiming against all defendants' legal expenses, $31,524.52?

A I don't see that total on here. That sounds like a fairly close number, but I don't see that number on here.

Q Oh, I apologize. I must have -- Plaintiffs' Exhibit No. 24. I'll hand that to you.

A I don't see that number on here either. We have delay and other all in one so the legal is included in that.

Q Okay. Well, the last page, ma'am, of 24.

A Right.

Q You've got $31,524.52 of legal.

A Okay. I didn't put that number in there.

Q Who did?

A I'm not sure. That's probably the calculation

pulling the legal out from the total.
Q Okay.
A That's what I would guess.
Q Okay. So should we not -- so are you claiming $31,524.52 of legal or are you not?
A Well, that would be -- I'm pretty sure that's about the total that's listed in that category.
Q Okay. Let's go to Exhibit No. 23, which you have in your lap. And you have -- you know what? I apologize. I don't think 23 will help. Let's go back to 24 and let's just go to page -- the second to the last page. The green section, ma'am. Yes, ma'am. I think you broke out or maybe sorted the legal expenses starting on line 226. Do you see that?
A That item number is there, yes.
Q Okay. So let's go through these legal expenses. $150 on the 9/27 of '04 you paid Peterson and Scott. Is that for the filing fee in this case?
A It sounds like it. I think so, yeah.
Q Okay. All right. Then we've got $111.15 of copying costs from 2011. Was that something you paid to a law firm or something that you paid on your own while you were representing yourself pro se?

A We were not pro se in '11. But we did pay for copying expenses in relationship to this case.
Q Okay. You submitted this document to substantiate all of your claims. And I'm just asking you, are you claiming this $111.15 legal copying costs?
A Yes.
Q Okay. That's a large amount of copies. Is that whenever you copy all of the documents in the Investors Title case and sent that in?
A No. This was not Investors Title.
Q Okay. So none of these legal expenses are Investors Title legal expenses?
A Well, this subscription as you brought up earlier, there are some time frame of that of which we were in that suit.
Q And you think that my client should have to reimburse you and your husband for that legal expense for the Investors Title, for Westlaw?
A We didn't have that exclusively for Investors Title. That became and was part but certainly not exclusive.
Q So you don't know how much of the 1572.90 was for Investors and how much was for this action?
A No. I can't really say.
Q Okay.

A I can't say.
Q Then you have another -- let's look at the next line below, the line 388, ma'am. And $150 for a deposition transcript in 2008.
A 2008. What number?
Q Line 388.
A Yeah. We had -- we had to get a copy of the transcripts.
Q For the Investors Title's case, correct?
A No. I don't -- No. I don't think so.
Q In this case?
A I think so, yeah. We didn't have any sealed transcripts initially. I believe that was what this was for. I could be mistaken.
Q Okay. Now, and we talked about this yesterday. But isn't it true that you and your husband hired Chellis and Frampton's office, specifically Michael Moore, to represent you in 2015 or so on this particular case?
A 2000 when?
Q '15?
A No.
Q No?
A That's not correct.
Q All right. Okay. Well, did you and your husband

hire Chellis and Frampton's office to represent you in this case? This 2004 case that we're here on today.

A Yes.

Q Okay. And do you recall -- you got a legal expense here for Chellis and Frampton which is on line 153.

A 153.

Q Yeah.

A Yes. That was the rate -- that was the retainer.

Q And what was the date of that?

A June 2005.

Q 2005. Okay. And you recall filing in this case an amended complaint whereby you've brought in Belinda Fox, the Winns, Mr. Gilbert, and Investors Title?

A I remember an amended complaint. Is this by Mr. Moore?

Q Yes.

A I can't tell you exactly all the particulars about that. But I do remember he did file one that he did not serve.

Q Okay. And then there was -- but the attorney's fee for Mr. Moore, for the Investors Title claim, that's included in your legal expenses --

A No, it is not.
Q It's not?
A No.
Q You paid Chellis and Frampton more than --
A No, no. That's a retainer. There was no title -- Investors Title incident at the time that we retained them. We did discuss the possibility of Investors Title, but they never filed a complaint against Investors Title.
Q They never --
A They never did.
Q Ma'am, I'll mark this document for identification. I think it's going to be Defendant Fox's Exhibit No. 3. I'll hand you Defendants' Exhibit No. 3 which is marked for ID.

MR. FERRARA: Your Honor, I do have a copy for the Court if you would like?

THE COURT: Yes, please.

Q Ma'am, that's a copy of a complaint that the attorneys from Chellis and Frampton prepared for you, correct?
A It appears to be. It's not signed on the back.
Q Okay. And you testified that your attorney filed

a complaint but did not serve it, I believe?
A Well, he didn't serve it. I'm not sure about the filing of it.
Q Okay. Well, it's hard to see on the copy, but this amended complaint from 2000 is in this case that you're suing on now, correct? 2004-CP-08-1855.
A It would be in the history.
Q Okay. And you're sure that the legal expenses that you have on exhibit -- Plaintiffs' Exhibit No. 23, or Exhibit No. 24 rather, for legal to Chellis and Frampton are not for this complaint --
A They are not.
Q -- that was with Investors Title?
A They are not.
Q How do you know?
A Well, right after he filed that, Mr. Moore left the firm, and Mr. Parker withdrew it.
Q Okay. Mr. Parker withdrew?
A The attorney, Mr. Parker.
Q Okay. So the $8,000 attorney's fee, what did that go for that you're claiming on line 153?
A This case, 1855. And at that time, 1150, which is the construction case, was a separate case. So that was for both of those.

Q The $1150, which line item is that, ma'am? You mentioned $1150?
A No. The case 1150 --
Q Oh, okay.
A -- and the case 1855. It was a combination of those two cases that that retainer was for. And then Mr. Moore --
Q The 1150 file case number meaning -- what was that lawsuit again? I apologize.
A The construction case.
Q Construction?
A The Knight's mechanics lien.
Q Okay.
A That was the case that brought us into lawsuits. The Knight's Rédi-Mix people filed against us with Mr. Gilbert.
Q Now, does Mr. Parker also work for Chellis and Frampton?
A He did, yes.
Q Okay. And do you recall giving Mr. Parker the authority to withdraw an action against amended complaint, withdraw this amended complaint that I just handed to you?
A I'm sure we must have. Can they do that without your permission? We didn't really know what we

were doing back then. But he gave us a piece of paper and we signed it.

Q And so, just to be clear, Defendant Fox's Exhibit No. 3, this amended complaint, you and your husband met with your counsel and agreed to the filing of this second amended complaint in this case, correct?

A Well, I guess we met with him. But that was Mr. Moore that came up with that.

Q Okay.

MR. JACKSON: Your Honor, just for clarification, and I guess it's kind of a strange objection. I'm not sure that that was ever filed. I think it was a motion to amend and I think we withdrew -- and I know he withdrew it. I don't know whether it was actually filed or not. He filed a motion to amend a second amended complaint. Later, like two weeks later, he withdrew it. I don't know if he actually filed it or not. That's the only point of clarification I wanted to make. And if it's filed -- that's fine. I'm just not sure.

MR. FERRARA: But this was filed and then there's a stipulation.

THE WITNESS: Well, as I --

MR. JACKSON: That's a stamp. It doesn't have a clocked copy or recording information on the exhibit -- it just certifies it as a true copy which is probably attached to the motion to amend.

MR. FERRARA: At this time, Your Honor, I would move to admit Defendant Fox's Exhibit No. 3 into evidence which is entitled Second Amended Complaint in this action 2004-CP-08-1855.

MR. JACKSON: No objection, Your Honor.

THE COURT: All right. Without objection.

(Whereupon, Defendant Fox's Exhibit No. 3, Second Amended Complaint, was received into evidence.)

MR. JACKSON: No objection.

MR. FERRARA: Defendant Fox's Exhibit No.4, Your Honor, has been marked. And I understand there's no objection to its admissibility. I was going to pass a copy up to the Court.

(Whereupon, Defendant Fox's Exhibit No. 4, Consent Order, was received into evidence.)

BY MR. FERRARA (Continuing):

Q Ma'am, just to be clear, I've handed you Defendant Fox's Exhibit No. 4, I believe. And that's a consent order that your attorney agreed to withdraw the second amended complaint that we were just talking about. Do you recall?

A Yes, I recall. Yes, it says without prejudice.

Q Sure. Now, are any of the fees that you're claiming in Plaintiffs' Exhibit No. 24 for legal connected with the second amended complaint or the withdrawal of that claim?

A Not to my knowledge. Because this happened well after we retained them for the cases that were already pending.

Q Do you know in the Investors Title claim how much money you and your husband paid for attorney's fees for that action?

A No, I don't. We did. We had a lot of cost involved with that action.

Q Right.

A But we -- but, no. I don't have that spread out. My intention was not to put any of that in here.

Q Okay. And so the -- but it was Chellis and Frampton that assisted you initially with that

action, correct?
A With that amended complaint, yes, they did.
Q And with -- was Joseph Ginn also working at Chellis and Frampton?
A Nope. He was not.
Q No. Okay. And I apologize. What attorney helped you with the Investors Title claim? What law firm?
A He filed the complaint, Mr. Ginn.
Q Okay.
A He did file it.
Q And Mr. Ginn filed a complaint in the Investors Title claim. And does he work for --
A He also quit after that.
Q Did he work at Chellis and Frampton?
A No, no.
Q Okay. I apologize. Where did he work?
A He's independent, I guess.
Q So line 377 on Plaintiffs' Exhibit No. 24, $5,000 retainer to Mr. Ginn for attorney's fee rather. Would that have been for the Investors Title?
A No. That was for the other two cases, 1150 and 1855. He filed that -- that complaint against Investors but then he quit.
Q And that's when you and your husband handled that

part of it pro se?
A We did.
Q Okay.
A Until we found representation.
Q When he quit, did you and your husband get any of this $5,000 retainer --
A We did not.
Q Do you know why?
A He refused to give it to us. In the contract, it said no refund.
Q So it was a flat fee?
A (Nonverbal response.)
Q Okay. Moving on, O'Neil and Phepps, $500, line 386. What was that for?
A That's when we were pro se. I don't recall.
Q Okay.
A There might be something written on the check.
Q Okay. The next line below, there's another filing fee for Peterson and Scott, $150 in '04. Is that a duplicate of --
A Could be. Could be --
Q -- 226 up above? Because they both say 226?
A Okay. Are we looking in the green, just solid green?
Q Yes, ma'am.

A 226?
Q Yes, ma'am.
A Okay. I see it once. Oh, yeah. Yeah. That does look -- well, wait a minute. Yes. That is a duplicate. You're right. It's the same date, isn't it? Same number?
Q Right.
A Right. That would be an error.
Q Okay. Now, I understand Mr. Jackson's representing you in this action. But Mr. Jackson also represented you in the Investors Title action, correct?
A Yes.
Q Okay. Are any of his fees for the Investors Title action in this green section here on Plaintiffs' 24 --
A No. They are not.
Q No. Okay. Let's look at line 389. You have estimated legal to Toby Ward pending state -- maybe is that -- does that mean pending a statement?
A I don't see pending a statement on here. Is that written on here? Oh, yes, at the very end. Yeah, we don't have a complete list of all that yet. It includes costs that had been involved with this

case.
Q Oh, that's just the costs?
A That's just the costs, not the retainer.
Q Not the attorney's fee?
A No.
Q Okay. But you don't know what the specifics are for the costs?
A We don't have the final because we paid some things through them and then we paid some things separately. But really what we're looking for is the chronological entire from start to finish with this case.
Q On the Investors --
A That's an estimated amount.
Q Okay. In the Investors Title case, the 2007 case, you and your husband filed an appeal and won the appeal and were granted 2500 and some-odd dollars of cost of reimbursement. Do you recall that?
A Yeah. I remember that, but we didn't get it.
Q You didn't get those costs?
A We did not.
Q Are some of those costs that you were claiming, the $2500 of in the Investors Title, on this sheet?
A No, they're not.

Q You sure?
A Yes. They're all separate. We gave -- we hired here Derrick on a separate retainer with separate costs for that lawsuit.
Q Okay.
A But we did not get those reimbursed, no. That was something that I don't exactly know why that happened, but we did not get them.
Q Okay. Just to be clear, Investors Title didn't pay the settlement in the case, though, correct?

MR. JACKSON: Objection. Talking about the terms of the settlement for the same reason we went over before, Your Honor.
THE COURT: I'll sustain that objection.
MR. FERRARA: Okay. Moving on.

Q Ma'am, line 378 in the green section as well, legal training books. Do you see that?
A Right. That's when I started going to school.
Q Did you get any books on contracts?
A They're all part of the school books --
Q I mean any legal --
A -- subjects.
Q Any legal books on contracts?

A They were all training books. I don't know what you would mean by legal books. I was taking classes that were related to paralegal certification.
Q Okay. And you're claiming that the classes costs need to be reimbursed by my clients in this case?
A Of those books?
Q I think your testimony was that it was books and classes. Yes, ma'am?
A Well, it's just the books. The classes are not on there at all.
Q You're gonna pay for classes out of your pocket?
A I already did.
Q But you want my clients to pay for the books?
A Well, it's all related to this case that whole thing happened. I only started the training because of this case.
Q Okay. Why not include the classes in this spreadsheet?
A Because the VA paid for them.
Q Oh, okay. So if somebody else pays the amount then you're not seeking reimbursement of it?
A Why would I seek reimbursement? I didn't pay for it.
Q Okay.

A The VA paid for it.
Q All right. You've got another large charge here in 2016 for ProLegal Copy. What was that for?
A I think subpoenaed documents.
Q Now, during this time in this case, Mr. Jackson is representing you, correct?
A Right.
Q And he has -- and his firm have costs that they're keeping track of for you and your husband in this action, right?
A Most of them, yes. But some of them we have paid independently.
Q Well, is this $270 charge something Mr. Jackson forwarded to you and you paid? Or is this something that you and your husband incurred on your own?
A We paid it. I'm not sure if he got the invoice and forwarded it to us or if we got the invoice directly. I couldn't tell you for sure.
Q Well then that leads me to my next question. Why wouldn't that $270 be included in line 389 estimated legal costs of $7,000 which were --
A Because we did pay it directly. It didn't come -- it wasn't one of those things that would be accounted for in Mr. Derrick's statement.

Q In 2007 you have a line item for Simmons and Keaveny for legal, line 380.
A I'm sorry?
Q Yes, ma'am. I'm sorry. Line 380 in 2007, do you see that?
A Right.
Q What was that for?
A He was reviewing the cases to decide whether or not he wanted to take them.
Q Which cases?
A 1150 and 1855.
Q And in 2007, at the time, you hadn't filed the Investors Titles claim, correct?
A We had not.
Q Okay. Was that part of his review as well?
A It was not.
Q Was not. Okay. We talked about the Chellis and Frampton, 8,000. Did you get any refunds from any of these attorneys off of these amounts?
A No.
Q No. Okay. All these mechanics lien charges and certified mail, you're not claiming that Belinda Fox is responsible to you and your husband for those, are you?
A This is a group -- the way this is done is group,

delay or other costs. The delay items are the storage, the rent, what else? Interest. The other items are what we would consider more related in this case. Like a mechanics lien is related to Mr. Gilbert's responsibility, contractor.

Q Okay. So, just to be clear, I'm representing the Foxes. So I'm asking you, and you can just help me understand, the mechanics lien charges and the storage charges and the interest charges, you and your husband aren't claiming that Belinda Fox owes your reimbursement for those, correct?

A Well, I don't know about -- I mean, the mechanics lien, I agree. But the storage and the interest, I can't agree on that because it's all related to us not getting our septic, subdivision regulations not being met which goes back to the buy of the property. So I can't say for sure who would be ultimately responsible. But when you go back to the very beginning of the closing, both of these things were happening. And in essence, they were kind of happening as a -- they were happening as a package --

Q Yes, ma'am. Let's flip to the last page of that exhibit, if you don't mind, line 310.

A Okay.
Q $4,753.59 for a refinance with USAA?
A Right. That's what it costs us for closing and the interest, the extra interest, to get the refinance.
Q That's your total refinance closing costs?
A Yes. I'm pretty sure.
Q Do you have the settlement statement from that?
A I do.
Q Okay. And you contend and your husband contends my client is responsible for this full amount of money?
A Well, here again, I'm not exactly sure how to divvy these things up because it's all related to each other.
Q If you get the money you'll be happy, but you don't really care who pays it?
A Yeah, pretty much. I mean . . .
Q Okay. But I just want to be clear because my clients contend that they're not responsible for that amount of money and I'm asking you. Are you claiming this 4,753 to be a charge that Belinda Fox and Gerry Fox need to pay you and your husband?
A Not necessarily just them. I mean, like you said,

split it up. I mean, I don't -- we're just trying to give a picture of the cost, the delay and/or the costs, that we should not really have ever had to endure.

Q I mean, really, if you get a judgment for all of these damages, you and your husband are going to make out like bandits on this transaction. Do you agree?

A I do not. This is 15 years later.

Q Sure.

A You do not -- are you suggesting that doesn't matter?

Q No. I'm just saying that you and your husband are claiming, you testified moments ago, that you're claiming for $368,000 of costs and fees in this action.

A No. We're not claiming 368,000. 368,000 was the total cost of all of this.

Q Okay. I apologize.

A It includes what we put into it out of our pocket, which this doesn't even give you the entire list of that. It includes this delay and other, and it includes the stipulated sum, and it includes the other amount above that.

Q Using round numbers, you're claiming 58,000 --

$59,000 of delay damages against my client and Mr. Gilbert. And then another $98,000 of contract damages for the house, delay of the house.

A In round numbers, yeah, that's pretty close. Now, obviously, that $150 that we just got through pointing out is a duplication, that would come out. I mean, if there really is this issue of commingling between like the Westlaw subscription, I mean, certainly we can take something out there.

Q Sure.

A I mean, those are not -- this is just the best I can come up with for -- and this is really not all of it. You must believe that there's things not even addressed here. So this is not really, in the big picture of life over 15 years, a true and accurate running tally of all these costs.

Q These damages that you're presenting in Plaintiffs' Exhibit No. 24, then you testified yesterday this was a ballpark. Is that correct?

A That is the best way I can describe it because it does not include everything that was involved. We just have what we have, the best that we kept up with, and we could explain. There are receipts that we couldn't find, the receipt to match an invoice. Those things had to be deleted. I mean,

you know, there's way to really tell you exactly how much was involved.

Q Moving on, ma'am, to the last page here at the bottom of Plaintiffs' Exhibit No. 24. You've got it nicely summarizes that you're seeking $82,530 for the land value loss?

A That's based on what the appraiser -- the appraiser that was in here yesterday, based on his evaluation.

Q And I understand you relied upon him and you wrote this sheet out. Now, you state here in the notes, ma'am, that that dollar amount is seeking to compensate you and your husband for loss of property and no legal EH access, no DOT permit. Is that correct?

A The appraisal does not incorporate the fact that the entrance into Eagle Harbor had not been permitted.

Q Okay.

A And not being permitted, it is a no legal access. It's not legal access.

Q So every day that you and your husband drive in and out of the neighborhood you think you're driving into the neighborhood illegally?

A Of course not. The physical access is there. And

everybody is driving in and out of there. That's the entrance in and out of Eagle Harbor. But because it hasn't been permitted by law, that's where the legal access comes into play. If there was an accident that occurred at that intersection, there would be a problem.

Q Okay. In this case the judge started at the beginning of yesterday, we bifurcated -- and I asked your husband this and I'm going to ask you just to be clear. The damages that you testified about, the damages that are on Plaintiffs' Exhibit No. 24, these are the total damages that you and your husband are seeking in this action, correct?

A Yes. In this action, yes.

Q Now, let's go to the appraiser. The $82,530, your attorneys at Chellis and Frampton hired Mr. Carter, correct?

A He did.

Q Okay. The sum of his expense included in this, these damages? Mr. Carter's expense.

A Yes. It came out of that retainer that we gave Chellis and Frampton.

Q Okay. And do you know how much Mr. Carter charged?

A I cannot say for sure because it was paid for with

that $8,000.

Q And you used that appraisal that Mr. Carter testified about in the 2007 Investors Title case, did you not?

A We had that, yes. We had paid for that so we did use that.

Q You presented that as a measure of your damages in that case in order to settle that case, did you not?

A We did give you that as a source document, yes.

Q What else did you use as a source document in order to resolve the 2007 case that you also used in this case?

A For damages?

Q Yes, ma'am.

A I don't recall anything else really. I mean there must have been -- there had to be other costs. But as far as a source document, the only thing I can tell you is that we had this appraisal and we did use that.

Q And then the copies of covenants. You asserted in the 2007 action that the covenants not being properly recorded, that devalued your property, correct?

A Well, that is incorporated in this 82,000.

Because the appraiser, Mr. Carter, had that considered in this hypothetical.

Q Sure. But what I'm saying is in the 2007 case you used the covenants and the timing of the recording of the covenants and being attached to your property as part of your damage in that case as well, correct?

A It's right here in the 82,000. What Mr. Carter came up with if CCRs are not in place, if this is not the way this is, if it -- so it's incorporated here.

Q Now --

A It's just simply -- it was just simply a copy --

MR. JACKSON: Your Honor, I'm sorry. I didn't mean to interrupt. I was just wanting to point out to the Court it is 11 o'clock. You said you had to do -- and I hear some rumblings back at the door. I didn't know --

THE COURT: -- is there anybody out there for the sale?

BAILIFF: Yes.

THE COURT: There is? Okay. All right. Well, let's take a short recess.

(Off-record conversation unrelated to proceedings.)

THE COURT: All right. So we'll take a short recess. Shouldn't be more than 15 or 20 minutes. Y'all are free to stay in here. You can step down, if you wish, ma'am. Just a reminder that you can't talk to these folks to the side other than regular pleasantries. And we'll come back in and get started. I apologize for the delay.

(A brief recess was taken from 11:02 a.m. until 11:16 a.m.)

THE COURT: All right. Sorry for the interruptions, gentlemen. All right. Back to you, Mrs. Price.

MR. FERRARA: May it please the Court, Your Honor?

BY MR. FERRARA (Continuing):

Q Mrs. Price, do you still have Plaintiffs Exhibit No. 24 handy on the stand? Let's see. And I'll refer you to page 7.

A Well, they're not numbered.

Q Yes, ma'am. I apologize. You'll have to start at the front and count back.
A Page 7?
Q Yes, ma'am. If you look at line 389 which is about a little past halfway down the page. Do you see that?
A I see that.
Q You're having some concern about?
A That's -- I didn't enter that.
Q You didn't enter that? Who did?
A (Nonverbal response.)
Q I thought you testified earlier that you prepared this.
A Well, there's been some modification to it.
Q Who modified it?
A That I didn't -- I assume it was Derrick's.
Q Okay. And that's fine. But let's look at line 389. Between March of '09 and April of something after -- I guess that's April 2018. There's a charge for $6500 of legal expense for Mr. Ward.
A I have to suggest that that is duplicated or the number that they came up with as opposed to my estimated 7,000.
Q Right.
A So is the estimated 7,000 still in there?

Q Well, you prepared this and provided it to your counsel for admission. And if we flip two pages beyond page 7, so it would be page 8 -- page 9, we look at line item 389 on page 9.
A 389.
Q And now that -- do you see it?
A No.
Q It's around halfway down page 9.
A Right. Right. That's what I put in, estimated 7,000.
Q Okay. You put in that. So you just manually typed in that number?
A That was my estimate at that time based on the information I had. But, apparently, this number that you -- well, it's showing the same line number.
Q So it's a duplication?
A But it's a duplication. That's basically what it is.
Q It's not only a duplication, it's a duplication and there's an additional $500 slipped in somewhere?
A No. There's a less 500.
Q Less 500.
A Because the other was 7,000. This one is 6500.

Q So is it 6500 or 7,000?
A Well, I would have to say it's 6500.
Q Okay.
A Because mine was an estimated number.
Q Well, the 6500 is also estimated too, correct?
A Well, I would have to say no at this point in time.
Q You have a statement that breaks out the $6500?
A I haven't physically got the statement. But it must exist because it took place of the estimated 7,000.
Q Okay. So now we -- so we should take $7,000 off the legal expense number we started out with of the 31,524 then?
A Yeah. Both are included in that 31,000. Yes, you're right.
Q So now you're claiming 35,524 minus 7,000 for legal?
A I'm suggesting to you that, yes, if we have any duplicates, the duplicate needs to come out.
Q But you don't know for sure?
A Well, the total number if it's -- it looks to me like it does have both of them in the total because it does go to over 31. Right?
Q Right.

A So I would assume they are both in that total. But I don't have an actual -- I can't really actually look at this and say because, let's see, if you look at the green -- if you look at the green and the total of 58,000 underneath that, that does not include the 6500. You see what I'm saying?
Q Yes, ma'am.
A It does include the 7,000, but it doesn't have the 6500. Are you following me?
Q Yes, ma'am.
A Okay.
Q Okay. So let's look at Plaintiffs' Exhibit No. 23. And you've got on page 2 and 3 a total on Exhibit No. 23 of delay damages in green, correct?
A Okay. Are you talking about that at the bottom -- I mean, at the bottom of the green?
Q Yes, ma'am.
A Yes. I mean, that is -- I didn't put that in there. But that would be -- that would be that calculation storage, interest, and rent.
Q But above that word storage in the green section on the third page, you've got a total of delay damages you're claiming for seller and contractor are $54,074, correct?

A Well, it's a little confusing. Because the total in the green here is 54, the total in the green here is 58.
Q Exactly. You don't know which one it is, do you?
A I would have to go with the 54 as being --
Q Okay. So now we're --
A Because there's been some adjustment, but exactly where that is is not clear exactly.
Q So now we're going to take the $54,000 on Exhibit No. 23 as your total. And then we're going to take out of that number -- that's the total number. And out of that number, we'll take 7,000 off for the duplicate legal and the 150 off for the duplicate legal?
A The 54,000 does not include the 6500. It does include the 7,000.
Q You testified, ma'am, moving on, that there was $20,000 of expense associated with National City and refinanced. Did I write that down wrong?
A 20,000?
Q Uh-huh. I had down yesterday that you testified that there was about $20,000 of --
A Oh, we had to add in 18,000 to the second contract and the building.
Q The 18,000 that you just testified about, is that

a damage you're claiming against Mr. and Mrs. Fox or is that what you're claiming against Mr. Gilbert and Heritage Classic?

A That's not on here. It's not on this. So it's not -- it's not in here as a damage. We had to add that to the contract which means it comes into that 97,000, the stipulated sum that you take away from the total number for the construction. Are you following me?

Q Yes, ma'am.

A Okay.

Q Just to be clear, that's a damage you're seeking against Mr. Gilbert and Heritage Classic for --

A The construction?

Q Yes, ma'am.

A Yes.

Q Okay. You testified yesterday, ma'am, as well that you and your husband believed you had an interest rate increase associated with the delay. Are you claiming that the interest rate increase on the National City Mortgage -- is that included in Exhibit No. 23 or 24?

A Yes. It's in here.

Q Okay. As part of the 54-, $58,000 number, whatever it is?

A Right. Right.
Q Okay. Now, don't you agree that you and your husband would've had some interest expense even if --
A Certainly. Yes, we would have. Had everything gone as it should've gone, certainly. There would've been some. But it would've been substantially less.
Q Do you know what the difference is in between what the interest would've been if everything would've went smoothly according to your plan as opposed to how it actually occurred?
A I have -- no. I don't know.
Q You don't know. Okay. You testified, ma'am, earlier today about $3,000 for demolition -- demoing a foundation.
A Right.
Q Is that a damage you're claiming against Mr. Gilbert and Heritage Classic Homes?
A Yes.
Q Okay. And isn't it true, though, that you and your husband actually didn't demo the entire foundation?
A We demoed everything except the footings underground.

Q Right. So really you just put the blocks off of what was going to be the porch?
A No. We took all the blocks off and all the concrete was carried out.
Q Okay. And you got all that work done for 3,000?
A It was a deal. Yes.
Q Okay. Are there any damages in the 97- or $98,000 cost differential on the cost to construct your home on Lot 20 that you're claiming? Are any of those damages concerning Mr. and Mrs. Fox from you and your husband's perspective or those damages only being sought by you and your husband against Mr. Gilbert?
A As far as we're concerned, they're all about the construction, about him being a contractor.
Q I'm just trying to be clear. The 97- or $98,000 you testified against, you and your husband are not seeking any of those damages against my clients, correct?
A Yeah. No, we're not doing that.
Q Okay.

MR. FERRARA: Thank you, ma'am. That's all the questions I have.
THE COURT: All right. Yes, sir.

MR. HUBBARD: Thank you, Judge.

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CROSS-EXAMINATION

BY MR. HUBBARD:

Q I'm just gonna pick up with these footers. So the footers for that original thing are still there?

A They're in the ground.

Q Okay.

A We did not pull those out because we -- by the PE's report and by Mr. Kahler, what he thought and what we found when we pulled out the concrete, there was no vapor barrier. There was no wire mesh. All that had to be destroyed, but the footings were still there. We left them there for a while.

Q And then what happened to them?

A And then we built on them.

Q Oh, so you're using those footings?

A Yeah. They're --

Q So you got --

A -- underneath the building that we have.

Q -- the benefit of those footings that were put in?

A Yes, we do.

Q Okay. All right. Thank you.

A Because it would have cost us more to dig them up

and haul them off.
Q Thank you. Let's go back now. Take you back to 2003 and 2004, a little back. When you began construction with Heritage Classic Homes -- and I think -- I apologize. I'm looking for the agreement with -- I'm not sure what number it is, the agreement with Heritage Classic Homes. I believe that's Plaintiffs' 5. Who was that agreement between?
A It's between Danny Gilbert/Heritage Classic Homes as the contractor and us, Ronald and Diana Price.
Q Okay. When this came to a head, I guess, anywhere in January when you terminated -- your husband testified that y'all terminated employment with Heritage Classic Homes. Is that correct?
A We did an official termination letter, but he actually said he was done.
Q Okay. And sometime subsequent to that is when you hired Mr. Kahler?
A Mr. Kahler?
Q Right.
A Right.
Q Officially. Hired him on the 9th of February, I think?
A Right.

Q Did you meet with him before that?
A Sure.
Q Can you tell us when you met with him?
A Exactly when he showed up?
Q Yeah. Sure.
A Had to be somewhere between June 30 -- I mean January 30 and 9th of February. He was working with somebody else I think in Heritage Classic -- I mean, there in Eagle Harbor.
Q So you never met with him before you terminated Heritage Classic Homes?
A I don't ever remember ever meeting him, no.
Q Was it Mike Cable (ph) who perhaps introduced y'all? Is that a name you recall?
A Right. I think he might have been working for Mike Cable.
Q But it's your testimony here today that you two never met with Mr. Kahler before you terminated --
A No. I can't tell you that. I might have met him. I mean, we were all meeting each other on occasion out there in the -- because they were building their house. We were building our house.
Q I'm asking about specifically about Mr. Kahler. Did you have any conversations with Mr. Kahler?
A I personally do not recall a conversation with

him.
Q Before you terminated Mr. --
A I do not recall a conversation with Mr. Kahler.
Q Okay.
A Now, my husband may have. But I do not recall one.
Q All right. I think I asked your husband this yesterday. Your lawsuit was filed August 23, 2004. Does that sound right to you?
A It does.
Q Do you recall that anytime before that that you officially sent to Heritage Classic Homes and/or Mr. Gilbert or anyone associated with Heritage Classic Homes any kind of letter, either certified or personal service of the letter, that stated that there was -- that you had found a construction defect with work, explained what that was, and provided a certain amount of time for him to come and cure whatever defects you found?
A Defective work?
Q Construction work. You got a report that was testified to yesterday that there was some problems there?
A Right. But that happened in April.
Q I agree. Did you ever give Heritage Classic

Homes, before you filed suit, an opportunity to come in and cure those defects?

A We didn't -- we didn't have those defects at the time that he was terminated. What happened was on the 22nd of January, we gave him a negligence letter that came primarily because of the permitting from Bonnie Watson, her letter and all those attachments. He didn't get a septic. His building permit was invalidated. And at that time is when we gave him a negligent -- we did not know about the defects in the construction at that point. We only knew about his extensive increases in rates for charging items in the construction. He was coming up more and more with cost. He didn't get the septic permit and he deceived us about that. But we gave him the opportunity because we thought we were gonna get one. We thought we were gonna have a septic permit within a few days.

We gave him the opportunity in that letter to get things right so we could get on track. We didn't know ahead any defects in the construction at that point. We only knew that he wasn't being honest with us about the septic permit, and he wasn't doing the things required to get a draw.

He was demanding money. And so we gave him the opportunity, yes. Fix this and we'll get on track. I even said in the letter, this is not personal, we just need to be sure that, you know, you're doing for us the way you're obligated to do for us. You know, without using those words in particular but in summary. So, no, we didn't know about the defects until the PE came out. We suspected, of course, because I think a column had already fallen over. So that's a big neon flashing light. And Mr. Kahler, who we had hired thinking we were going to be able to start construction in February, he said I don't think that's a sound structure.

Q Well, I object to whatever --

A But, no. After we found out all the legitimate potential problems with that structure, he'd been terminated for three months. Danny had already been out of the picture for three months. So terminating him all had to do with giving him the letter, here's what we know of, fix it, let's get on track. And then him saying to us, no, I'm not doing anything. I'm done. And when he did that, we still gave him a few more days and then gave him the official termination letter. Does that

answer that?
Q Actually it does not. But I'm going to ask the question again. Prior to filing your lawsuit --
A In August.
Q -- against Heritage Classic Homes and Danny Gilbert seeking damages allegedly caused by construction defects, did you serve him with a written notice of claim that asserts the construction defect, the nature of the claim, the defects, and any description of the results of the defects if known? And did you give him that letter? Did you do it, one? If you did, did you give it by personal service or did you send it by certified mail? That's just a yes or no.
A We didn't file a lawsuit against Heritage Classic Homes. Knight's filed a lawsuit against us. We filed a counterclaim that involved Danny and Heritage Classic in that lawsuit. He was notified of that, yes.
Q In August -- on August 23, 2004, you did not file a lawsuit?
A We filed a lawsuit on the property, not the construction.
Q Those claims you're saying were not included in this?

A Not to my knowledge. Mr. Scott is the one that recommended we file a claim against Belinda Fox and Danny Gilbert because he was her representative on the agreement. That lawsuit was about the property, that agreement to buy and sell. The Heritage Classic Homes is all part of the Knights' lawsuit against us. They filed against us because of their contract with Danny, but it was on our property. The concrete that they said they delivered, they said consisted of this when in fact the construction materials say it's supposed to consist of something different or include more.

Q Okay. You do have claims against Heritage Classic Homes and Danny Gilbert for construction defects, do you not?

A Yes.

Q That's why we're here, isn't it?

A Yeah. These two cases have been combined into one case. So they all became 1855. So those things that were in 1150 came over to 1155.

Q When is it --

A I mean to 1855.

Q Sorry. I didn't mean to interrupt you. When do you think that your claims were filed for the

construction defects?
A They were filed in the counterclaim to Knight's.
Q Against Heritage?
A Against -- yeah. I'm sure that Knight's -- well, now, wait a minute. I'm not really sure exactly how Knight's did that. We hired an attorney to do all that. Knight's filed a complaint against Danny and/or I don't know about Heritage Classic. But we were included as defendants in that because it was on our property. It was filed against him. They had the contract with him. Was that with Heritage Classic Homes? I don't know. Their -- I think that initial paperwork showed something like Eagle Harbor, Incorporated, as opposed to Heritage Classic Homes. Heritage Classic Homes became a part, yes. It all was consolidated. So, yes.
Q Who was your contractor?
A At what time?
Q In the beginning, who was your contractor?
A Mr. Gilbert, Heritage Classic Homes.
Q You haven't sued Kahler who was a contractor and you haven't sued Seibel who was a contractor. So that only leaves Heritage Classic, right? As your contractor that you sued.
A That contract -- this is the contract that's in

the suit, yes.
Q Okay.
A Not the other contracts.
Q I understand. I'm just simply asking -- I'm only going to ask it one more time. I apologize. Did you ever send a certified letter or hand deliver a personal service a letter to your contractor, Heritage Classic Homes, stating that there was a construction defect in essence to offer -- to give them a right to cure that defect? Did you ever do that?
A I don't understand the question at all. Because we had a lawyer once that mechanics lien got filed. We had to hire a lawyer to submit a counterclaim. We did -- we don't know how the lawyer actually handled all the particulars at that time. We were already building on the second house. But that same lawyer around that same time recommended the second complaint against Belinda Fox. And then as I told you, several years later, those two cases were consolidated. If there was a service that was required, that would've been the lawyer that would've done that, not us because we had hired a lawyer at that time.
Q Okay. How much money to date have you paid

Heritage Classic Homes?
A According to the contract that goes with this, we couldn't pay him anything once we terminated him. It's very specific in here. You can't give him any more money.
Q Okay. Any more money. How much have you given him?
A Prior to the terminating?
Q Ma'am, you just said you can't give him any more money. I'm asking you how much have you given to Heritage Classic Homes?
A We gave him the $2,000 down payment.
Q What was that for?
A Well, it was written out to him. But it was -- well, it was to buy the land.
Q Okay. We're talking about -- this about -- I'm sort of focused on the construction.
A Okay.
Q Okay. I'm asking how much did the Prices pay to Heritage Classic Homes for the work he did?
A We didn't pay him anything for the work that he did.
Q And you never paid him anything? You never paid Heritage anything, have you?
A Not to my knowledge, we haven't. We gave Danny

Gilbert a check. We found out that we cannot -- we could not get a draw, that the building shouldn't have been happening. None of the structure that he put up was legal because his building permit was invalid. So, no, we were not allowed by this very contract to give him any money. We did ask him for assignment of subcontractors when we terminated them according to the same contract. He did not give us those. And, ultimately, Knight's sued us. They would not even talk to us. We tried to contact them when this all came to head. And they wouldn't even talk to us because they were employed by Danny.

Q Right.

A So, no, we did not give him any money. We could not give him any money by this contract.

Q Okay. Your husband mentioned yesterday that, in his opinion, very little was getting done after the contract was signed. Maybe some land clearing. But, in fact, the footings had been when put in when he was terminated, correct?

A Sure. They were there.

Q Okay.

MR. HUBBARD: Pardon me, Judge.

(Brief pause.)

Q Mrs. Price, I think I marked yesterday in haste when these were being tendered up. I think it's No. 5. Oh, you have it? Okay. Correct. That's No. 5. If you would, please, turn to Article 4, third page, I believe. And there's some underlying there. I'm not sure who did that. But under contract sum if you could direct your attention to 4.1. And the subparagraph there, if you could publish that for us, please?

A The subparagraph.

Q Begins with "an estimate sheet."

A Okay. It says, "An estimate sheet dated the 13 September is attached to this contract and gives a cost estimate of work to be done. The owner assumes responsibility for any costs exceeding that cost in each description."

Q Okay. Thank you.

A But you realize, of course, this is a stipulated sum.

Q Ma'am, thank you. I didn't ask that.

MR. HUBBARD: Thank you. I have no further

questions, Judge.

THE COURT: All right.

MR. JACKSON: Your Honor, I have some redirect.

THE COURT: All right, Mr. Jackson.

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REDIRECT EXAMINATION

BY MR. JACKSON:

Q We've heard a lot of questions by Mr. Ferrara about the second agreement and all the little provisions of agreement to buy/sell. But you're not suing them over the breach of contract, are you? You're not suing them for breach of that contract to sell?

A That's not a cause of action, right?

Q Right. You're suing them for negligent misrepresentation. Is that not correct?

A Right.

Q Okay. Now, he also asked you about those 2003 covenants, which is I think is Defendant Fox Exhibit No. 2 and asked you about some paragraph about being able -- I think it was 2.2 -- about declarant and others. And he asked you was Ms. Fox part of Eagle Harbor, Inc. Isn't it true that you're alleging that they're part of a

partnership? Eagle Harbor is part of a partnership with Ms. Fox, not that she's an agent of specifically Eagle Harbor, Inc.?

A Correct.

Q Okay. Now, looking at that exhibit, do you have any knowledge of any paperwork in your chain of title that where Ms. Fox agreed to adopt those covenants as binding on her property?

A I do not.

Q Okay. Now, the Exhibit No. 24, there was some questions about it, about attorney fees and costs. Now, have you received invoices from me for attorney fees and costs up to through the date of this trial?

A No.

Q Have you received an invoice from Mr. Carter or the other experts who have testified?

A No.

Q So you anticipate receiving additional legal costs and expenses?

A Oh, absolutely.

Q Okay.

A Yeah. Those would not even be addressed here.

Q Now, when you said -- you made some comments about this not being true and accurate or no way to tell

exactly. You're not referring to these specific entries, are you? That you have support for, right?

MR. FERRARA: Objection, Your Honor. He's leading the witness.

MR. JACKSON: Okay. I think --

THE COURT: Yeah. Try not to --

MR. JACKSON: Yeah. I'll try not to lead, Your Honor. I'm just trying to move this along.

Q Okay. Then to clarify, though, I think your point was, and tell me if I'm wrong, that you didn't include everything you possibly could have in there. Is that correct?

A That's correct.

Q But what you did include is true and accurate?

A Yes. Except for those things that are duplicated.

Q Okay. There may have been a duplicate or whatever, but --

A An error. An administrative error.

Q But to the best of your ability, using source documents you had, you put everything down on that spreadsheet?

A Yes, sir.

Q Okay. Now, Mr. Hubbard asked you did you send any kind of certified letter to Mr. Gilbert about -- where is your No. 2? You have your stack of documents over there. Track those down.
A Here's the contract.
Q Nope. Nope. Looking for your negligence letter.
A It's not up here.
Q It may have been from the prior stack.

MR. JACKSON: Court's indulgence for just a minute.

Q Plaintiffs' Exhibit No. 12. At this time, did you send this to Mr. Gilbert?
A We did. We actually hand carried it as well.
Q Okay. And at that time, were you still trying to work with him to move forward on your construction project?
A Certainly. Certainly. We still thought we could get him to get going. Yeah.
Q And what was his response to that?
A Well, he really didn't say a whole lot. We were in there. We handed it to him. He didn't say too much at the time. But within the next two or three days, we talked a couple of times before we

actually gave him that letter to terminate.
Q Okay. So you had back and forth with Mr. Gilbert about what you were not happy with about his work and what you were trying to get on the same page with. So he had an opportunity to cure?
A Right. It says right here in the letter that in the last couple of days, even before this letter, we were trying to talk to him about things. And then we found out about the stop work from the County and that letter and gave that to him. And then, even after that, we tried to talk to him. We went in to see him. And he said I'm done. You owe me money. I'm going to file on your property. I'm gonna put a mechanics lien. Threatening us terribly. We were terribly intimidated. But then we saw no choice but to do the termination letter.
Q So before you even sent a letter of termination, he told you he was done?
A Correct.
Q Okay. Now, did you pay -- Mr. Hubbard asked you did you pay Mr. Gilbert anything. And I believe --

MR. HUBBARD: -- asked if you paid Heritage.

Q I'm sorry. I'm sorry. Did you pay Heritage Classic. Correct. Did you pay any subcontractors on the job?
A After we fired him?
Q At any time did you pay any subcontractors that were Mr. Gilbert's responsibility or Mr. Heritage Classic's --
A Yes, we did pay.
Q Who did you pay?
A We paid B&B dirt guys. Some people that had done some obvious work on the land.
Q Okay.
A And he was trying to get payment from us for that. But the guy came and talked to us, and we gave him some money for doing that work even though Gilbert had hired him.
Q Okay. How much did you pay him? Do you remember?
A Well, the invoice is in there and the check. I think around $3500, maybe.
Q Okay. Now, what is your understanding of the draw requirements for the first draw for Mr. Gilbert to receive payment? Looking at a contract document?
A I'm looking at the draw requirements.
Q All right. Please tell the Court what exhibit number you're looking at.

A Okay. This would be the Exhibit A -- I mean 5. And this is attachment 1 and it says first draw.
Q Okay.
A At the time of the first draw, the following items must be submitted by the bar -- builder: Copy of building permit --
Q Okay.
A Septic permit, the termite --
Q Let me stop you right there. Did he have a building permit?
A Well, we hadn't seen it. Be he obviously had been -- he had gotten one.
Q Okay. But was that revoked or stop work order issued?
A It was invalidated.
Q Why was it invalidated?
A Because he had not -- when he applied for the building permit, he did not disclose that he did not have a septic permit.
Q Okay. And did he have a septic tank permit at that time?
A No.
Q Okay.

MR. JACKSON: Court's indulgence one minute.

Q As part of your Knight's Redi-Mix lawsuit, did you notify Heritage Classic Homes and Mr. Gilbert of a right to inspect the concrete piers and stuff before demolition?

A Yes, sir.

Q Okay.

MR. JACKSON: I believe that's all I have on redirect, Your Honor.

THE COURT: Anything further, gentlemen?

MR. FERRARA: Very briefly, Your Honor.

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RECROSS-EXAMINATION

BY MR. FERRARA:

Q Mrs. Price, when Mr. Jackson was just asking you about your receipts from Mr. Carter, you said that you had not received an invoice from Mr. Carter yet. Is that correct?

A No. I didn't say that exactly.

Q You didn't say that?

A Mr. Carter was paid through that retainer.

Q Okay. But you testified you're expecting additional invoices from Mr. Carter. What? For his trial testimony?

A Yes.

Q Okay. That's not in your claimed damages, though, is it?

A No.

Q Now, you testified as well that Mr. Scott recommended you -- represented you on the Knights' case, correct?

A Initially, yes. Yes, he was --

Q Initially. Okay. Now, if we look at Plaintiffs' Exhibit No. 24, you have a line item for Mr. Scott's attorney's fees, correct?

A $150.

Q Right.
A Right.
Q Did you pay more than $150 to Mr. Scott for legal fees?
A He gave us back our retainer. So it's not on here.
Q The $150, though, is.
A He did not give us back that money.
Q Okay. So if we look at Plaintiffs' Exhibit No. 23 and the green section -- I'll hand that to you -- on the second page, $927.04 to $150 legal, Peterson and Scott. Is that the 150 you were talking about?
A It must be. Is it $150? I'm not seeing that.
Q I'm sorry.
A This one?
Q Yes, ma'am.
A Right. That's the $150 that we paid him for filing. I guess, a filing fee.
Q Now, that fee, though, that was for the mechanics lien, correct?
A Yeah. He became our representative then. But he also told us we needed to file against Belinda Fox.
Q Right. But he wasn't -- that $150 was for the

mechanics lien, Knight's Redi-Mix case, correct?
A Well, maybe not. Maybe it wasn't because this is 9 and 27 which is after the complaint was filed against Belinda Fox.
Q You're trying to look at the dates of this and piece it together in your mind about whether --
A Right. I can't remember all of this. You know, we gave him a retainer up front. And he billed us later for this, this 150. We also got a billing for $25 that's listed in here. Other than those two bills, I don't know of any other bills that we got from him, but we might have. I just don't have them.
Q And I applaud your memory. Moments ago you testified about all the case numbers involved. But it was very helpful to the Court in that the original case that Mr. Scott represented you on which was the defense of the mechanics lien.
A 1150.
Q 1150. Do you have the attorney's fee for Mr. Scott in your source document for that case?
A No. He gave us back our money. It was a retainer we paid him. We got it back from him. We're not seeking reimbursement for something we got back.
Q So should we take that hundred and fifty more

dollars off of --

A No. Because he charged us for that. He didn't pay us back the 150.

Q I know. But that was the mechanics lien portion of the case.

A No. I can't say that for sure because of the date. It might have been the filing fee of the actual complaint against Belinda Fox.

Q But it might have also been the mechanics lien legal defense which started all of this, correct?

A Well, I can't say for sure right now.

Q Right. And your attorney represented at the beginning of court when we were starting this process that you -- hold on -- that you and your husband have settled the case, the mechanics lien portion of this case with Knight's Redi-Mix. Did you hear your counsel state that at the beginning of this section?

A Yes. We have settled with them on that --

Q And that --

A Not the mechanics lien that Danny had filed, though.

Q Right. I understand.

A There's still that.

Q And, ma'am, would you agree that that mechanics

lien action and the attorney fees that you and your husband incurred with the lawsuit of Knight's Redi-Mix is not appropriate to be seeking damages in this case?

A I would agree. But I can't tell you for sure if this 150 had to do with that or if it had to do with the filing, which I think it probably was the actual filing of the complaint against Belinda Fox.

Q I don't want to take anything away from you or your husband. But do you have the source document in the book that you and your attorney referenced moments ago that would help you answer that question?

A I do. That invoice is in there. It does say filing fee.

Q Would you --

A Would you do a filing fee on a -- if you're countering? If you're doing a counter to a claim against you, is a filing fee recorded? I mean, would you pay a filing fee for that? It seems to me like the filing fee is for the complaint that you filed.

Q Right.

A Not for you called to respond to one --

Q You're pretty sharp.
A -- filed against you. So that would be -- that would be the one against Belinda Fox.
Q But you do have the receipt in your folder --
A I have the invoice in there.
Q -- answer the question. Would you mind? I'll just give you the folder and you can take a look and see to answer the question.
A Sure. Sure. Absolutely. Let's see. Do you have the number? The item number. 226, right?
Q (No response.)
A Oh, it doesn't look like I have the invoice. I just have the check, the canceled check. And he didn't -- he wrote this number on there. He wrote that. We didn't write that. I guess the invoice is missing.
Q So as we're sitting here today, you can't say for sure that that $150 was not for the mechanics lien?
A The court record will tell -- will tell us that, though.
Q Sure.
A Because they keep an accounting of that. So that would verify that.
Q Okay. All right. Thank you. How many attorneys

have you and your husband hired in this action that you're seeking damages for that? As you can recall.

A Okay. Mr. Scott, Bill Scott, he gave us back our money.

Q Except the 150?

A So it would include Chellis and Frampton, just like what's listed on here.

Q Sure.

A Chellis and Frampton, Mr. Ward and Derrick. We also have had Mr. Ginn. And then we had that thousand-dollar review by that attorney. It looks like -- I mean, that's --

Q So you also did hire Mr. Ginn and Chellis and Frampton for the Investors Title or was that separate?

A No. We hired both of them for 1150 in 1855. Mr. Ginn did, in fact, just before quitting on us, he did file a complaint against Investors.

Q Mr. Ginn did?

A But we didn't hire him for that.

Q Okay. So some of my questions could be answered, you can actually -- you've done a great job of cross-referencing the tabs. So, for example, looking at Plaintiffs' Exhibit No. 24, you have

tab 389 for legal estimated costs when we were trying to decide if the costs were 6500 or 7,000. So if we --

A See that one is not -- that one is not in there because it was estimated. I didn't have that. So you won't find that in there.

Q So I've opened up your book here in item number 377.

A Right.

Q It says 5,000 for legal.

A Right.

Q Mr. Ginn.

A Okay. All right.

MR. FERRARA: Mark this for identification. (Brief pause.) Any objection to this?

MR. JACKSON: I don't think so. I don't think it has any privileged matters.

MR. FERRARA: Okay. Sure.

Your Honor, this is a three-page document, Defendant Fox's Exhibit No. 5.

Q I'll hand that to you, ma'am, which cross-references to your compilation 377 of $5,000 for legal attorney's fee. On your Plaintiffs' Exhibit No. 24 you say contract-CT REC. Do you

see that?
A Under him? Mr. Ginn.
Q On your Plaintiffs' 24.
A Okay. What item number?
Q Item number 377 that you have in your left hand, that's Defendants' Exhibit No. 5.
A Oh, okay. I see. I see. Okay.
Q It's $5,000?
A Yeah. That's the contract.
Q Right.
A That's the contract. It's the retainer and it says right here he appeared for us in the Heritage Classic case 1150. He doesn't have on here that he appeared for the 1855, but he did.
Q Right.
A But it's written in the contract.
Q But when we look here at his cover letter --
A But it says it in the retainer agreement. He just simply didn't mention it there.
Q So at a minimum the -- Mr. Ginn is representing you on the Knight's Redi-Mix case and this case?
A Correct.
Q So some of his $5,000 went to the Knight's Redi-Mix case?
A Which become a part of this case. They then

consolidated.
Q Which you and your husband agreed at the opening of court today to voluntarily dismiss that action against Knight's Redi-Mix according to your counsel's representation, correct?

MR. JACKSON: Object to -- the question is misleading. We agreed that the mechanics lien portion of that case. There's various crossclaims and counterclaims relating to breach of the construction contract and everything else. It's still viable. And on that, just the mechanics lien portion.

A Just the mechanics lien portion.
Q And I'll repeat it. I'm sorry. You and your husband agreed that the mechanics lien portion, meaning the part of the case Mr. Ginn was representing you on involving Knight's Redi-Mix was to be dismissed, correct? Or am I incorrect?
A Well, what I gathered was it was strictly the mechanics lien's cost that we were dismissing.
Q And then also your attorney's fees that you paid to Mr. Ginn --
A No.

Q -- are also part of that settlement, are they not?
A No. Because 1150 still consolidated into 1855. So the only thing that we were dismissing was anything related to the Knight's mechanics lien itself which was the bond we had to buy, the annual renewal of that bond. We were dismissing any claim for any of that cost.

MR. FERRARA: This cover letter and attorney's fee agreement with Mr. Ginn's office, I'd move to have this admitted as Defendant Fox's Exhibit 5.

THE COURT: Any objection?

MR. JACKSON: I don't have any objection.

THE COURT: Admitted without objection.

MR. FERRARA: Your Honor, may I pass this up?

THE COURT: Yes, please. Thank you.

(Whereupon, Defendant Fox's Exhibit No. 5, Agreement, was received into evidence.)

A May I add a comment?
Q No, ma'am. Now, I apologize but we're on a tight time schedule. I'm just gonna try to get through

it quickly. Now, with respect to -- well, with respect to that $5,000, you can't tell the Court how much of that about $5,000 fee that you paid Mr. Ginn went towards the Knight's Redi-Mix portion of the case and how much of the 5000 went to the Fox portion of the case, correct?

A Well, there's an appearance form just like that in the 1855 case file from Mr. Ginn. We primarily were hiring him for 1855. But he's the one that actually got the two cases consolidated so they became one. To us, that fee, that retainer, belongs to that consolidation not so much to this one and this much to another.

Q Now, if we look at line item 380 on Exhibit 24 it's a -- I believe it's a thousand-dollar retainer. You testified earlier to Simmons and Keaveny?

A Right.

Q Okay. Looking at 380 in the book, you didn't have a copy of the fee agreement. But do you recall hiring Simmons and Keaveny for this case and other matters other than this case?

A We hired him to -- he wanted a thousand dollars to review. The canceled check is there and then there's another letter. He wanted another

thousand dollars because he wasn't done reviewing. And my husband said no, we're not paying him another thousand dollars. So we paid him a thousand dollars to review both cases at the time.

Q Ma'am, I'm handing you Defendant Fox's Exhibit No. 6 which is -- exhibit has been marked, or actually document which has been marked as Fox 6. That is a cover letter from the Simmons and Keaveny, is it not?

A It is.

Q Okay. And you received that letter from the law firm relating to their legal representation of your and your husband?

A Right. It says Price versus Fox and related matters.

Q And related matters, correct?

A Right. Well, both cases were going on at the same time. He was reviewing both files. But he never took the cases. I mean, he never became our lawyer. He was simply reviewing. And he wanted another thousand dollars to review and we said no. We can't pay that for you to keep reviewing.

Q Okay. Now, is it your testimony that you did not sign a fee agreement with Simmons and Keaveny and provide them with a retainer?

A Correct. No, we did not.
Q You didn't provide them with a retainer?
A No. We just simply paid him a fee to -- and I think there's a check there, a canceled check. He wanted that much money to review it before he would accept it. He wouldn't charge us a retainer until he actually accepted representation, right?
Q Well, you paid an attorney for the Fox case in other related matters. That's my question. Is that a fair statement?
A Well, that's what that says, yes.
Q Well, we want the truth. Is that what you did -- you and your husband did? You paid Mr. Simmons -- Simmons and Keaveny for the Fox case and other related matters?
A We paid him to review both cases.
Q Okay.

MR. FERRARA: Your Honor, at this time I would move Defendant Fox's Exhibit No. 6, an August 20, 2007, letter from Simmons and Keaveny, into evidence.

MR. JACKSON: No objection.

THE COURT: Any objection?

MR. JACKSON: No objection, Your Honor.

THE COURT: Without objection.

(Whereupon, Defendant Fox's Exhibit No. 6, Letter, was received into evidence.)

Q Just to be clear, ma'am, and I'll move on. But you had an initial meeting. You had Simmons and Keaveny undertake some representation about the Fox case and other related matters. And then as I understand, they presented you with a bill and asked you to replenish the retainer and the exhibit.

A Well, it sounds like that might have been the wording in there. But there was no actual retainer because they never took representation. He simply charged us to review the file. So his -- I guess his paralegal wrote that letter. It was a billing letter. But when we got that, we said, no, we're not going to keep paying you to review.

Q Right. You and your husband decided on your own accord to not pay Simmons and Keaveny any more money and to hire another attorney to represent you, correct?

A We had to keep looking for somebody, yes.

Q Yeah.
A I mean, yes. We couldn't keep paying him just to review.
Q Right. Ma'am, on Exhibit No. 24, line item 385.
A That was a retainer that we gave to Mr. Ward for these two cases.
Q Okay. And so when we go to your book for item 285 we should see an invoice for legal expenses of $5,000?
A Well, I don't have an invoice. What I have is those two statements that were generated. And so those are what's in there.
Q But those two statements don't total $5,000 or anywhere close, do they?
A Those statements come from the 2500 for each case.
Q Okay.
A Yeah. Each one is covered there.
Q So out of the $5,000 that we're talking that you're claiming in this case, you admit the $2500 of that $5,000 was for the Knight's Redi-Mix case?
A The retainer was 2500 for both. One case was 2500 the other was 2500. They were consolidated just about -- right about the same time that either just before Mr. Ward took over or just after he took over as representing us. So the two became

one.

Q Ma'am, I'm handing you what's been marked as Defendants' --

MR. JACKSON: Your Honor, I've been very patient with this line of redirect. And this is really well beyond my limited redirect of my client -- recross. I only asked a couple of questions. And we're just fishing through the book. And I think, and . . .

THE COURT: Mr. Ferrara, certainly this could have been addressed during the initial cross.

MR. FERRARA: Respectfully, Your Honor, on redirect, Mrs. Price testified that she had her book to substantiate all of her expenses. And that was elicited by Mr. Jackson and Mrs. Price. And that's why I decided to go down that road and look at those expenses.

THE COURT: How much more do you got?

MR. FERRARA: We can take a break right now, Your Honor, if you'd like, which will help me and help the Court speed it along. If we take a lunch break then I can take 15 minutes before we come back, Your Honor, and --

THE COURT: How many different documents do

you anticipate having to go through on this portion of the recross?

MR. FERRARA: Respectfully, Your Honor, it might just be a few. It might just be two or three. I just haven't gone through the book carefully to match it up. But now, I'm understanding that there's some damages that have been claimed that are for both cases. And it's broken out in line item in the book. So I would only be bringing up those points. So it may just be one or two more documents, or it may be -- Your Honor, respectfully, it can't -- it would never be any more than just the legal section of paragraph 24, which I think, Your Honor, is only approximately 15 or so line items. That would be the maximum that it would be. I'm not saying that it would be.

MR. JACKSON: Your Honor, my -- as I recall on my redirect, I just had her confirm that the items in there were true and authentic copies of what she had in there. Not any argument about splitting these out one way or the other in reference to the source material. But, I mean, whatever the Court wants to do in that regard.

THE COURT: As far as the initial list that's

already in, those identify with some specifically, don't they?

MR. FERRARA: They do, Your Honor.

THE COURT: Can that just be pointed out as items that y'all would contend are not related to this case, to the other cases without having to go through all the additional information?

MR. FERRARA: Yes, Your Honor.

THE COURT: Or is that additional information necessary?

MR. FERRARA: I agree with the Court. I think we can stop it there. And I will just, with the Court's indulgence, I will just look at those items -- those 15 items carefully. If there's anything that is -- if it is important, I would just bring it up very briefly at that time. But if not, if it's similar to what we've already established or brought into evidence, I'll leave it at what we have so far.

THE COURT: Okay. All right. Thank you.

MR. FERRARA: Thank you.

THE COURT: All right. Is there anything further then?

MR. FERRARA: No, Your Honor. Or just respect to -- just a quick caveat if Your Honor

wants to take a break that I just be given the opportunity at the lunch break -- I'll just look and then confirm that there's nothing else to question Mrs. Price about. Just specifically only limited, Your Honor, to the exhibits in the book and related to the legal line items. I don't anticipate having any.

THE COURT: You can certainly take a look at it during the break. All right. Is there anything else for this witness other than what may be --

MR. JACKSON: Other than whatever limited redirect. And I just have a few items to offer into evidence that are not witness related, that are just exhibits. I think our case will be done.

THE COURT: Why don't we do that. Why don't we let you step down. You're subject to being called back up. And tell me what you have as far as -- you can step down -- what you have that's non-witness.

MR. JACKSON: Yeah, I just have three items, Your Honor. Item one was an e-mail in the designations of her testimony. I just offer that as an exhibit and as part of my case in chief. We can just label it and identify it.

THE COURT: You provided those --

MR. JACKSON: Those were served on opposing counsel on Monday I believe.

THE COURT: You provided those designations. And I saw that, I think, by way of an e-mail. But attached to that document --

MR. JACKSON: Yeah. Attached to that document are the actual excerpts from that thing. Of course, they have the right to offer whatever they want to. And if they have it in exhibit form, they can do that. And I don't really object if we end up submitting proposed orders if they want to submit a document response, you know.

THE COURT: Is there any objections to any portions of those that I need to address before we make them part of the record?

MR. FERRARA: Respectfully, Your Honor, the witnesses that the deposition excerpts contained, the witnesses are present in the courtroom. And in order to, I guess, expedite the matter, what I would request, and it sounds like Mr. Jackson would agree, that we present the complete deposition excerpt for the Court to review if the Court's going to review excerpts. Specifically, I'm just referring to my clients, Gerry Fox and

Belinda Fox. The deposition of Mrs. Fox is very small. I planned on calling her as a witness anyhow, Your Honor. So I would say that that --

THE COURT: I'm not sure I'm following. We got the designations here. Are you saying she wants to make designations in response?

MR. JACKSON: I think what he's saying in lieu of them saying I want this in, I want this in, I want this in, we'll just offer the depositions themselves. Is that what you're saying?

MR. FERRARA: Yes. I mean --

MR. JACKSON: I don't have an objection to that with it becoming part of the record. Either way. Because I just want to be able to argue from this testimony. That's all.

THE COURT: So would that resolve -- the depositions would be in their entirety? Is that what we're saying?

MR. JACKSON: I have no objection to doing that.

MR. FERRARA: Yes, Your Honor.

THE COURT: They'll come in racketed by this which is essentially your --

MR. JACKSON: It's the portion I designated

earlier. Yes, sir.

THE COURT: And then either through argument, separate designations, or through testimony, you can point out or clarify things obviously which is -- he's bringing up by way of their testimony. Okay. All right.

MR. JACKSON: So I'll go ahead and mark this as whatever the Plaintiffs' is subject to the full depositions coming in.

COURT REPORTER: This is 41, just so you'll know.

THE COURT: And you'll provide copies of those depositions?

MR. JACKSON: Yeah. I have the original and a couple of them here.

THE COURT: Okay.

MR. JACKSON: And I think -- I think I have all of them actually.

THE COURT: Just make sure y'all get together and whatever you giving me, y'all agree that's the correct one.

MR. JACKSON: The second part would be -- this is the actual business record designation of the DHEC letters. Most of it's already an exhibit, but I just wanted to have this offered as

a separate exhibit with all of them designated. And the final thing, Your Honor --

THE COURT: As to the DHEC letters, any objections?

MR. FERRARA: No, Your Honor.

THE COURT: Admitted without objection then.

MR. JACKSON: And I can discuss this in more detail with counsel in the break. Your Honor, in a lot of your rulings on those two letters, I've been in contact with the Army Corps of Engineers and James Chowick (ph) their attorney about, A, if they could get a witness here to testify about those letters. But he says they don't let their federal people testify. But he did provide me with a certification for those records from a custodian that prepared in ordinary business. And it's a digital copy which I can go and get a copy made for those two records.

THE COURT: All right. Any objection to the presentation of the digital?

MR. JACKSON: I'll show it to you.

MR. FERRARA: No, Your Honor. I can -- as long as I'm able to ask Mr. and Mrs. Price in our case about those letters. I'll address our concerns, I guess, on examination.

THE COURT: Once they're in, yeah. Certainly would be able to --

MR. JACKSON: Yeah. Certainly no objection to that.

MR. FERRARA: Sure.

THE COURT: So based on that digital certification which you're going to print and provide to the Court -- it's now coming in? Is that right?

MR. JACKSON: Yes, sir.

THE COURT: Is that without objection in light of all that information?

MR. FERRARA: Yes, sir.

THE COURT: Likewise, Mr. Hubbard?

MR. HUBBARD: Yes, sir.

THE COURT: All right. We're good. Thank y'all for that.

MR. JACKSON: Yeah. With those in, whatever redirect they have, that would be my case, Your Honor.

THE COURT: Okay. All right. So is an hour enough, or do y'all need more than that?

MR. JACKSON: That's fine.

MR. FERRARA: I think that's fine, Your Honor.

THE COURT: We'll break for an hour. Be back here in an hour. And then we'll proceed at that point with whatever follow-up on the recross as may be necessary, okay.

MR. FERRARA: Thank you, Your Honor.

THE COURT: Thank you.

MR. JACKSON: Thank you, Your Honor.

(Whereupon, Plaintiffs' Exhibit No. 41, Deposition Designations, was received into evidence.)

(Whereupon, Plaintiffs' Exhibit No. 42, Affidavit, was received into evidence.)

(Whereupon, Plaintiffs' Exhibit No. 43, Certification, was received into evidence.)

(Lunch recess was taken from 12:31 p.m. until 1:33 p.m.)

THE COURT: Y'all are set to go?

MR. JACKSON: Yes, Your Honor.

MR. FERRARA: Yes, Your Honor.

THE COURT: Okay. All right. Mr. Ferrara,

what do we have to do as far as any additional review of documents, questions to Mr. Price?

MR. FERRARA: Your Honor, I briefly looked over Plaintiff's notebook. And I just have just three documents that I would like to question the witness about.

THE COURT: Okay. Mrs. Price, come on back up.

(The witness, Mrs. Price, resumes the stand.)

THE COURT: You're still under oath, okay?

THE WITNESS: Yes, sir.

THE COURT: Thank you, ma'am. Mr. Ferrara?

MR. JACKSON: I don't have any objection about these documents subject to redaction because they include account information and checks.

MR. FERRARA: Sure. With that, Your Honor, and to expedite the case, I would move to admit Defendant Fox's Exhibit --

MR. JACKSON: Can I see -- there's something written on the back I didn't see in this. Why don't you ask her about it and then we'll talk about it. I don't think I'll have any objection.

Just go ahead and ask her for identification for right now.

MR. FERRARA: Your Honor, may I approach the witness?

THE COURT: Yes.

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RECROSS-EXAMINATION

BY MR. FERRARA (Continuing):

Q Ma'am, before we took a break we were talking about Plaintiffs' Exhibit No. 23, and I'm handing you a document that has been marked for identification as Defendant Fox's Exhibit No. 8.

A Okay. This is the Chellis and Frampton?

Q Yes, ma'am.

A Okay.

Q And during the break I looked through your notebook of receipts. And I'll ask you the document that you have that's in your hand right now, Defendants' Exhibit No. 8, is that a copy of a check and legal services agreement you had with Chellis and Frampton?

A It is, yes.

Q And it's signed by you as well on the last page?

A Yes.

MR. FERRARA: Your Honor, at this time, I would move Defendant Fox's Exhibit No. 8 into evidence?

THE COURT: Any objection?

MR. JACKSON: I don't have an objection.

THE COURT: Without objection.

MR. FERRARA: Thank you, Your Honor.

(Whereupon, Defendant Fox's Exhibit No. 8, Legal Services Document, was received into evidence.)

MR. FERRARA: Additionally, I understand there's no objection to --

MR. JACKSON: Subject, of course, to redaction.

MR. FERRARA: Defendants' Exhibit No. 9 and Exhibit No. 10 subject to redaction.

THE COURT: No objection to 9 and 10. And I'll leave it to y'all to redact that information.

MR. JACKSON: Yes, sir.

THE COURT: And provide that to the court reporter for inclusion.

(Whereupon, Defendant Fox's Exhibit No.

9, Bank Statement, was received into evidence.)

(Whereupon, Defendant Fox's Exhibit No. 10, Settlement Statement, was received into evidence.)

Q Ma'am, if you recall earlier when we looked at Plaintiffs' Exhibit No. 24, I believe it's page 7, it was the legal expense we talked about earlier today, the $8,000 that's on line 153.

A Right.

Q And your prior testimony was that you believed that full $8,000 fee to be for this case involving the Foxes only, correct?

A Only?

Q Yes, ma'am.

A No.

Q You did not? Okay. I misunderstood you.

A No.

Q So what is your testimony now as you understand about the $8,000 reimbursement that you're seeking from the Foxes?

A It's not any different than it was earlier. We hired them for both of these cases because we were

in both of these cases at the time we hired them.
Q Well, you hired them for really for three or four cases, correct?
A No.
Q Okay.
A Only the 1150 and 1855.
Q And then you also hired them to look into the legal responsibility of Mr. Spell and Eagle Harbor and Lowcountry Title, too, correct?
A Yes. But that was not a case. That was just part of what he was looking at and I gave him before I handed him the retainer. So we hired them because we were in these two cases.
Q Okay. And Mr. Michael Moore is the attorney that prepared the Investors Title second amended complaint we talked about earlier today, correct?
A Oh, that amended complaint that got withdrawn?
Q Yes.
A Yes, he did. Just before he left the firm.
Q And so this $8,000 -- some of this $8,000 fee would've went to that work, correct?
A Well, I don't know exactly. Because he filed it but then they turned around and withdrew it. He didn't give us -- he didn't send us a bill for filing it.

Q Well, you're claiming -- you're just claiming the $8,000 in total for legal expense that you paid Chellis and --
A For retaining them to do this two cases.
Q Okay. All right. Moving on. Let's look at line item 396 on that same page on Exhibit No. 23.
A Twenty-three.
Q Twenty-four. I'm sorry. I'm sorry. Plaintiffs' Exhibit No. 24.
A On the same page. What number?
Q Yes, ma'am. 396.
A 396. It's kind of hard to find. Okay. This is the subscription, Westlaw.
Q Yes.
A Okay.
Q You testified earlier to your attorney that you had receipts totaling $1572.90 and the book, correct?
A We have -- well, I can't tell you there's 100 percent of the receipt there because it was a subscription that once started it went monthly until the end of December. I'm not sure I had an actual statement document for each month.
Q And so in truth the --
A But most of the months are there, I mean.

Q Okay. In truth, the 74.90 is what you have proof of in your book that corresponds with 396. And you took the liberty of multiplying that number times 21 months to come up to the 1590 -- 1572.90?
A There's receipts there for almost all of that if not all. They were all attached to the same document. There are several of those. There's several canceled checks. They were all a part of the same item.
Q Okay. Ma'am, turning now to line item 310, which I believe is on the last page of Plaintiffs' Exhibit No. 24, the 4,753 charge to USAA?
A Right. That's the refinance, the HUD statement. There's a calculation -- no, that's not it. Oh, let me see.
Q Ma'am, I'm handing your Defendants' Exhibit No. 10, Defendant Fox's 10 which is in evidence.
A Right here, this calculation.
Q Sure. Right. You calculated the difference between your old loan and your new loan and came up to closing cost number 4,753.59?
A A loan -- yes. I think so. It sounds right. The numbers are there, right?
Q Yes. And isn't it true that the interest on this loan that you're seeking as part of your damages

was modified from 5.25 percent, your old loan that you had with National City. And then after you refinanced it, it turned out to be 5.375?

A No. This transaction here, this history here, is during the construction loan. We did assume their permanent loan. I mean, that's why we refinanced because we were given calculations that the payment -- in fact, we made one payment that's in the book -- was over $2,000. And the initial loan paperwork that we had from them, the payment was going to be like 1500. And then it went up, it went even higher than that. So that's the reason why we went to USAA who gave us a monthly payment of 1500.

Q Right. Which was that 5.375 on your new permanent loan?

A Okay. The interest rate, right.

Q Well, yesterday, do you --

A Some how -- well, I can't say that I particularly noticed the interest rate. But what we were paying attention to was the monthly rate the they were going to charge us as opposed to what USAA was gonna charge us.

Q Sure. Yesterday your testimony --

A That's what this calculation is all about.

Q Yesterday I recall your testimony being that Mr. Hubbard asked you the National City letter that threatened your interest rate to increase to 11.75 percent?
A Right.
Q You recall that testimony. And you said that you believed that your interest rate did in fact increase as a result of Mr. Gilbert's delay?
A Yes. We do believe that it did increase, yes.
Q But now when we look at this exhibit we know that it actually went just to 5.375 not to the 11.75?
A During the construction loan?
Q Your new loan with USAA?
A Well, that was about the construction loan because the construction loan was terminating in May. She told us in that letter that if the work was not done in May 2004 that we would be paying interest at 11-point-something percent.
Q But you presented testimony yesterday to the Court that you and your husband had to refinance the loan because the interest rate was going to increase substantially to over 11 percent, and that it did increase over 11 percent. And as a result, you and your husband had to refinance and thus --

A No, no, no.
Q -- incur these closing costs?
A No, no, no. The construction loan interest is what Ms. Zerbst was talking about. Your construction loan is going to double. Your construction loan, that means if it's not done by May whatever date, we're going to start charging you 11-point something during the construction. Now, once we got to the end of the construction, we still found that the interest rate that they were going to charge for the permanent loan was still higher. And I actually have a document that -- I think it was 7 percent is what she told me and the loan paperwork. And so we did get this lower interest rate. We were never getting an interest rate of 5.25.
Q Even though the document says the interest is 5.25?
A It says right here the date of payment, November 1, 2004. But the actual payment we made in December was 21 -- over $2100. Now, this particular -- if I had anything to hide, I wouldn't be giving you this. But this particular rate did not compute to me with $2100 for a payment. So there was a significant difference in

what the -- in fact, there's actually a source document in that book that shows you the loan -- the permanent loan rate was going to be.

Q Let's just be clear with the Court, ma'am, and Your Honor. You're seeking -- and Your Honor -- you're seeking damages for what you testified about yesterday was an increase of interest. The document that I just handed you establishes that during the time of construction, your interest rate on your construction loan was 5.25. And in reality when you refinanced thereafter, you had an interest rate of 5.375. Is that correct?

A Well, we might've had a five-point during -- but we went based on what she said it was going to be.

Q Sure.

A As far as the history, if you go through that whole document, you won't see that 5.25 anywhere in the history on those charges for interest when we couldn't build. They were charging us against the money that had been paid on the land for all those months when we could not build. So the interest rate she told us it was going to be is what we took would be happening during the construction loan after May of 2004. So maybe they made some changes in the bank. But I was

not -- we were not given any document about that. We found that when it came time to finish and we were going to be looking at the permanent loan, they told us how much that permanent loan payment was going to be. And that's when we went to refinance with USAA.

Q. Thank you, ma'am.

MR. FERRARA: Your Honor, as a housekeeping matter, before the lunch break there is a documented that I identified, questioned the witness about, and I failed to move it into evidence. Your Honor, Defendant Fox's Exhibit No. 7, disbursement statement. And at this time, I don't believe there was an objection, but at this I would --

MR. JACKSON: I need to see it again.

MR. FERRARA: Sure. Here it is. Here it is.

MR. JACKSON: Yeah. I remember that. That's fine.

THE COURT: With no objection, seven.

(Whereupon, Defendant Fox's Exhibit No. 7, Disbursement Statement, was received into evidence.)

MR. FERRARA: Yes, sir.

THE COURT: Hand these all back. And these include the ones that were initially excluded, 26 and 27, which are not in.

MR. FERRARA: Yes, sir.

A Are you going to give me the documents that were attached to that Westlaw?

Q No, ma'am. I did -- we were on a time crunch and I think you've answered all the questions that I had concerning your damages. Thank you very much.

MR. FERRARA: That's all the questions I have.

THE COURT: All right. Anything further?

MR. HUBBARD: No, Your Honor.

MR. JACKSON: Nothing from me, Your Honor. That would close the plaintiff's case. I do have -- I made copies at the lunch break of the digital copy that I had, a certification. We can put that with those two exhibits.

THE COURT: That will come in pursuant to the -- thank you.

MR. JACKSON: That closes the plaintiff's

case.

THE COURT: You can step down, Mrs. Price.

THE WITNESS: Can I take this?

MR. JACKSON: Sure. I guess --

THE WITNESS: There's something missing here.

THE COURT: And what number will this certification be?

COURT REPORTER: It's 43, Plaintiffs' Exhibit No. 43.

THE COURT: Plaintiff's 43?

COURT REPORTER: Yes, sir.

THE COURT: Thank you. So are we ready to proceed with the defendant's case?

MR. FERRARA: We are, Your Honor. Very briefly, just for the record, Your Honor, I had a few motions.

THE COURT: All right. What are those?

MR. FERRARA: Your Honor, respectfully, defendant's Belinda Fox and Gerry Fox and additional, Your Honor, to the extent that that the Foxes activities would be, I guess, as agents on behalf of Eagle Harbor Phase 2 Development Partnership, I respectfully request Your Honor to grant a directed verdict on first and foremost, Your Honor, Unfair Trade Practices Act. I don't

that there's been any testimony, Your Honor, that my clients, either one of the Foxes, Belinda or Gerry or the Partnership, entered into any conduct, willful conduct, that would be capable of repetition and meet the three elements that's required for the plaintiff to meet her burden in this case. And for that reason, I would respectfully request you to dismiss the Unfair Trade Practices Act cause of action as to those defendants.

Additionally, Your Honor, with respect to the negligent misrepresentation claim and breach of fiduciary duty claim, I would respectfully request Your Honor to hold that the plaintiff has failed to meet her burden as well with respect to damages. As the Court is very well aware, plaintiff must establish their damages with certainty. And, Your Honor, just to be clear, this motion is just on behalf of those defendants that I discussed earlier. But there was no testimony that Belinda Fox or Gerry Fox misrepresented anything to the Prices. And for that reason, they should be dismissed from that cause of action in their own individual capacity. Arguably, I understand the additional testimony

relating to the Partnership. And so I'm not basing the motion -- I'm not asking the Court to grant a motion for directed verdict on the Partnership allegations at this time because I think there's a question -- a fact for Your Honor to rule upon with that.

Likewise, Your Honor, for Gerry and Belinda Fox only, the breach of fiduciary duty cause of action, we respectfully request you to dismiss Belinda and Gerry Fox in their own individual capacity. There's been absolutely no testimony that Belinda or Gerry Fox owned a duty to the Prices considering their testimony. Defendants' Exhibit No. 2, Your Honor, respectfully does -- and it's in evidence. It's A contract from Belinda Fox, which I understand the Prices to take as the basis of the duty for the negligent -- or for the breach of fiduciary duty. But respectfully, Your Honor, when we consider the statute of frauds that this sale of Lot 20 is a real estate transaction that the statute of frauds and the fact that it's a contract between the parties and requires a writing makes it impossible for the Prices to maintain a breach of fiduciary duty based upon any relationship between the

parties as established by the contract.

So for those reasons, Your Honor, I respectfully request you gran the directed verdict just as to those parties at this time.

THE COURT: All right. Thank you. I'm going to deny the motion. I think we've certainly got some testimony to take in the like most favorable the plaintiffs that sustain the unfair trade practices claim for negligent misrepresentation. There's some testimony of damages also as to the breach of fiduciary duty and the individual capacity. I think that's an issue of fact along with the issue relative to the Partnership. So I'll deny the motion. But thank you, sir.

MR. FERRARA: Thank you, Your Honor. My office has contacted Ty Adley with Berkeley County. May I step in the hall and see if he's here, Your Honor?

THE COURT: Yes.

MR. HUBBARD: Your Honor, may I make a motion as well?

THE COURT: I'm sorry. Yes.

MR. HUBBARD: I appreciate it. Shall I proceed without Mr. Ferrara being here?

THE COURT: As you wish.

MR. HUBBARD: Okay. Your Honor, I would also join Mr. Ferrara in his motion for the unfair and deceptive trade practices against my clients, Heritage Classic Homes, Inc., Danny Gilbert, the Partnership as it's alleged, and Eagle Harbor, Inc. As the testimony showed, these were folks that originally got together to build a boys home. And there been no evidence that any other development properties that have gone forward with these entities. It's a one time offering. And so I would ask that that claim would be dismissed.

In addition, I move that all construction claims be dismissed against Danny Gilbert in his individual capacity. While Danny Gilbert is with Heritage Classic Homes, there's been no offer of evidence or testimony that it wasn't anything other than Heritage Classic Homes that the Foxes entered into -- sorry -- that the Prices entered into a contract with for the construction of the home. And therefore, I'd ask that he'd be dismissed individually from that.

I have information motion, Judge, and that is a motion to dismiss the construction claim against all of my defendants or all of my clients as it stands. And I base that on South Carolina statute

40-59-820 at sec., entitled the South Carolina Notice and Opportunity To Cure Construction Dwelling Defects Act. The testimony was clear that neither the Prices nor anyone else on their behalf delivered a letter or sent a certified letter outlining the construction defects that they alleged offering the contractor an opportunity to cure those defects. It's quite an ask, I understand. But I would ask the Court -- I'm happy to, if the Court would like to take it under advisement, I'm happy to prepare an memo or a memorandum of law or something over the weekend and get that back to you. But I would direct the Court's attention to that statute as well as the Grazia case. And recently, there was a case that former Chief Justice Toal heard in Charleston. It's been recently heard and that's McIntyre versus Seaquest Development Company. But the Grazia versus South Carolina State Plastering is the South Carolina case that I believe bears these facts out.

THE COURT: As to that one and the right to cure, my position at this point is gonna be that for the motion purposes, I'll look at it further and invite anything you want to add by way of

briefing that issue. For purposes of the motion today, I'll deny it on the basis I believe it is probably waived as a result of the time frame involved on this that there's supposed to be a motion, I believe, is contemplated to enforce that. And there was no motion. That would have been appropriate ten years ago if there was a request to do that. I'm not sure that it was properly presented. So at this point, I'm gonna say it's waived.

As to dismissing the construction claim as to Mr. Gilbert individually, I'll deny that as well. The contract indicates it's Mr. Gilbert and the corporation. In fact, I think that the mechanics lien that was filed by Mr. Gilbert had Mr. Gilbert doing business as the corporation. So we'll leave him in individually on that construction claim. As to the Unfair Trade Practices Act, at this point I'm going to deny that as well. But that one, I'm not sure how that's gonna hold up upon further consideration as to him. Because I believe you're right, it does seem that the bulk of unfair trade practices focus is as to the representations on behalf of the Partnership. But I'm not sure if that would continue against him

and the Partnership. So I'm going to deny it as least at this point.

MR. HUBBARD: Thank you.

THE COURT: Thank you.

MR. FERRARA: Your Honor, may it please the court? The defendants will call Mr. Ty Adley to the stand.

THE COURT: Mr. Adley, come on up.

(Whereupon, the witness, TY ADLEY, was duly sworn.)

THE COURT: Thank you, sir. Have a seat right there. Give your name, spell your last name and your address for the court reporter, please.

THE WITNESS: Ty Adley, T-Y, last name Adley, A-D-L-E-Y, 2040 Ashley River Road, Charleston.

THE COURT: Mr. Ferrara?

MR. FERRARA: Thank you, Your Honor.

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DIRECT EXAMINATION

BY MR. FERRARA:

Q Mr. Adley, can you tell the Court what your current -- who your current employer is?

A Berkeley County Planning and Zoning Department.

Q Okay. And how long have you been working for Berkeley County?
A Getting ready to go on two years.
Q Two years. Okay. My office sent a subpoena over to you and I appreciate you appearing today. This action that you're here on and we need your testimony about concerns Lot 20 which is know as, I believe it is, 1109 Saddlehorn Drive.
A Okay.
Q Did you have a chance to look at the zoning requirements as it relates to Saddlehorn Drive in Eagle Harbor?
A I've only seen the parcel only a couple of times.
Q Okay. Do you know what the zoning requirement is for that area of Berkeley County?
A Its that zoning Flex 1?
Q Yes. That's what I'm asking you.

MR. JACKSON: Your Honor, I think he needs to testify whether he knows about the zoning before Mr. Ferrara provides answers.

THE COURT: I agree. Ask him the question.

MR. FERRARA: Sure.

THE COURT: I wasn't sure if that was an answer or a question. So ask him again.

Q Mr. Adley, are you familiar with the zoning for Lot 20 in Eagle Harbor?
A I do have the zoning on hand.
Q Okay.
A And it tells me that it is indeed Flex 1. I just wanted to make sure we were referring to the same lot.
Q Yes. Okay. And if you can tell the Court, what is Flex 1 zoning?
A Flex 1 is our agricultural zoning district for Berkeley County, unincorporated.
Q Does Flex 1 zoning allow for subdivision of a lot?
A You can subdivide the lot provided you meet the lot size requirements.
Q And what are the minimum lot size requirements for Flex 1 zoning?
A The minimum lot size is 30,000 square foot or approximately seven-tenths of an acre.
Q Seven-tenths of an acre. Sir, I'll hand you Defendants' Exhibit No. 1 and refer you to Lot 20.
A Okay.
Q And my question is with respect to Berkeley County zoning, is Lot 20 subdividable into three total lots, at least?

A The subject property as far zoning as concerned could be subdivided as long as they met the requirements, yes.
Q As they long as they met the requirements being the minimum square footage you talked about?
A Correct.
Q And then, additionally, approval from DHEC is not required if the subdivision lot is going to be in between family members, correct?

MR. JACKSON: He's leading.
THE COURT: Just ask the questions --
MR. FERRARA: Sure.
THE COURT: -- leading.
MR. FERRARA: Sure.

Q Mr. Adley, is there any other government agency involved in the determination of subdividing Lot 20 other than Berkeley County?
A I'm not quite sure what you mean.
Q Sure. I'll ask you this: If the owner of Lot 20 came to Berkeley County to apply for a subdivision of Lot 20.
A Uh-huh.
Q Can Lot 20 be subdivided based upon the square

footage into three individual lots?
A It could be subdivided into three lots. There are requirements not just for the zoning aspect as far as minimum square footage. There's land subdevelopment requirements that also have to be met. And those also do include whether or not septic system are water and sewer services.
Q Sure. If water is available, is that one of the requirements for subdividing a lot?
A The main one we typically look at is septic or sewer availability.
Q And is there an exception for the septic subject availability if the transfer or subdivision of lot is between family members?
A We do have that understanding. As far as that's concerned, they still have to -- we allow them to subdivide the property with a note indicating that they still have to obtain septic suitability in order to build a house on it.
Q Sure. Okay.

MR. FERRARA: Thank you, sir. That's all the questions I have.

THE COURT: Any questions?

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CROSS-EXAMINATION

BY MR. JACKSON:

Q You mentioned septic tank is an additional requirement. You're not opining -- well, let me ask it -- you're not opining in any way, shape, or form that someone could build a house on each of those lots, are you?

A I'm not you what you're meaning.

Q Okay. Well, what do you mean by subdivide? Mr. Ferrara asked you about subdivide. What do you mean by that?

A To divide the lot into more that one lot.

Q So they would get a plat or survey approved by zoning?

A Correct.

Q Carving the land?

A Yes.

Q But that doesn't tell you one way or another whether they can put a house on each of those lots, does it?

A It doesn't tell you. But every lot has the associated and allowed uses on that property.

Q Right. But they would still have to go through -- apply to get the proper septic tank permit if that was available?

A Prior to subdivision, we request that that information be obtained prior to the subdivision of property.
Q Okay. I'm gonna show you -- (Brief pause.) Let me ask you to look at what's been offered as Plaintiffs' Exhibit No. 30. It's a letter dated May 17, 2005, do Diana and Ronald Price. Will you take a minute and review that.
A Sure.

THE COURT: Which exhibit number is that?
MR. JACKSON: I'm sorry. It was Plaintiffs' Exhibit No. 30.
THE COURT: Thirty?
MR. JACKSON: Plaintiffs' Exhibit No. 30.
THE COURT: Thank you.

Q Let me know when you're finished reviewing it.
A Okay.
Q Okay. I guess let me ask you this: Your area of expertise is in zoning, right?
A Planning and zoning, yes.
Q Do you deal with septic tank approvals at all?
A No, sir.
Q So you don't know whether a specific piece of

property can support a septic tank or not under DHEC's regulations?
A That's why we request the DHEC approval letter.
Q So if you were wanting to get approval through subdividing to be able to build, you would have to go through DHEC to try to get a proper permit. Is that correct?
A Correct.
Q And if DHEC told you no, then you couldn't build on that lot. Isn't that correct?
A Correct.

MR. JACKSON: No further questions.
THE COURT: Mr. Hubbard, any questions?
MR. HUBBARD: No questions, Your Honor.

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REDIRECT-EXAMINATION

BY MR. FERRARA:
Q Ty, I'll hand you Plaintiffs' Exhibit No. 30 and ask you on page 2, the middle paragraph, last sentence, Mr. Houston is saying that the only way he knows to subdivide the property would be to have public sewer access. You see that sentence?
A Yes, sir.
Q Okay. So the question that we're asking your help

for is can Lot 20 be subdivided into three separate lots. Yes or no?
A If it has sewer access.
Q Let's back up. From zoning and planning perspective, can Lot 20 be subdivided into three separate lots if the transfers are between family members?
A That is correct. They just cannot be built on.
Q Correct. Thank you, sir.

MR. FERRARA: That's all the questions I have.
MR. JACKSON: No questions from me.
THE COURT: All right. You can step down, Mr. Adley. Thank you very much.
THE WITNESS: Thank you, sir.
THE COURT: Mr. Ferrara?
MR. FERRARA: Your Honor, defendant would call Belinda Fox to the stand.
THE COURT: All right, Ms. Fox.

(Whereupon, the witness, BELINDA FOX, was duly sworn.)

THE COURT: Thank you, ma'am. Have a seat.

Give your name, spell your last name for the court reporter.

THE WITNESS: Belinda Fox, F-O-X, is my last name.

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DIRECT EXAMINATION

BY MR. FERRARA:

Q Belinda, where do you currently reside?

A 160 Loganberry Circle, Goose Creek.

Q And you've heard the testimony in this case. If you could very briefly tell the Court how you got involved with the Eagle Harbor subdivision?

A A neighbor invited us to their home. It was a group of adults there. And Danny and Liz Gilbert were there that night. And they had just -- I think they had just returned from the boys home where they had worked before. And they were sharing their vision for a boys home.

Q Danny and his wife?

A Danny and Liz.

Q Right. Right.

A But that night -- we didn't really know them, but they described some of the boys. And the one I remember the most was they described a boy that was locked in a cage, and he was being fed through

a cage. And at the time, we had -- I believe it was the sale of our home, and we were going to build a home. And maybe not at that meeting, but at a later time Danny expressed a need for someone just to put some money up front for the purchase of some land for this boys home, and it was just for a few months. They just needed someone to purchase that in the beginning. And we had this money. We had just sold our home. And we thought, well, it'll just be a short time. So we just thought it would be a good thing to do.

Q And you and Gerry, your husband, bought the first piece of property which was phase one of Eagle Harbor, correct?

A That's correct.

Q And Mr. Gilbert developed the phase one without a problem, correct?

A Without a problem?

Q Without a lawsuit I should say?

A Without a lawsuit, yes.

Q And with respect to this lawsuit that we're here on today, Belinda, the Prices, let's assist the Court as best we can. Did you have any interaction with Diana or Ronald Price in connection with their purchase of Lot 20?

A No, I did not.
Q Okay. If you had no communication with them, you would not have been able to make any representations about Lot 20 or the neighborhood, correct?
A Correct.
Q Okay. And Mr. Gilbert was an agent or signed on your behalf regarding the Lot 20 contract which is Exhibit No. 2. You're familiar with that?
A Say that again.
Q Mr. Gilbert acted on your behalf when selling lot 2?
A Yes.
Q Okay. And what were your instructions to Mr. Gilbert, if any, about what your understanding was about him selling Lot 20 to the Prices?
A Well, the property was in my name only. So I didn't really have a lot to do with that. So I'm not sure what you're asking. But my husband put the land in my name. But that didn't -- I wasn't really interacting with the process.
Q Right. Mr. Gilbert was on-site at Eagle Harbor in his trailer and selling --
A Yes.
Q -- the lots, correct?

A Yes.
Q Okay. You didn't make any representations prior to closing or even after --

MR. JACKSON: Your Honor, limitation on the leading, please.
MR. FERRARA: Sure.

Q The wetlands, the Prices have claimed that they were deceived about wetlands on the property. Were you aware of the existence of any wetlands touching or concerning Lot 20?
A No, I was not.
Q Were you aware of any wetlands in Eagle Harbor at all?
A No.
Q And what I'm referring to is at the time of closing or before, I'll ask you, Belinda, were you aware of any problems or concerns with the covenants or the roads with respect to Lot 20?
A I was not aware of any problems.
Q Okay. With respect to the lot being able to be subdivided, did you have any representations to Mr. Gilbert about that?
A I did not.

Q Today, Belinda, is Eagle Harbor subdivision progressing along as planned?
A The subdivision is progressing. There has been a road issue that has been resolved.
Q Okay. Yeah, we weren't going to talk about that today. But with respect to -- we've heard some testimony about the amenities and fences and gates in the neighborhood. Are you aware of any problems as we sit here today with the neighborhood?
A No, I'm not.
Q Were you ever made aware of, Belinda, of any of the letters that Mr. Gilbert would've received from DHEC that are into evidence?
A I don't think so.
Q Okay. Well, ma'am, Plaintiffs' Exhibit No. 40 with Mr. Gilbert that talks about the problems in 2004 with Lot 20. Did you ever receive a copy of that letter from Mr. Gilbert or DHEC prior to the Prices closing?
A I don't think I did. I don't know why I would.
Q Right.
A So not to my knowledge.
Q And, Belinda, what I'm asking is that was there any type of an agreement between you and Danny to

confuse, cajole, trick the Prices with respect to Lot 20 sale?
A No.
Q No. The Prices have alleged that there's a partnership between you and Mr. Gilbert in making these representations. And I'll ask you: Have you resigned any partnership documents or had any partnership agreement with Mr. Gilbert?
A Absolutely not.
Q Okay. Have you filed or received a tax return or a K-1 relating to Eagle Harbor Development Partnership?
A No.
Q Okay. All of the proceeds that you would've received from closings would be in your own individual name?
A Was it in my name?
Q Yes. I'm saying any proceeds from closings like on Lot 20 --
A Yes.
Q -- would be in your own individual name?
A Yes.
Q Did you or Gerry donate or contribute any money for land to the Eagle Harbor Boys Home over the years?

A Well, we purchased that property. And, yes, we did.
Q Okay. With respect to the development of the neighborhood, what was your understanding with your -- what was your understanding that Danny was to do with respect to the development of the neighborhood and specifically phase two?
A Well, again, I was in the background. So I can't be real specific. But I do remember that we were -- there was another builder and they approached us about doing something as partners. And we were just adamant that we do not do partnerships. So, you know, that was just never an issue. And my name was on the land. And that was my participation is that it had been put in my name. As far as the other details, I was in the background on that.
Q Belinda, looking at Defendant Fox's Exhibit No. 1, it's signed by you -- the plat is signed by you, correct?
A Yes.
Q Okay. And this Defendants' Exhibit No. 1 is a plat of phase two, Eagle Harbor. And it was -- the engineering work and the planning work was performed by Stantec?

A Yes.
Q Okay. Danny handled all that with the engineers?
A Yes.
Q The plating?
A Yes.
Q Covenants?
A Yes.
Q Okay. If you could tell the Court, Belinda, what your and Gerry's overall involvement with Eagle Harbor was in general. Was it to buy this property? What was your overall plan with Eagle Harbor if you had one?
A Well, again, our initial emotional, the reason we were caught up in it was hearing about this vision for a boys home. There was nothing like it in South Carolina. So for boys to live in a home with a family was something new. So our contribution, initially, was to buy this property that other people had already agreed they were going to buy for this first phase. So it didn't even seem like a risk. It was just -- we just need someone to come up with the initial investment. And what we didn't know was all the expense. And what didn't happen in a few months took years. So we were renting a home for, I

think, five years because of this situation. So it was -- you know, like you said, Diana, what you know now. Well, we didn't know anything then what we were -- you know, the initial phase one was not without problems, you know. And so, yes we -- so what is your question? So that's how we -- we really got involved just thinking about the boys home. And it just wasn't a simple project.

Q Right. And, in fact, Mr. Gilbert advised you and your husband that he could use his builder's license and build a boys home at a discounted cost, correct?

A I don't know.

Q You don't know that. Okay.

MR. FERRARA: Okay. Thanks, Belinda. That's all the questions I have.

THE COURT: Cross-examination.

MR. JACKSON: Yes, couple of questions here.

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CROSS-EXAMINATION

BY MR. JACKSON:

Q You mentioned there was some problems with phase one. What were some of the problems with phase one?

A Well, at one point when the roads were in, the County came in and said, oh, you've got to go back and do these big turnaround for emergencies. Which later they said, oh, you really didn't have enough homes to need that. So just -- and that was an expense that, you know, initially we didn't expected to do a big turnaround for an emergency vehicle.
Q And when you say we, who are you referring to?
A Well, when I say we, I know that there had to be money to take care of that.
Q Okay.
A So I heard that about that. So I don't know who I mean by we. But I know that we, my husband and I, spent money.
Q Okay. Now, I think you mentioned before you didn't really have a lot to do with that in terms of the selling of these lots. Is that true?
A That's true.
Q And isn't true that you relied on Danny to handle the marketing and selling of the lots?
A I didn't handle it.
Q But you knew that Danny was handling it?
A I knew that I wasn't handling it.
Q Okay. Now, what's your occupation?

A I'm a realtor.
Q Okay. And how long have you been a realtor?
A I got my license about 13 years ago, I believe.
Q Okay.
A After this ordeal.
Q Okay. And you say after this ordeal, you mean way after it or like --
A Probably a year or two later.
Q Okay. Now, have you sold any lots as a broker in Eagle Harbor subdivision?
A What is your question as a broker?
Q Have you sold any lots in Eagle Harbor subdivision as a broker?
A Since I got my license as a realtor?
Q Yes, a realtor. I'm sorry.
A Yes, I have.
Q -- terms -- you have. Okay. Now, you may not know the answer to this. And if you don't, that's fine. Let me back up. You said that you weren't involved in the different things and you said you didn't know if there were any wetlands. Did you try to do any investigation to see if there was any wetlands? Do you know if there was any stormwater management plan done as part of the subdivision? Or did you rely on somebody else to

do all that?
A I personally didn't do that.
Q Okay. So you're not familiar with any of the stormwater management or any of the regulations required to do a subdivision?
A At that time, I was not.
Q Okay. And so, you weren't participating in any of that?
A At that time, I was a stay-at-home mom homeschooling.
Q Okay.
A So I was not -- I didn't have a real estate license or know anything about it.
Q Okay. Show you a letter and see if you recognize -- in this letter. I think you testified before that you didn't recall ever receiving anything or talking to the Prices or being aware of these issues about the DHEC letter, et cetera.
A Well, I said I wasn't sure if I had seen that letter that I was presented with.
Q Oh, the DHEC letters?
A Yes.
Q Okay.
A I wasn't sure I'd seen it.

Q Sure. Okay. That's fine. And let me see if you recognize this letter, and if you're familiar with it, and if not, that's fine.
A Well, this is addressed to my husband.
Q Okay.
A So I would've -- I'm sure I would've seen it then.
Q Well, are you familiar with any of the contents or recall receiving it or discussing it with him?
A (Witness reviews document.) Yes, sir.
Q Okay. What, if anything, did y'all do in response to that letter?
A Well, my husband had a conversation with Mr. Gilbert and also asked to meet with the Prices.
Q Okay. What was the conversation with Mr. Gilbert about?
A You would have to ask my husband.
Q Okay. You didn't have that conversation?
A I did not.
Q Okay. All right.

MR. JACKSON: I'll go ahead and move to offer this as --
COURT REPORTER: Am I marking this one?
MR. JACKSON: Yeah, you can mark that one. I

was looking for a stapler.

THE COURT: Any objection?

MR. FERRARA: Hold on one second, Your Honor. I apologize. No objection, Your Honor.

THE COURT: What will this be marked as?

MR. JACKSON: Forty-four, I think?

COURT REPORTER: It's 44. Sorry, I didn't hear the question. It's 44.

THE COURT: Thank you.

(Whereupon, Plaintiffs' Exhibit No. 44, Letter, was received into evidence.)

MR. JACKSON: That's all the questions I have of Mrs. Fox.

THE COURT: Mrs. Fox, hold on. Any questions?

MR. HUBBARD: I don't have any questions, Judge.

THE COURT: Okay. Any further?

MR. FERRARA: No, Your Honor. Thank you.

THE COURT: Okay. You are free to step down. thank you.

THE WITNESS: Thank you.

THE COURT: Yes, sir.

MR. FERRARA: Your Honor, at this time, defendants will call Mr. Danny Gilbert to the stand. Danica purchased in.

THE COURT: All right. Mr. Gilbert, come on up. You previously have been sworn. You're still under oath, okay. Thank you, sir.

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DIRECT EXAMINATION

BY MR. FERRARA:

Q Mr. Gilbert, you've been here throughout the trial and you testified a little yesterday. And without duplicating your testimony from yesterday, I'll ask you, at or prior to the closing of Lot 20 with the Prices, you were you aware of --

MR. JACKSON: Leading, Your Honor. Objection, Your Honor. Leading.

THE COURT: No leading.

MR. FERRARA: Okay. All right, Your Honor. Respectfully, Your Honor, we got -- we've got a claim for indemnification against Mr. Gilbert. And, technically, he's an adverse witness. So I would request permission to lead?

THE COURT: Any objections?

MR. JACKSON: As long as he declares him a

hostile witness, yes. And he's representing to the Court he's prosecuting his indemnification claim. No objection.

THE COURT: Is that your understanding, Mr. Ferrara?

MR. FERRARA: Yes, Your Honor. Just to speed things along.

THE COURT: All right.

MR. FERRARA: Thank you, Your Honor.

BY MR. FERRARA (Continuing):

Q Mr. Gilbert, with respect to the wetlands claim by the Prices you were not aware of any problems with wetlands on Lot 20 prior to The prices purchasing that lot in 2003, were you?

A No. Not at all.

Q You were also not aware of any problems with covenants or restrictions at that time?

A No.

Q And the plaintiffs are claiming that there was some type of agreement between you and Mrs. Fox to misrepresent or deceive the plaintiffs out of money in exchange for Lot 20. I'll ask you, you didn't have an agreement with Mrs. Fox or Mr. Fox to misrepresent the status of the neighborhood or

Lot 20 --
A Never. Never.
Q -- in order to sell the lot?
A Never. We got -- we were gonna run a children's home out there. I mean --
Q Right.
A -- can't do that.
Q You testified about that yesterday. And I'll ask you because you were brought in as a witness for the plaintiff. Do you have any additional background information relating to this subdivision in Eagle Harbor that you think would be important for the Court?
A Yeah, I do. Phase one was nine lots and then count the residual property Eagle Harbor owns is a tenth lot. The subdivision regulations for a -- you know, for a subdivision that's under 15 lots, way different. No paving, the storm drainage, all that not needed. You just had to have -- had to go before planning and zoning and get the plat approved and that was it. You know, didn't even have to make roads, you know, passable. But things changed when it went to phase two because it was more than 15 lots so then it had to have the stormwater, you know, the whole thing; the

paving and all that. So it increased the prices of everything, of the whole development, that increase. So that changed. And then there was a third phase added that was on the backside of phase one that then the County came back and said, well, if you add that there to get there you got to go through phase one. Therefore, you've got to pave. So those were the issues with that particular phase.

Q Okay. Now, Belinda just testified that she helped with the purchasing of the lots and that you were handling the development in general. Would you agree with that statement?

A I would agree with that. I wasn't marketing anything. I never had to market anything. And I didn't have a trailer set up for Heritage Classic Homes. I have -- you know, it's a double office, mobile office building, that was used for the boys home. And I didn't have to market that. And the reason that I was the one selling these or at least talking to people about it was because people would drive through. We never placed an ad in anything. We ever sought out and found anybody. Matter of fact, the Prices found me. I didn't find them. They came to our place.

Q Right. And I apologize. I wasn't trying to paint a picture that you were in a trailer.
A No. I wasn't marketing. My point is I wasn't marketing.
Q My question, I guess, sir, is that you were on-site handling the day-to-day development activities of phase two, correct?
A Yeah. It was convenient for me to do that because I was there. We were -- at the end of 2004, October is when we got our first child. Prior to that, 2003, we were building. We were building the first house. We were putting in roads for the boys home. We were putting in the lake. I mean, I was there every day.
Q All of the building and putting in the roads and things like that, that was done on behalf of Eagle Harbor, correct?
A The whole purpose out there was Eagle Harbor. It was just a vessel to use to get us to that particular point.
Q Mr. Gilbert, if you can look at Fox Exhibit No. 1, there's some signatures at the bottom of this plat. And there's this signature by Eagle Harbor. Is there not?
A Yeah.

Q Okay. And that's your signature, correct?
A It is. I had to sign this because to get to phase two, you have to go through the Eagle Harbor ranch, boys ranch, property. And so I had to give up a permanent ingress/egress easement. So that's why I had to sign this. Other than that, I didn't have to sign.
Q I can't find the document, but I'll just ask you. The Prices -- I think Diana Price testified yesterday to receiving a letter from you in connection with the construction of their home. Do you recall that?
A I mean, I received numerous e-mails and probably letters.
Q Sorry. I apologize. That was a poorly worded question. Do you recall sending the Prices a letter whereby you advised them even though you were not their current builder that they needed to still apply through the architectural review process to get an approval from Eagle Harbor?
A I don't know if it was a letter or an e-mail, but certainly I remember that.
Q And in that letter you let the Prices know that you were the developer, correct? Is that right?
A I'm not sure. But, I mean, sounds like something

that we did.

Q Sure. Sure. I think you were just try to let the Prices know that before when they had you build their house, you were handling some things in the background with architectural review. But now that they have terminated their relationship with you, you were warning them that they needed to follow the covenants and restrictions?

A Sure. So myself and Malcolm Brennan, who's an architect in Charleston, and we were looking for somebody that had bought a lot out there to be on the committee. So that we could -- the reason -- the reason the declarant was to have oversight of what was going in the communities. Because I had vulnerable, you know, children there. And, you know, I didn't want rapists or -- you know, I just didn't want different kind of houses or things that could affect the 91 acres that we owned in the middle. So ARB was very important. And then they fought it because where she put her lot, she put her new house too far to the road. People complained about having to pay the fee. And now they've got -- they've got a mess out there. They got a mess because they fought the ARB. And, to me, it's diminished their property values because

they didn't adhere to that. So that's why I was involved. That's why there's an ARB. And the best thing that could have happened is for them to uphold the ARB, you know, so that the things that were built out there would be presentable. And quite frankly, I don't think they are.

Q And just to be clear, sir, I wasn't trying to get -- go down the road of anything concerning the roads or concerns --

A Sure.

Q I was just focusing on the Prices and wanted to be clear to the Court. You weren't saying that the Prices caused any of the problems that they're complaining of, were you?

A Sure they did.

Q They did?

A They started the whole things.

Q Okay.

A Everything out there. They started the turmoil of everything that's out there. They started -- she dug and she dug and she dug. And every agency that is related to Eagle Harbor, Incorporated, the children's home, she sent letters to telling them we weren't spending our money right. We weren't taking care of kids right. We weren't doing this,

we weren't doing that. She sent everything to every agency that exist for the environment. She did everything. Its cost -- we spent $120,000 three years ago for a land disturbance permit that quite frankly we would never had to pay if it wasn't for her. She's cost -- she's cost numerous kids money. Numerous kids. Program things that we could have done with the kids have been left out because of what she started.

Q That $120,000 that you were talking about, that came from Eagle Harbor?

A It came from Eagle Harbor, absolutely.

Q Eagle Harbor. Okay. And you've heard what the Prices are complaining about. And I'll ask you this -- in this action, I'll ask you this: It's absolutely, positively, unequivocally true that you did not have an agreement with Belinda or Gerry to misrepresent or shade in any way any information you might have known at the time that the lot was sold?

A No.

Q Lot 20 sold to the Prices?

A No. Again, we have to live there. We have to be there. We have to --

Q Yeah. You live in that neighborhood, correct?

A I don't live in the neighborhood. I had a lot in the neighborhood. I sold the lot in the neighborhood. But we actually have a contract on another lot on the other side, yeah.

Q Okay. And the boys home today is still ongoing and helpful, correct?

A We serve 300 children today.

Q Yeah. You heard Mr. Adley testify, sir, about the subdividing of the lots. Did you ever have any conversations with Berkeley County prior to the sale of Lot 20 --

A I did. I talked to Carl. And I said I'm just gonna drive down to -- just today -- it was the day before yesterday. I'm just gonna drive down there and see what they say. Took the plat. Took it down there.

MR. JACKSON: Objection if he's trying to talk about what he talked to somebody else about.

THE WITNESS: No. I took the plat --

THE COURT: Hang on. Hang on. Where are we going?

MR. FERRARA: I was just asking him if he had knowledge prior to the Prices closing about the capability of subdividing Lot 20.

THE COURT: Okay. Limit the answer to what was prior to the closing, Mr. Gilbert.

THE WITNESS: Gotcha.

A Prior to her closing?
Q Yes.
A Have a conversation with who?
Q Did you have any discussions with Berkeley County about the ability to subdivide any lots in phase two?
A Sure, we did. Yeah.
Q And so, the Prices -- you heard their testimony -- are claiming that you represented that Lot 20 could be subdivided into two or three lots?
A Yeah.
Q You heard that?
A I did. I said that the lot could be subdivided. I didn't promise them a drain field. I never said the word perk. I was taught not to say that. There is non-buildable -- they can subdivide it the day that they bought it. Right here, lot three is a non-buildable lot. They could have made two other non-buildable lots. And what we talked about was, you know, our hopes for sewer to come out there because the children's home was

built on marginal soil. So therefore, I'm unlimited to how many children's homes I can have. So we have two houses right now. And at the boys home, we're out of drain fields.

So the whole ideas is when sewer comes, you know, we can build more houses for the boys home. And someone who bought a big lot, because it's a big lot, they can subdivide it. That was all that was said. Nothing else. No promises for drain field. No promises for any of that.

Q Danny, did you ever speak with anybody at DHEC about the possibility that Eagle Harbor would have public sewer in the future?

MR. JACKSON: Objection if he's gonna testify about what someone at DHEC told him. That's clearly --

THE COURT: You can't -- don't solicit. It's hearsay.

MR. FERRARA: Okay.

Q I'll ask you this question and I don't want you to tell me what anybody else told you. I'm asking you did you ever have a conversation with anybody about Eagle Harbor, phase two, and the

availability of potential public sewer in the future?
A I think so. I think I've had conversations with DHEC.
Q Okay. And that's fine.
A Okay.
Q That's all I wanted to ask you. And so, was that your plan when you look at Exhibit No. 1 for Eagle Harbor, phase two, to have public sewer?
A No. It wasn't my plan. It was just -- it's just a bonus to those people who bought the extra lots. You know, for Eagle Harbor to have it, you know, that's our plan in the future because we're very limited.
Q Okay. Danny, you never had any conversations with Belinda prior to the closing of Lot 20 about any representations you may have made to the Prices prior to their closing, did you?
A I don't believe so. What specific representation are you talking about?
Q Well, I'm just asking you that the Prices are contending that you advised them -- and you had talked about this earlier -- that you advised them that Lot 20 would not only be subdividable, but they understood that to be buildable. Did you

make that representation?
A No. No. If it was buildable -- my goal was to make Mr. Fox money, Mr. Winn money. And the way to do that is to have the small lots. You know, these small lots because you can turn those lots. Because people wanted two-acre lot. Not everybody wanted an eight-acre lot. If we could have -- if it could have been done, we would have done it.
Q And if you are able to build, you know, as Heritage Classic Homes, build a house out there for various lot owners, that's a benefit to your company, correct?
A It's not so much a benefit anymore, but certainly it seemed like a benefit at the time.
Q Right.
A Depends on what kind of client you have.
Q Danny, let's go to the soil conditions representation. Did you hear Mrs. Price and Mr. Price's testimony about that?
A I did.
Q Okay. And I'll ask you directly. Did you make a representation that you had some type of soil test or --
A Absolutely. Absolutely.
Q Okay. One second. What was the representation if

you can tell the Court?
A Mr. Park -- Mr. Parker will be here. And me and him -- he's a soil consultant.
Q And I don't want you to testify to what he told.
A Okay. He's a soil consultant that we hired because when we applied for the subdivision permit -- you saw the letter that said we had a limited amount of lots. Very small. But the end result, you see that we have 20 lots. Well, it started out at five. And then we had to bring in Mike Parker. And me and Mike Parker walked every piece of this property doing soil borings to find suitable soil for a drain-field system. There was no perk word there. I don't even know what perk is.
Q Sure.
A We walked it. He taught me. He showed me the soil colors. He showed me the grays and the reds, and when to cull the water table. And he taught me like I was his son. And I take pride in that because he's a good person. We did that. We started out with five or six lots. We ended up with 20 lots. So there's was the soil done and it was done for DHEC as well because DHEC had to come out and check. When Mike Parker called him and

said, hey, come check the -- I think we got --

MR. JACKSON: Your Honor, again, he's talking about hearsay about what someone said.

THE WITNESS: I'm sorry.

MR. JACKSON: I move to strike that testimony.

THE COURT: Don't repeat what other folks said, okay?

THE WITNESS: Yes, sir. Yes, sir.

Q Danny, I'll ask you this: When you got Defendants' Exhibit No. 1, the plat, for phase two approved by Berkeley County, you already had the preliminary approval from DHEC at that time, did you not?

A Oh, absolutely.

Q You can't get that plat recorded and approved by Berkeley County unless DHEC has communicated with Berkeley County and said we have preliminary approved this neighborhood?

A Yeah, that's correct. Or you would have people really selling stuff you couldn't get a drain field for.

Q There was all types of testimony about previous

letters from DHEC advising you different lot concerns. But all of those concerns were relieved or addressed by DHEC prior to your closing of Lot 20, correct?

A Yeah. Yes, sir.

Q Okay. Do you agree with the Prices' testimony that DHEC later revoked a permit that they had in hand due to the DOT encroachment permit?

A Yeah, I agree with that.

Q Okay. Was that known to you at the time that you entered into the contract on behalf of Belinda for Lot 20?

A No. No.

Q Meaning, I'm asking you.

A I'm like -- we hired, you know, expensive engineers. And people that submitted for permits. And it was my, you know, my belief that we needed an encroachment permit or whatever we needed that that would've been taken care of.

Q The encroachment permit turned out to be an ancillary matter that applied to a few lots in phase two, correct?

A Four lots, yes.

Q Four lots. The other lots that are included on the plat, which is Exhibit No. 1, have drain

fields that are either -- that are on their lots or adjacent drain field sites, correct?

A Yeah. They're either on their lots or they pump to another location within the subdivision itself.

Q And DHEC had actually approved all of that. And DHEC had reviewed this master plat prior to it being recorded, correct?

A Yeah. They have to come out and do the soil borings themself.

Q Right.

A So they did all the soil borings.

Q Yeah. So these letters from DHEC that are into evidence, those are preliminary letters that are standard for a developer when they're going through the process of taking one track of land and subdividing it?

A Sure.

Q There's a letter, Danny, Plaintiffs' Exhibit No. 40 about the high water table that occurred in the summer months. Do you remember receiving that letter? I'll hand that to you.

A I think I remember it.

Q Sure. And that's where DHEC is notifying you that due to an unseasonably rainy season there are some concerns with lots out at the neighborhood. Is

that correct?
A Yes, it seems that way.
Q Prior to that, had you already received some type of approval or an agreement by DHEC that your plan for phase two was going to be accepted?
A Can you say that one more time.
Q Prior to receiving that letter --
A Right.
Q -- you must have met with DHEC and had them come out and do the samples, walk the phase two, and give you a preliminary approval?

MR. JACKSON: Can you clarify which letter. I'm sorry --
MR. FERRARA: Sure. I'm sorry. Plaintiffs' Exhibit 40.
MR. JACKSON: Okay.

A I don't know. I mean, I can't --
Q Can't remember?
A I can't remember.
Q Okay. Well, if you can, it will help the Court -- you've already testified that you did have communications with DHEC prior to the plat, which is Defendants' Exhibit No. 1, being recorded,

correct?
A Right. Right. I did. You know, it says right here. After receiving my letter, you hired a consultant over the next several months located remote, you know, tile field sites for most of -- most of the denied lots to include, you know, the four sites that were across the street, so.
Q Right.
A Yeah. This kind of says it all.
Q Is this soils consultant the gentleman you were mentioning earlier is gonna testify today?
A Yes, sir.
Q Okay. We'll leave that to him. Thank you. The wetlands issue on Lot 20, and as it turns out, in Eagle Harbor, that was news to you at the time in 2004 or so when it was discovered, correct?
A Sure. Yeah, any wetlands was news to me.
Q And I want to be clear to the Court that you or anyone on behalf of Eagle Harbor have any knowledge directly or indirectly of wetlands for Eagle Harbor?
A No. Not -- no, not direct knowledge. You know, we got a creek that goes though there so we can only assume.
Q Okay. Well, and specifically, we're here today,

sir, on Lot 20.
A Right. No, no knowledge.
Q No knowledge. Okay. You heard me ask the Prices about the plat and the plat specifically references that no wetland delineation has been conducted by Stantec. Do you recall that?
A Yes, I do.
Q Okay. You must had a conversation with Stantec about wetlands at some point?
A No, I can't say that I did. I won't say I didn't. But I just can't recall that.
Q Okay. Did Eagle Harbor high Stantec to assist Eagle Harbor in developing phase two in getting all of the approvals from DHEC and Berkeley County?
A Not directly. I mean, Stantec was hired by me and, you know, those who were paying the bills. I mean, you know.
Q Okay. And Stantec would have told you that you needed to have a wetland study done, would you have done that?
A Yeah, we would have had to do that. And then we would have put it into the price of the lots.
Q Sure.
A And then we would have had to the incur that cost,

that big cost.

Q If that was a requirement -- and Stantec being civil engineers of phase two, if that was a requirement at that time, they would've advised you of that, correct?

A Yes. The problem here is that the County Planning and Zoning wasn't talking to, you know, DHEC or any other environmental organization at that particular time. And I think that when this all went down it actually changed policy at Berkeley County where everybody shaking hands and everybody knows what's going on. But prior to that, that wasn't a stipulation on making the subdivision.

Q Sure. And let's be clear to the Court. Phase one, Eagle Harbor didn't have a wetlands study done for phase one, did it?

A No. Again, you could -- there's a subdivision that was down the road when you turn on Haney Branch we kind of modeled after. They made separate roads off the main road. Although they had more than the allowable lots that they should have had to pave, but they made separate lots. So we paid attention to that. When we did phase one, we kept the lots under 15 so we didn't have to meet all these regulations.

Q Okay. Danny, why was -- and I'm putting my hand on it -- but why was the contract with the Prices, why was it an as-is contract?
A Well, every one was out there.
Q Okay.
A And they had the -- you know, they had the right to do their own due diligence.
Q Right. Did you have any conversations with the Prices about due diligence and the items --
A Sure. Because we agreed on the dates. I mean, these dates aren't -- they're not arbitrary. You know, you had to get your financing, proof of financing. You had to -- you know, you had so many days to do your whatever, your inspections or whatever else. These guys are on, you know, a hot path to get to getting something done real quick. It's not my fault that they didn't do the work.
Q Did your -- who prepared Exhibit No. 2?
A I'm sorry. Is this Exhibit No. 2 here?
Q Yes, sir. Yeah, the contract for Lot 20.
A This contract was given to me by an attorney and I had a blank form on my computer. So that if something like this happened, someone came in -- I'm not a realtor. I was just, you know, facilitating, you know, a service for the people

that I was trying to help make money.
Q Did you have any conversations with the Prices about all these special stipulations in paragraph 8 of Exhibit No. 2?
A Other than presenting this to them as a contract. I mean, they had to read it.
Q Was there a --
A I can't tell you if I had a discussion on every item on there. I know I probably made it clear about the rollback taxes because that was something that one of the investors made sure that we had in there.
Q Okay.
A Yeah. We had -- in number 8. Yeah. So, yeah, we did. So developer agrees to allow subdividing of property. To allow it. It didn't say approve it. It just says allow it. We got no problem with them doing it. I can't be the, you know, the governing body to approve it, but we would allow it. Two separate lots with the possibility of a third upon approval of the homeowner's association. You know, we wanted their lots to be, you know, no less than two acres. So, you know, if they were gonna, you know --
Q Right.

A -- do their own little subdevelopment, I mean, we were certainly against that.
Q Lot 20 was 7.86 acres. If you divide that into 2.86, two acres and three acres, you can have three lots, right?
A You could, yeah.
Q Mrs. Price testified, Danny, on page 2 about the -- her conversations with you, I guess, regarding hiring or having the ability to hire either Mr. Spell to review this contract or another attorney. Do you recall that?
A I do. I made it clear. I'm just -- can I speak?
Q Well, I'll ask you the quick questions. What was your conversation, if any, with Mrs. Price specifically about consulting an attorney concerning the correctness or duplication of items?
A That was something that she wanted in there.
Q Okay.
A I'm sorry. I thought you were talking about the closing attorney because there was some issues with the closing attorney.
Q Well, we can come to that. But this on page 2 the language about consulting an attorney concerning correctness and duplication. position?

A Right. That's something that she had to have there because, you know --
Q What do you mean by that? That she had to have it.
A Well, that's something that she wanted before she'd sign the contract.
Q Did Mrs. Price tell you that I'm not signing the contract until you put that language in there?
A Yeah, absolutely.
Q Okay. And how long, Danny, of a process was it in minutes or hours in this two-page contract in dealing with Prices so the Court can understand?
A I don't really know. But they didn't sign it when they came in the office. They brought it back.
Q Okay.
A So they reviewed it and they brought it back. It wasn't like I gave it to them and they signed it. They took it with them.
Q And so, Mrs. Price testified that there was two meetings with you prior to closing. There was a meeting, I think, in October and then there was a meeting later. Is that your recollection?
A I remember, you know, maybe Mr. Cotton there telling me that, hey, someone is gonna be coming up looking at place. Mr. Cotton's here in the

back now.
Q Okay.
A He's been referred to multiple times. But, you know, give me kind of a heads up, hey, somebody came by, you know, told him about what's going on in Eagle Harbor. Then they came -- if I recall, they had a trailer behind their car, I think.
Q Sure.
A But and then they came back. Yeah, they came back..
Q And so, did you give a copy of this two-page contract to the Prices to take with them?
A At one point. I don't know if it was the first meeting. But, certainly, it was when they were serious about buying the property then that's when they came back with the change. And I'd given it to them as well. I told everybody out there, you know, you choose your closing attorney, but this is the one we use and he's very familiar with what we're doing out there. He's got the master plat. He's got all that stuff, so.
Q Sure.
A I didn't tell them they had to use Jeff Spell.
Q Sure. I understand that. You heard me ask Mrs. Price about paragraph 11 the entire

agreement. Do you understand paragraph 11 to be -- this two-page document being the complete agreement concerning the sale of Lot 20?

A Yeah. And I think that's why she read this when she took it home. Then she came back then she made the change to it.

Q Right. Danny, page 221, paragraph 21, contingent upon drain fields site (soil test). Did you type that in?

A I'm not sure. It could have been -- it could have been there already but as a safety for somebody else. But, you know, the drain field site soil test had been done for every one of those lots.

Q Okay.

A You know, it's kind in there but it doesn't really --

Q And you have a gentlemen that you were gonna call as a witness to explain that to the Court?

A Absolutely. Plus you have the plat right there.

Q Oh, sure.

A It shows the only non-buildable lot out there.

Q Okay. I mean, Lot 20, the lawsuit is not about whether Lot 20 is buildable or not?

A Right. So therefore, it has a drain field. So the one that's marked not buildable does not have

a drain field which is, you know, very close to what the gentleman was saying here earlier. You can subdivide, but, you know, it's gonna be non-buildable until you get your DHEC stuff squared away. And then, again, I went to the County the other day. I met with the guy and said can I subdivide this and he --

Q Right. And we had the gentleman -- we had the gentleman come in with Berkeley County, and he advised the Court on his opinion.

A Yes, sir.

Q Yeah. Real quick, Danny, paragraph -- hold that in your hand there -- paragraph 8C, buyer to receive copy of the covenants and restrictions from the closing attorney at closing. Plaintiffs are claiming they were not provided with that, and they understood that that was not their responsibility. Did you -- is this part of your standard contract or did you write this covenant and restriction language in --

A No. It was -- I don't know if it was written in there by us or it was already there. But I that's pretty typical. My wife and I just, you know, our last house that we purchased, we went to the closing and we asked the closing attorney were the

covenants were and he gave them to us. Because in the same manner, it was on the contract.

Q Danny, you've heard in the last couple of days of trial and with respect to the covenants which are Defendants' Exhibit No. 2 -- I'll hand those to and just ask you was it your intent when getting those covenants recorded that the lots delineated in the covenants are to be included into the covenants and restrictions for Eagle Harbor?

A Explain that to me one more time. I apologize.

Q Sure. What was your -- I'll start at the beginning. Did you have those covenants recorded?

A I did.

Q Either you or your attorney?

A Multiple times.

Q Sure.

A Well, actually, we did maybe twice and then Steve Smith who was hired by the homeowner's association took all the input from the homeowner's association committee and then adjusted it and recorded it again through his office.

Q Right. And just to be clear, I didn't want to confuse the Court, that all occurred after and that has nothing to do with this case.

A Well, yeah, it does. Because they were a part of

input into what Steve Smith was gonna change on these things, so.
Q And respectfully, I'm just asking you let's just go back to prior to or with Lot 20 closing.
A Okay.
Q Back in 2003.
A Okay.
Q And so, the covenants that I've handed you, was it your intent that those covenants attached to phase two at the time of recording?
A Yeah. Phase two and phase one.
Q Okay.
A Absolutely.
Q And if you look at the second to the last page, or maybe the last page, do you have all the lots listed that --
A Yeah, we do.
Q That touch and concern those covenants?
A Yes, sir.
Q At the time that you were acting on Belinda's behalf with the Prices, was it your understanding that those covenants were recorded in Berkeley County?
A Yes.
Q And that those covenants actually touched and

concerned with Lot 20 and where applicable to Lot 20?

A Yes.

Q Okay. At any time after the signing of the Defendants' Exhibit No. 2 on September 13, 2003, and the closing which occurred in November of 2003, did the Prices come back to you and tell you, Danny, we do not want to go forward with the transaction?

A No.

Q Okay. Just making sure. Did they have any, I would call it, buyers remorse after the contract was signed but before the closing took place?

A No. They actually did a closing before they had a house plan and a budge on a house plan. And that's why when you look at the construction contract it has they have to pay anything over this price because they were in such a big hurry that the drawings weren't even done, but they were just slamming, moving forward.

Q. I'm gonna stop right there and let your attorney address any questions to you regarding the structure.

MR. FERRARA: I'll stop right there, Your

Honor.

THE COURT: Mr. Hubbard?

MR. JACKSON: I don't get the right to cross yet?

MR. HUBBARD: Yeah. I was gonna say is it me or him?

MR. JACKSON: I'll let him go --

THE COURT: I thought you could cross in full.

MR. JACKSON: That's fine. I'll be glad to do that, Your Honor.

- - - - -

CROSS-EXAMINATION

BY MR. HUBBARD:

Q Danny, did you ever -- when you met with the Prices at any time, did you ever tell them that they could put a septic tank on the lot?

A I don't think I said it that way, but certainly there's a septic tank on their lot right now.

Q All right. Did you tell them -- you mentioned earlier that you don't use the work perk. Why is that? Did you tell them the lot perked? They said --

A No. I never used the word perk. Because before I even knew anything about the subdivision, I hired

a soils consultant. And he taught me the right way to say it. Perk hasn't been used in 30 -- since the 70s from my understanding. And he showed me soil borings and he showed me color. He showed me water table.

Q Okay. Did you ever tell the Prices, either one of them, that Lot 20 would be approved by DHEC for an additional septic system if they subdivided?

A Never.

Q Okay. Was there ever any resistance by the Prices to the covenants at the beginning of this process?

A No. They thought it was a good thing.

Q Okay. There was some work done on the house. You began work on the house. Is that correct?

A I did.

Q Okay. What sort of things did you do?

A Well, we cleaned the lot, cleared the lot, you know. Had someone come in and clear the lot. We put in the footings.

Q Did you have any expenses related to what you did? Did you have to pay people for what you --

A Sure. Almost $25,000 of my own money.

Q All right. Is there anything that would help you remember exactly what those were?

A You might have something in your hand, I'm

thinking.

MR. HUBBARD: Your Honor, may I approach?

THE COURT: As you wish.

Q I'm gonna --

MR. HUBBARD: I'm not sure what we'll call this.

COURT REPORTER: I don't know. I'd have to look it up. I don't know right now.

MR. HUBBARD: I think I had one exhibit yesterday. But I don't know if we just called it Fox or not.

COURT REPORTER: You just had one. So we'll mark it as two. Yeah, it's two.

MR. HUBBARD: So call that Heritage Exhibit No. 2?.

COURT REPORTER: That's fine, Heritage Exhibit No. 2.

Q Danny, I'm handing up what's been marked as Heritage Exhibit No. 2. Are you familiar with that?

A Yes, sir.

Q Who prepared this?
A The QuickBooks, my wife.

COURT REPORTER: I haven't marked it yet. I haven't been handed it. I can mark it after he looks at it, though. It's fine.
MR. HUBBARD: I apologize.
COURT REPORTER: No, that's okay. Here you go.
MR. HUBBARD: Thank you.
COURT REPORTER: Sure.

Q Did you prepare this?
A It was prepared in my office.
Q Okay. And what are attached to these -- to the front page?
A These are the invoices for the work that had been done to, you know, when I asked for payment because I hadn't been paid yet for anything, anything. No drawings.
Q Were they gonna pay you for drawings? Was that --
A Usually, I charge money for drawings. I give them a discount and then -- but I still didn't get paid for those. And they built that house and I never got paid.

Q Okay. So you mentioned earlier you had land clearing?
A So clearing, yeah. So we did the land clearing. Looks like to me we dug the footings. We put in the, you know, temporary power pole. Got the permits. Got all the insurances. You know, all that stuff taken care of. You know, had the footing inspected. You know, had the concrete poured.
Q Did the footing pass inspection?
A Absolutely.
Q And I think you heard Mrs. Price say it's still there today and they've actually built something on it.
A Yeah. That's convenient.
Q Do you have a value -- do you have any idea what the value for that footing would be?
A Well, in this, I think -- right here we're looking at -- the guy's name that did the footing was Norwood Wade. Hold on, I'll find it. Yeah.
Q Sort of towards the back.
A Sure. So the total price for the footing, the original footing, $5341 and it looks like 24 cents. So, you know, I mean, you could get -- you could break that down by linear foot and then find

out how much linear feet they kept, you know, for the foundation that they're -- for the footing that they're using that I installed that never got paid for. Yeah. And take it off of here. I wouldn't imagine it to be more than 3500 bucks of this.

Q Okay. What's the total of expenses that you had?

A Well, at this particular time it was $23,772.

Q Okay. You got some additional expenses?

A Well, I mean, this is done on -- money in the long term.

Q I understand. I understand.

A You know, I mean, yeah, this is it. There was -- I think $,7,000 that I had to give them at closing because they didn't bring the right check book and I had to help them pay for their closing. It took multiple weeks to get back, but I did get that money back. That's the only money they've ever paid me. They say they've paid me a couple thousand dollars, but it was to escrow. It wasn't to me. It was for the lot. I worked --

Q -- for the closing --

A I worked for nothing.

Q Okay. All right.

MR. HUBBARD: Your Honor, I'd ask that this document be entered into evidence as Heritage Exhibit No. 2.

THE COURT: Any objection?

MR. JACKSON: No objection.

MR. FERRARA: No objection, Your Honor.

THE COURT: Entered without objection.

(Whereupon, Defendant Heritage's Exhibit No. 2, Transaction Document, was received into evidence.)

Q Mrs. Price testified earlier today that you sort of took them to Lot 20. Is that true? You wanted them to buy Lot 20. Did you direct them to Lot 20?

A No. I mean, it's probably -- I assume this is probably how it went down. They came in, said, hey, we're looking for land. Okay, let me see what's been sold, what's not been sold. This is what's available. What do you want to look at?

Q She also said you talked about amenities. Did you offer amenities to them?

A I offered amenities to nobody. And I'll tell you where that comes from if I could.

Q Sure.
A When my wife and I went to the Big Oak Ranch in Gadsden, Alabama, it was run by a gentleman, John Croyle, who was an All American defense end for Bear Bryant. And he had multiple donors that provided incredible resources for the children's home. It was 150-acre children's home. We had a two-and-a-half million dollar gym. We had a baseball field that was lit up, a junior olympic size pool. But the problem there was they wouldn't let anybody else use it. You know, no one else could use it. Me, not having anything and not having a name that everybody in Alabama knows, when we came back to Charleston to start the boys home -- and I probably talked to Doug about it -- I said, you know, Lord, if you provide for us the things that they have there, we will not keep those to ourselves. We'll let people use them. I've told everybody that came there we're gonna have a pool. We're gonna have this. The ranch owns it. That would be mis-mingling. We can't do that. I can't get Gerry to pay for a pool at the boys home and it's just too much cross-mingling. The boys home is gonna get what we get. And if we get it, we'd

love to share it with you to the point where if we have a swimming pool and your kid throws a chair in the pool, then we're gonna kick him out. And I told that story over and over and over to different people. I never -- if you look at the covenants that you guys figured out that I prepared when the lawyer gave them to me, there is nothing in there, nothing, about a swimming pool, about anything else. It's cut and dry. Nothing was ever promised to anybody.

Q Okay. Do any of the residents use any part of the boys ranch?

A All the time. All the time.

Q What sorts of things --

A People are riding four-wheelers there. There's people fishing in the lake all the time. There's people with the horses. We have 30 acres of fences pastures. We tried, you know, having horse boarders there. You saw the drama yesterday from one horse person. We had 18 of those people. We stopped that. And now we give our -- we have our facility that we for nothing -- because God gave it to us, we're giving it back. We gave it to Hope Acres who has horse rescue. So we have 25 rescued horses out there. Except for one horse,

which I was told yesterday that I hate horses, but that horse is mine, Pegasus. So that's a false comment as well. But people are there all the time. We have 25,000 hours of volunteer time. We have churches, civic groups, you know, businesses, coming out to our place all the time to use our facility. We have churches. They have church picnics. We have -- and that's the plan that we went in with. If we can get this -- because I started with nothing. I told you yesterday, I had a thousand bucks. It's amazing what God can do with a thousand dollars. But I have a facility that has those things in it now, and we share them as much as we can share them.

Q Okay. You got a building permit for the Prices --

A Sure did.

Q -- construction of the house.

A Absolutely.

Q Tell me about that.

A We just went and applied. I applied and got the building permit.

Q Then you lost your building permit.

A I lost my building permit because -- I lost my building permit because, you know, I should've had the DHEC permit. But when I went to the building

permit -- when I went to pick up the permit, that wasn't -- that wasn't --

Q That wasn't a request --

A That wasn't it. I mean, I got the building permit, I started working. You know, I talked to Berkeley County and I talked to DHEC about this stuff. You know, there's multiple developments in places that have started and done this without the proper authority, putting their stamp on it. And they continue to run and, you know, it's no problem. But we got pegged and then we got really pegged because she kept prying and prying and prying and sending letters and digging, digging, digging. And anything that was out there, you know, was gonna stop.

Q What did you have an intention to mislead anybody?

A No. No. My intention was to build them a really nice house.

Q Okay.

MR. HUBBARD: Just a second, please.

Q I guess we should talk a little bit about your relationship once you got going on this -- how did the relationship go with the Prices once you started -- once the contract was signed? How did

it come to such a bad end for both parties?
A Toxic. She's toxic.
Q Well, let's just explain what you mean by that.
A Well, just you got a piece of it yesterday. But this is the same person that sued everybody in the subdivision. I mean, every --

MR. JACKSON: Your Honor, I object to that characterization.
THE WITNESS: Well, it's the truth.
THE COURT: Hang on. Hang on. What was the question?
MR. HUBBARD: Well, I opened up about how this relationship with the Prices and how the build went forward until it ended is really where I was going and what happened during that.
THE COURT: All right. And how is that relevant?
MR. HUBBARD: Well, they're making a claim for damages over and above what the contract price was for when they terminated Mr. Gilbert from the job site. And I'm kind of going -- I would like to go into the reasons perhaps from Mr. Gilbert's perspective as to why they terminated him.
THE COURT: All right. I'll allow it for

now.

MR. HUBBARD: Okay. Thank you, Judge.

BY MR. HUBBARD (Continuing):

Q Danny --

A It didn't start that way. It started out, you know, I'm gonna do what I can do for these folks. I was supposed to get some money at the beginning. I didn't get any money. And I kept on doing my job.

Q Did you do some drawings for them?

A Did drawings. Did preliminary drawings. Did drawings. Did modifications to drawings. Was doing drawings and changing drawings, you know, a month after the closing.

Q Did that have any -- did those changes reflect any sort of upcharges to the contract price?

A Well, I mean, they're addressed in her wanting, you know, for the extension of time having interest payments or whatever. But, you know, at the beginning --

Q Let me ask you this: When you had contract, they had an idea about you could build them a house for X amount of dollars, correct?

A Well, no. They came in my office, what can you

build this for? Well, we can't give you a price. We got to get quotes. We talked about modular because I think that's the reason why they came. Don't say that certain, but I think that's part of the reason. But they came in. And you can't give somebody a price. You can't give somebody a price in a week or even two weeks. But they wanted a price. So if you look on the contract, you know, we formulated based on the house that we just did, the boys home. You know, we X amount of dollars per square foot at the boys home. They wanted the same quality. And so we formulated a price based on that, with Boozer panels, with, you know, better built windows with, you know, with all those things. You know, trim and, you know, whatever. Some of the things they were gonna do themselves. We formulated a price, put it on there. But for me, I put below it -- because the bank -- you know, the bank wants a stipulated sum. But I can't do a stipulated sum if we don't really know what we're doing. We're still designing the house six weeks after the closing. So on there it says anything after -- anything over this amount in the exhibit --

Q You can refer to it there.

A Oh, it's in the exhibit that's attached. Anything over that amount they have to cover. So it looks like to me that, you know, I didn't want to spend any more money. She had no skin in the game. No skin in the game whatsoever. It was all me. And so I did say I'm not working anymore unless you pay me. I absolutely said that because she wasn't going to pay me. She wanted me to build the next floor system. To order that floor system was $55,000 more. And she did -- additionally, the Prices asked me for the appliances and things that they bought. They wanted to take those out of my first draw. I didn't tell them to buy the appliances ahead of time. They wanted the elaborate driveway. They wanted me to eat that out of the first draw. I needed money to pay me back for the first draw. So, no, I didn't want to work for them anymore. It became very toxic. You know, I consulted with another contractor. And the contractor said, you know, I would --

MR. JACKSON: Objection to what another contractor said.

THE COURT: We'll strike that.

THE WITNESS: Sorry. I'm sorry.

THE COURT: Don't testify to what other folks said.

THE WITNESS: Yep.

Q I'll change the subject a little bit. Have you --
A You want me to read this to you?
Q Sure, that paragraph we talked about, yeah.
A These are covenants. Sorry. I might have it right --
Q I can find it --
A The construction contract.
Q Yeah. You got it?
A No, sir.

MR. HUBBARD: Anybody see the construction contract?

MR. JACKSON: General conditions, is that what you're looking for?

MR. HUBBARD: No, the construction contract.

(Brief pause.)

MR. HUBBARD: This is Plaintiffs' Exhibit No. 5, Your Honor.

A This is her handwriting on here. She marked this up.
Q Okay.
A Just saying. In estimate, she dated 13 September 2003 as attached to this contact that gives a cost estimate -- estimate for the work to be done. The owner assumes responsibility for any cost exceeding that cost in each description. The only exception to be overhead job management which will not exceed the amount of 6900 and 9354 respectively. So those were capped. But nothing else was capped because it was an in-house design. It was evolving, it was changing.
Q Okay. With regard to Eagle Harbor and Eagle Harbor boys home and the subdivision around it, have done any other subdivisions or developments or anything like that?
A No. No.
Q Have any of your other folks?
A No. You know, it was a group of people that said, hey, let set out to do something good. And how can we do that? And like I said yesterday, it was something that could be duplicated, you know, social entrepreneurship, and we did it. And we hired the right people. Maybe some of the people

didn't do all they were supposed to do. But, you know, that was our intention.

Q Okay.

MR. HUBBARD: I don't think I have any further questions.

THE COURT: All right. Mr. Jackson?

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CROSS-EXAMINATION

BY MR. JACKSON:

Q Mr. Gilbert, are you a licensed realtor?

A No. No, not at all.

Q You don't have a real estate license?

A No.

Q Broker's license?

A No, sir.

Q Okay. What about architect?

A No.

Q Not a licensed architect. Okay. I believe you testified earlier about how this was all about the boys home. And that was the total consideration. But showing you Plaintiffs' Exhibit No. 32. Did you expect a net profit of 324,000 and then to split between you and your wife half that net profit?

A Well, yeah. And I told you in the same sentence

yesterday that we took our money and we put it into the children's home.

Q But this doesn't say half the net profit to Eagle Harbor Children's Home, does it?

A No, it doesn't. It was my option, my choice to do. Just like the --

Q But the answer to my question is it only says Danny and Liz Gilbert, correct?

A Sure.

Q Okay. Now, let's talk about these DHEC letters that Mr. Ferrara said were routine. I know I had a specific exhibit on those. Here we go. this is a collection of them. So I'm gonna ask -- this may make it more convenient. So let's start with the one in August of 2001.

A Sure.

Q Wouldn't it be fair to say as earlier as that time you were advised by DHEC that your proposed site for platted for the boys home, et cetera, had poor soils for phase two?

A Yeah, absolutely.

Q Okay. So you knew it was marginal soils?

A I did.

Q Okay. And also it says here in the last sentence, I visited the property -- and this would be the

author of the letter from DHEC -- "I was amazed to see roads that are in construction and land being cleared."

A That's faith.

Q Huh?

A That's faith.

Q But you were clearing the roads and land for the area, right?

A That's faith.

Q Did you do any wetlands delineations or any stormwater drainage permits before you just started clearing the land on faith?

A We hired an engineer that produced a set of drawings that we followed.

Q My question was at this date when he was amazed to see land being cleared and roads being built, did you have any stormwater drainage plans on file with DHEC?

A I don't believe so.

Q Okay. And isn't that a violation of regulations?

A I don't know.

Q You don't know. Okay. Let's look at this last letter then. And this was from Tina Hayden and this is --

MR. JACKSON: Your Honor, this is dated October 27, 2005. And you may not have that as part of that unless you have a copy of this entire packet. I think have an extra copy.

THE COURT: Yeah. Why don't you share that with me.

MR. JACKSON: I'll be glad to, Your Honor. Here's the same packet that he's looking at.

THE COURT: Is this already in?

MR. JACKSON: Yes. And all these other letters are in at various parts. But this is the business custodian version. And it's a letter dated October 27, 2005. I better keep it together. So let's keep this together.

MR. FERRARA: I apologize, Derrick. What number is that?

MR. JACKSON: This is the Plaintiffs' Exhibit No. 42 and the compilation business records.

Q And let's just look at this letter together.
A Sure.
Q And it's a notice of violation.

THE COURT: Which date is that?

MR. JACKSON: This is the last -- October 27,

2005, at the very last, Your Honor. It's the last letter in that package.

Q You see that?
A Yeah.
Q Where it says Notice of violation?
A Sure.
Q Okay. And what's it a violation for? Do you recall?
A No. But I can read it.
Q Okay. Well, sure, read it.
A This letter would serve as a potential violation of South Carolina Stormwater Management and Sediment Reduction Act, South Carolina Coastal Zone Management Act. So it's a potential violation. I see that.
Q Okay. And you see also where they attached to that site location, performance of land disturbance including placement of fill material and stormwater in jurisdictional wetlands without a stormwater permit. Did that happen?
A Well, I guess it did if they say it did.
Q Okay. In fact, you had an omissions letter attached to that too, right?
A I don't know.

Q Sure. Sure. Take a look.
A Yeah. I see this letter.
Q Okay. And attached to that --
A What's the date on that?
Q It's the same date. They're all dated the same date.
A The first one was 2001?
Q No. They're all dated -- oh, the first DHEC letter. Right.
A Sure.

MR. FERRARA: Your Honor, respectively, these documents are already in evidence. And I think that Mr. Gilbert has already testified that he's not aware of the contents of those documents. And I would think that those documents being in evidence speak for themselves.

THE COURT: I'll allow him to ask questions about it. It's cross-examination.

Q Okay. And I would -- did you have a chance -- did you review those findings of fact?
A Yeah. I see them.
Q Okay. So while you were cutting these roads you were also fillig in wetlands?

A It wasn't cutting road.
Q Okay. Well, you hired somebody to cut the road.
A Exactly.
Q Okay. Then they were filling in the wetlands?
A Well, some wetlands got filled in. I don't know who did that. Does it say what phase that was?
Q Well, it was dated October 2005. So I assume that would be phase two.
A Not necessarily. At that time, all three phases had been completed.
Q Let me ask you this: When did you cut the road?
A Again, I didn't cut the roads.
Q Okay. When did you hire someone to cut the roads?
A We had a different group cutting the roads for phase one. We had another group doing the roads for the boys ranch. And then we had a couple of different groups on the phase two.
Q Okay.
A Phase three had a separate person as well. So there was multiple.
Q But it's true that you didn't get a wetlands disturbing permit -- a permit to be able to fill jurisdictional wetlands?
A It is true that that was done -- that that wasn't done, yeah.

Q Okay.
A I don't dispute that.
Q All right. I think Mr. Hubbard already asked you about getting a permit. And I think you said, well, I just went there and got one. But wasn't the permit revoked?
A For what?
Q Your building permit. I should have clarified. I'm sorry. Your building permit. The permit that you had that the Prices hire you --
A Yeah. We got a building permit and then it got revoked. Absolutely.
Q And why did it get revoked?
A My understanding is because it didn't have a DHEC permit.
Q Okay. And who -- and whose responsibility in the contract documents is it to get all required permits?
A For a house?
Q Yeah.
A The builder.
Q Okay. And you were the builder, were you not?
A Yeah. Absolutely.
Q So it was your responsibility to get the septic tank permit and the building permit, right?

A It was.
Q And so, it's not the Prices fault that you didn't know that you had to get septic tank first?
A I'm not saying it is.
Q Okay. Make sure we're on the same page. Now, did you ever have a -- your -- let's go back to the wetlands for a second. Let me show you a copy of a complaint. (Brief pause.)

MR. JACKSON: The complaint I was referring to is --
MR. FERRARA: The amended?
MR. JACKSON: No. This is the one where they sued Stantec. I probably got a copy but --
MR. FERRARA: That's okay.
MR. JACKSON: -- find it.

Q Did you and the Foxes and the Winns sue Stantec?
A I believe so.
Q Okay. And it was you individually who sued Stantec, was it not?
A (No response.)
Q Let me show you a copy of this complaint.
A This has multiple names on it.
Q Right. But is one of your -- is Danny Gilbert --

is that your name?
A Danny Gilbert is my name, yeah.
Q Okay. So it doesn't say Heritage Classic Homes. It doesn't say -- it says Danny Gilbert.
A Heritage Classic Homes had nothing to do with the development at all.
Q Okay. All right. Now, publish for the Court items 10 through 13 in this complaint. Now, you had a chance to review the complaint, I assume, and discussed with your attorney?
A No.
Q So you just told your attorney do whatever?
A No. I didn't tell my attorney just do whatever.
Q So you disagree what your attorney wrote?
A Wrote where?
Q Look at items 10 through 13 and see.
A Are you talking about this attorney or this attorney over here?
Q I'm talking about this complaint.
A Well, you got to specify.
Q I just did.
A You want me to look at just 9 through 13?
Q Ten through 13, please.
A (Witness complies.) Okay.
Q Okay. You agree with those statements?

A Yeah. I don't understand --
Q Were there wetlands on the property? I'm sorry. Go ahead.
A Yeah. I don't necessarily understand the verbiage of everything, but I would say I agree with most of it, yeah, that I understand. That I understand.
Q Okay. Let's look at it then, that the property contains wetlands. You agree with that?
A Yes, it does.
Q Okay. That you failed to secure a permit. You agree with that?
A True.
Q Okay. And you properly dredged wetlands?
A I don't think so.
Q Okay. And you failed to properly mitigate wetlands?
A (No response.)
Q This is your attorney drafting a lawsuit on your behalf.
A Yeah.
Q Okay. And improper use of disposal and fill material.
A You know, I wouldn't --
Q Well, let me ask you this --

A You would have to break it down. You know --

Q Well, let me ask you this --

MR. FERRARA: Respectfully, Your Honor, this bit of questioning is I don't think relevant for this action. And that -- I don't believe that complaint --

MR. JACKSON: Your Honor, we pled a violation of breach fiduciary duty for the development of the subdivision. He was one of the developers. His name is on the complaint. This specifically shows that he had knowledge that he violated the wetlands. He didn't do a delineation, he dredged fill, and they were fined for it. I think that's relevant.

THE COURT: Is this a complaint regarding property that was affected or part of the development?

MR. JACKSON: Absolutely. This is -- absolutely. That was what the other letter request for omissions involved.

THE WITNESS: It's after the sale.

THE COURT: Hang on. Hold on. I'll allow the questions.

MR. JACKSON: Your Honor, I'll just offer

this complaint, it's a public record, as the next exhibit.

Q Now, were y'all fined for that?
A I believe there was a fine.
Q Okay. Did you settle with Stantec?
A There was a settlement with Stantec as well.
Q How much was the settlement for?
A I'd like to say 28- 30,000. I'm not real sure. Somewhere in there. Maybe less because -- maybe it was less because they did take their fees.
Q Well, didn't you just testified that, you know, somehow this cost you 120,000?
A I did.
Q But you settled for 28,000?
A No. No. I -- everything it says needed to be done, I did it. I paid $120,000 to do that. I paid those fines which was another $30,000, I believe.
Q But you settled with the person you're contending responsible for 28,000?
A We settled for less than that, I believe.
Q Okay.

MR. JACKSON: So there's no objection to this

coming in as the next exhibit, Your Honor?

THE COURT: No objection to the copy of --

MR. JACKSON: Complaint.

THE COURT: -- complaint?

MR. HUBBARD: Yes, Your Honor.

THE COURT: And how will we number that one?

COURT REPORTER: This will be number 45.

(Whereupon, Plaintiffs' Exhibit No. 45, Complaint, was received into evidence.)

Q So what did you do with the proceeds? Or how did you divvy up the proceeds? I noticed that the Foxes and the Winns and --

A No. It was put into an account at the bank under Eagle Harbor Homeowner's Association, and it was paid to a road contractor who patched the roads on phase two.

Q Okay. Fair enough.

A Hundred percent.

Q All right. Now, were you aware of the requirement to have a plat approved by DHEC before selling lots?

A Yeah, I think so. Sure.

Q And do you recall when you actually had that plat

approved?
A I can't recall the date. But, I mean, that's why I had my Mike Parker back there to help me.

THE WITNESS: Can we take like a little bathroom break? Do you mind?
THE COURT: I'm sorry?
MR. JACKSON: Now would probably be a good time. I've got to find this next document.
THE COURT: All right. We'll take a ten-minute break. We'll be back at five til.

(A brief recess was taken from 3:45 until 3:51 p.m.)

THE COURT: You're still under oath, Mr. Gilbert.
THE WITNESS: Yes, sir.
THE COURT: Mr. Jackson?
MR. JACKSON: Thank you, Your Honor.

BY MR. JACKSON (Continuing):
Q Asking you again about whether you could sell any lots even though you had plat approval by DHEC. I'm going to show you --

MR. JACKSON: This is part of this packet, Your Honor, of the public business records exhibit. And this is a May 18, 2004, letter addressed to Mr. Gilbert.

Q Would this be the final date you had approval of the plans by DHEC for phase two?
A I'm not sure. Was this even -- lot 17.
Q Okay.
A So I'm not sure.
Q Okay. You're not sure? Okay. Fair enough. But it include Lot 20, doesn't it?
A I believe so.
Q Okay. Now, Lot 20 was sold before this plat was approved, was it not? Before you received this final approval?
A Let me see the date. I don't know when the lot was sold.
Q You don't know when you sold the lot to the Prices or enter into that agreement? I'll be glad to show it to you.
A No, you can just give me --
Q Okay. Sure. Sure.
A And I'll believe you.
Q Okay.

A I think this has -- as I'm reading it -- I think it has something more to do with the encroachment permit. Because that's what it says here on the top.
Q Okay.
A We had already received a letter for that lots.
Q Okay. But does it not say final recorded plat, page 2, has been approved -- final approval for phase two is granted for those lots, including Lot 20?
A Yeah. Because they stopped everybody from selling them. But that's not -- there's a document right before that.
Q Show it to me. I'll be glad to see.
A No. I was just telling you there's another document. They stopped letting people sell because the encroachment permit wasn't there to put the pipe underneath the road. So when the pipe got put underneath the road, then they opened it back up. That's the new.
Q Okay.
A There was an original letter that said you can sell.
Q Okay. Let's talk about that encroachment permit.
A Sure.

Q Why did you need to get an encroachment permit?
A There had to be -- the way I understand it is that the four lots that were pumping across the street on the other side of Leisure had to go under Leisure and had to be in a sleeve, a pipe sleeve.
Q Okay.
A And so you had put that pipe underneath the ground, underneath the road.
Q Okay. And whose responsibility is it to secure that type of permit?
A The engineer.
Q Okay. And so as developer, you have no responsibility to secure permits for anything in the neighborhood?
A Well, I would think as a developer you delegate all those things and you have people do those things. Apparently, this guy didn't do it.
Q Okay. And it was your job t make sure he got it done?
A It was my job to make sure it got done when I was aware of it, absolutely.
Q Okay. And you would concede that caused a delay in the Prices being able to move forward?
A Would I concede? Yeah. No doubt.
Q Okay. Now, let me ask you about the entrance to

Eagle Harbor. Did you ever apply for an encroachment permit to access the Haney Branch road?

A I did twice.

Q Okay. Let's take a look at that. Let me show you --

MR. JACKSON: I have a couple of copies here. I'll share that one. And I've got one more I'll give to the Court.

Q Let me show you, is this the application that you did? And it purports to be application by you in February of '06?

A That's my handwriting.

Q Okay. And here's a copy of that. And basically, did that require -- DOT came out and required you to do a bunch of stuff to bring that entranceway up to DOT standards?

A The way I read it -- or the way I see it is, is we hired Stantec. They provided, you know, a $60,000 set of drawings that included the, you know, the entranceway, which was already there, it was already existing, onto Haney Branch. When all this started popping up, then obviously, you know,

Mrs. Price contacted SCDOT. And then this came up with, hey, we don't cannot have an official permit. So I filled out this encroachment permit so we could -- so we could, you know, satisfy that particular need.

Q Well, you keep on blaming Mrs. Price for these problems. But aren't they regulations that you have to abide by as a subdivision?

A I don't know if they are.

Q You don't know. You developed a subdivision, you don't know the regulations?

A Again, I just said, we delegated people to do the things that they were supposed to do. That's what we did. She delegated me to build her house. She didn't -- you know, it's the same thing.

Q So did you ever do the things that DOT required you to do?

A We brought pipe up there to install it. And then we pulled back on the installation because were having some issues with the pavement up there, and we decided to wait until we resurfaced it.

Q Okay. Let me show you a copy of the report. I believe if you will check, this corresponds -- it's dated -- it says road number and it matches up to your permit number. Can you publish to the

Court what happened with that permit. It's called final approval. Can you say what happened.

A Just point to it and I'll read it for you.

Q I'm sorry. Just publish right there, inspector comments.

A Said cancel permit on 1/7/10.

Q Okay. Permittee canceled permit on 1/17. And that would be you, right?

A No. I did not cancel.

Q You're not the permittee?

A Sure, I am. But I didn't cancel the permit.

Q Okay. Did you ever build what was required by DOT in that entrance?

A No, not yet.

Q Okay.

A It's changed with the new permit.

Q Okay.

MR. JACKSON: I would like to offer both of these, Your Honor, as my next exhibit.

THE COURT: Any objections?

COURT REPORTER: Are they the same numbers or --

MR. JACKSON: I'll to them as separate numbers.

MR. FERRARA: No objection, Your Honor.

THE COURT: Without objection. How are we numbering these?

COURT REPORTER: The application for encroachment will be 46, and the SCDOT document will be 47, Plaintiffs' 47.

THE COURT: Okay.

(Whereupon, Plaintiffs' Exhibit No. 46, Application for Encroachment Permit, was received into evidence.)

(Whereupon, Plaintiffs' Exhibit No. 47, Encroachment Permit Approval Form, was received into evidence.)

Q Are you familiar with the Berkeley County regulations as they relate to private streets?

A No. Not necessarily, no.

Q Okay. Who did you hire then to advise you about the private streets?

A About the private streets?

Q Right.

A Stantec, Cornerstone, and Davis and Floyd possibly.

Q Okay. And Stantec is the one who, I believe you said, settled with 28,000?
A I'm not sure how much the money was. But Stantec is the one that did phase two if that's what you're saying.
Q Okay. Now, let me show you -- give a copy of the regulation to the Court as well.

MR. JACKSON: This is just copy of the Berkeley County regulation, Your Honor.
THE COURT: Thank you.

Q I would direct your attention to subparagraph B(3) for private streets. Now, you would agree that at least at present the subdivisions in Eagle Harbor are considered private?
A Yeah.
Q Okay. I'm sorry. Left you out here. Everybody else got one but you.
A So what are we looking at?

MR. JACKSON: Your Honor, if I may approach the witness.

Q We're looking at B(3).

A Sure.
Q And that's the requirement to have some kind of maintenance agreement for the roads.
A Maintenance agreement with who?
Q In order to do a private street, you have to h ave a maintenance system or agreement in place. I would represent to you in subparagraph B(3).
A Yeah. Something like the homeowner's association.
Q Yeah. That's what --
A Sure.
Q You anticipated my question. So it was your intent that the homeowner's association served as the maintenance facility for the road?
A Yeah. And there was also -- at the closing for each lot, there was X amount of dollars that were supposed to go towards the original maintenance escrow account.
Q Okay. And that was the other part I was going to ask you about. You're supposed to have a thousand dollars for each lot, right?
A I don't how much it was. But I know that the attorney, the closing attorney should have taken that out.
Q Okay. I represent to you that's also in B(3).
A Oh, that's fine. I mean, I agree with you on

that.
Q Okay. And so, is there an account that has a thousand dollars for each lot out there?
A No.
Q Whose responsibility was it to go to the closing attorneys and say take out a thousand dollars for each of these lots?
A I don't know whose responsibility. I mean, if it was mine, then I didn't do it, but that was supposed to be done.
Q Okay.
A The homeowner's association took over, you know, the book and the corporation at the very beginning. Even Diana Price was on the board there. So it was --
Q Okay. And this would be a voluntary organization?
A I mean --
Q Well, let me ask you this: They asked you about these covenants and you said something to the effect you thought -- it was your intent, at least, that they're beneficial for the neighbor and you wanted to bind them. So you did have the could intent to be able to try to set up covenants for the neighborhood, right?
A Yeah. Yeah.

Q Okay. And I believe the declarant -- and I don't have -- I won't bother to try and track them down -- but I believe the covenants list the declarant as being Eagle Harbor, Inc.?
A Yes, sir.
Q Okay. And I believe it also refers to the declarant as owning certain real property attached in the plat. And the plat describes phase two of Eagle Harbor. Is that correct?
A I don't know.
Q Well, I'll represent to you that's what the evidence shows. And did Eagle Harbor, Inc., ever own any part of phase two land?
A Yes.
Q Okay. What part of phase two land did it own?
A The two pits that were across the street from --
Q Okay. So we have two pits that might be subject to the covenants. What about Lot 20?

MR. FERRARA: Objection, Your Honor. Move to strike that last comment. It wasn't a question.
THE COURT: What about 20?
MR. JACKSON: I'll withdraw the comment.

Q Lot 20, did Eagle Harbor, Inc., ever own Lot 20 or

any part of Lot 20?
A No.
Q Okay. And I believe Mr. Ferrara asked you about Mrs. Fox somehow being pseudo tied into these covenants or whatever. Did you ever get her to sign a written document agreeing and adopting these covenants?
A No.
Q Do you ever know if there's any written document recording in her chain of title that says that lot will be subject to these covenants?
A No. Not that I'm aware of.
Q Okay.

MR. JACKSON: Court's indulgence for a minute. I'm getting further down the road.

Q Okay. We talked about Mrs. Price's building permit, the issues involved in that. Have you ever had any other issues involving building permits by failure to obtain or have you ever been -- had Berkeley County -- have code enforcement for not getting a building permit before building?

MR. FERRARA: Object to the form of the question, Your Honor. Compound.

Q Okay. Have you ever had --

MR. JACKSON: I'm sorry. Please, Your Honor it.

THE COURT: Go ahead and break it down.

MR. JACKSON: I will break it down.

Q Have you ever had Berkeley County code enforcement cite you for a violation for not obtaining a building permit?

A Not that I'm aware of.

Q Let me show you these documents and ask if you can look at these and see if you recognize these at all.

A Sure. (Witness complies.) It looks like it's for the second house at the boys home.

Q Okay. May I have the exhibits back?

A Sure. Can I --

Q Sure. Please, take your time. Make sure you're familiar with it.

A Well, it says it's on hold for planning, engineering, and legal. I don't know why.

Q One of those . . .
A I assume it's related to this case, no doubt. Something's happened and they've --
Q Okay. So let's look at the first one. It's dated -- notice date is September 23, 2005. The condition was obtain proper permits for work. And it has asterisk, you see that? Building barn, no permit.
A Yeah. That was -- we talked to the County. It's a run-in shelter. And they said it would be okay. And then we got -- and I would assume that came from someone cruising through the neighborhood complaining.
Q Okay. And then the second one and it mentions an address, Retiner Circle, Summerville. Is that -- you recognize that --
A That's Refiners Circle.
Q I'm sorry.
A And, you know, we own the property but we weren't building the run-in shelter. Just wanted you to know that. That was something else.
Q Okay.
A Well, I mean, it applies, right? I mean, you're telling me that I didn't pull a permit. We got marked up for it, but we weren't doing the

building.
Q Okay. So you weren't building the barn?
A No. It was JW Aluminum was building the barn.
Q Okay. But as a developer and having a barn built on your land, you weren't responsible for trying to ensure that it was properly done?
A Again, I did. I ensured it. I went to the County and said hey, I've got a volunteer group that's gonna build us a barn, what do we need to do? And you got different stories from different people. Originally, they said it's fine.
Q Okay. What about the second one? It says, "Terry will give Mr. Gilbert a call to pick up the plans. Permit application has been denied. Requested information has never been submitted and the application is six months old."
A Yeah. That was probably for electrical for -- what is it for? It's for something we never did. That's why it's not turned on. I mean, you're twisting this around.
Q Well, doesn't it show they were requesting information that was never supplied?
A On a permit that was never picked up because the work was never done.
Q Okay. So you applied --

A Because we didn't do it.

Q Okay.

MR. JACKSON: I'd offer this as the next exhibit, this combined document.

THE COURT: Any objection?

MR. FERRARA: No objection, Your Honor.

THE COURT: It's without objection. And this is 48?

COURT REPORTER: Yes, sir.

(Whereupon, Plaintiffs' Exhibit No. 48, Code Enforcement Record, was received into evidence.)

MR. JACKSON: Let's mark this as the next for identification only. I don't think there's going to be an objection.

Q I'll show you what has been marked as Plaintiffs' Exhibit No. 49 for identification purposes. And take a minute while you're reading that.

A (Witness reviews document.) Yes, I'm reading it.

Q Okay. As a charity, you're governed by some guidelines since you're a nonprofit with South

Carolina Secretary of State?
A Yes.
Q And they require you to file certain audits and reporting information?
A Yeah.
Q Okay. And that purports to be a notice of a violation from them. Do you recall receiving that?

MR. FERRARA: Your Honor, at this time I would just object to referencing this document as being properly authenticated. And I'm not sure of the relevance.

MR. JACKSON: Well, I just asked him does he recall the document. It's in the process of being authenticated. It's addressed, I believe, to him.

A Yeah. I mean, it looks familiar. I mean, it looks like something I could have read.
Q Did you file reports with the South Carolina Secretary of State?
A Yeah. Yeah, we do.
Q Okay. And what's the purpose of those reports?
A To make sure we're a good charity.
Q Okay. And make sure they have up-to-date

information?
A Sure. Sure.
Q And it looks like there was housekeeping. There were some things they suggested that that report you filed is not accurate.
A Because somebody -- somebody ratted us out because they thought we were doing something wrong.
Q So there goes that perennial thing you have about --
A It's obvious.
Q -- that you have about ratted out.

THE COURT: Hang on. Hand on, gentlemen.
MR. JACKSON: Yes.
THE COURT: You got the letter? Is there still an objection as to the relevancy?
MR. FERRARA: Yes, Your Honor.
THE COURT: Okay.
MR. JACKSON: Your Honor, I think the relevance is -- the substance of that letter that will lead to my next exhibits shows that Heritage Classic Homes was blending in. He had multiple hats. And he had to properly disclose those multiple hats that he was wearing while he was running the charity.

THE COURT: How is that relevant to what we're doing?

MR. JACKSON: Because Carl's already argued that Heritage Classic has nothing to do with this development. Yes, he's blending the two. He's using Heritage Classic Homes for the office, for the sell of Eagle Harbor stuff. He's building homes out there. And this next exhibit, Your Honor, I would proffer to the Court he has to disclose some of those relationships.

THE COURT: So you're saying this letter disclosing relationships which are relevant?

MR. JACKSON: Well, yeah. Your Honor, I'm saying that it refers -- some corrections on the document he supposed to file with the Secretary of State. And I believe this next document I have kind of shows what those are.

MR. FERRARA: Respectfully, Your Honor, additionally, I would just urge the Court to not allow admission of this document on the additional basis, Your Honor, of hearsay. I do think that, of course, Mr. Gilbert is free to testify about his knowledge of the letter or his knowledge of, you know, of those relationships.

THE COURT: I think he already testified that

he's familiar with the letter. I'll hold on admitting this to see if it's tied in with the next one.

MR. JACKSON: Okay.

THE COURT: I'll do both of them because you said they're contingent upon each other.

MR. JACKSON: Yes, sir.

BY MR. JACKSON (Continuing):

Q Mr. Gilbert, was is your title or role at Eagle Harbor?

A Executive Director.

Q Okay. And what is your title or role at Heritage Classic Homes?

A Heritage Classic Homes doesn't exist.

Q Okay. But it did it exist?

A Well, it did. Yes.

Q Okay. When it did exist, what was your title and role?

A I guess you would say I was the president, I guess.

Q Okay. Were you the sole shareholder?

A I was.

Q And the owner?

A I was.

Q And it's my understanding that that document wants you to disclose certain things about that. Is that correct?
A It looks like -- it looks like, you know, you got a report here that says if you're gonna use the truck or, you know, you're gonna use this vehicle, you need, you know, show that you're using it. I mean, that's what it looks like to me.
Q Okay.

MR. JACKSON: Here's the other document I was referring to. That's part of the tax return supplied -- Eagle Harbor. I think it's probably an attachment to this. I think that addresses the concerns that were raised.

THE COURT: I'm not sure I'm following the connection. I see here the only connection would be as to whether there's a mobile office that Heritage Classic Homes used --

MR. JACKSON: Well, Your Honor, I believe --

THE COURT: Is that in dispute?

MR. JACKSON: Well, if I may, Your Honor, approach. This is the next exhibit that I would proffer. That's the correction there.

MR. FERRARA: Your Honor, I understand this

is a bench trial. But marking documents and handing them up to the Court for your consideration when you're trier of fact is not the appropriate method for the Court to consider these hearsay statements. And I would just respectfully request that we follow the rules. Mark these documents for identification, ask the witness the documents, authenticate them properly before --

MR. JACKSON: I'll be glad to do that, Your Honor.

THE COURT: All right. Don't talk over each other, gentlemen.

MR. JACKSON: Sure. Sure.

THE COURT: I'm going to disagree as to relevancy on these.

MR. JACKSON: Okay.

THE COURT: I don't see any relevancy at this point in time. So I'm going to disallow both of them, which is for identification, 50 and 49.

MR. JACKSON: Okay.

(Whereupon, Plaintiffs' Exhibit No. 49, Letter, was marked for identification.)

THE COURT: You can go ahead.

MR. JACKSON: Thank you, Your Honor.

BY MR. JACKSON (Continuing):

Q So you said you were the Executive Director of Eagle Harbor?

A Yes, sir.

Q Does your wife has a role in the organization as well?

A She's the cofounder. She's a director.

Q Is she also the assistant director?

A Yeah. I guess that's her title. I'm not certain.

Q And business manager?

A Yeah. That's correct.

Q Okay. What about Angie Johnson?

A She's a social worker.

Q Doe she help you with Heritage Classic Homes as well?

A Angie has -- they have a seal. They can -- but, yeah, but she's helped me with some documents. Absolutely, yeah. On her time, not on the company's time.

Q Do you know Troy Winn?

MR. HUBBARD: Can I see it?

MR. JACKSON: I'm sorry, Carl. I'm sorry.

A Yeah. I know Troy Winn well.
Q Okay. And he was one of the partners, if you will, in this development?
A He was a partner, yeah. Absolutely.
Q Now, did Mr. Winn ever have some disagreements with you and Eagle Harbor, how it was being run?
A Not verbally. Apparently, you had something in writing.
Q Sure. I'll show it to you.
A The original board chair is in the back. Probably give you a better answer to your question. So what's . . .
Q Do recall anything about that letter?
A (Nonverbal response.)
Q Was he ever concerned about finances and nixing finances?
A Well, it says right here he was.
Q Okay.

MR. FERRARA: Objection, Your Honor. Witness is testifying from hearsay documents that aren't --

MR. JACKSON: I'm asking him about the specifics --

THE WITNESS: It says that. I didn't say --

MR. JACKSON: Okay. Sure. Okay.

THE COURT: All right. So what document do you have and what are you doing with it?

MR. JACKSON: Okay. This is a letter from Troy Winn who was one of the partners he just testify to. It raises some concerns that he has about commingling funds being an executive director in a profit business.

THE COURT: Yeah. I haven't heard the authentication, I haven't heard that he understood what was where or that it was to him. Maybe mistaken, but I don't think you've was gotten there yet.

MR. JACKSON: No, no. I'm not going to offer it as an exhibit. I'm asking him about the facts alleged in there.

THE COURT: Hold on to it then.

MR. JACKSON: Okay.

A Well, I'm not admitting to the facts.

Q Well, I'm not saying -- I'm just saying . . .

MR. JACKSON: I'll skip it, Your Honor.

Q Did Mr. Winn resign from the board?
A I don't if he resigned or -- possibly he did.
Q You don't know? You're the Executive Director and you don't know who resigns from your board?
A That's not the case. I know he's not on the board. I don't know if we let him go or asked him to resign or resign on his own.
Q All right. I'm gonna show you this next document.
A Okay. Okay. It says he resigned.
Q Okay.
A Certainly could have been because we asked him to.

MR. JACKSON: Offer this as an exhibit?
MR. FERRARA: Your Honor, on this document, I don't want to waste the Court's time, but --
MR. JACKSON: I'll move on. That's fine. I won't dwell on it.
THE COURT: It's not been introduced and not seeking to introduce. Is that right? Mr. Jackson, you're not seeking to introduce that document?
MR. JACKSON: No, Your Honor.
THE COURT: Thank you.

Q All right. Let me ask you about Jeff Spell. Now,

did you -- you said before -- I think your testimony was an agreement to -- did some attorney gave that to you? That was the agreement to buy and sell, just to save time?

A Yeah, I believe it was Jeff.

Q Okay. And who is Jeff Spell?

A Jeff Spell is a good friend. We had high school sweethearts together. He was from James Island. I was from Goose Creek.

Q Okay.

A Both dated girls on James Island.

Q All right. And was he involved in the development?

A To what capacity?

Q Well, that's what I'm asking you.

A Not that I understand his role.

Q Okay. Let me show you this letter. (Brief pause.) While he's looking that up and confirming if he has any objections to it, I noticed on agreement two it had Jeff Spells name preprinted on that contract. You know who did that?

A Can you show me what you're talking about?

Q Sure.

A I might have it up here already. I don't know.

Q It would be 2, Plaintiffs' Exhibit No. 2, I think.

A Here.
Q Yes, sir. And you'll see, I think, it says Jeff Spell. It's kind of typed in there pretyped.
A Well, it's not pretyped. It's typed in. It's typed in -- it's typed in on a blank line.
Q Okay. So all those contracts didn't have that in there?
A No. There's several people that didn't close with Jeff Spell.
Q Okay. Now, I was asking you about the role Mr. Spell played in the development. You said you don't recall him having a role.
A No.
Q Tell me -- I'm sorry.
A No, I don't know. I don't recall.
Q You don't recall?
A No.
Q Let me show you this letter dated April 10, 2003.
A Sure.
Q There's another letter dated December 12, 2003.
A Sure.
Q Attached to it. See if that will refresh your recollection about any dealings with Mr. Spell as part of this project.
A Yeah. This is for -- well, I think so, now. Jeff

was the designated attorney for an escrow account for South Carolina Housing Trust Fund. It was a grant.

Q Okay.

A I think that's it. I'm -- relating to it.

Q Okay. So he was holding some funds that you were accessing for the development and paying construction costs.

A Yeah. You know, I don't what -- this is probably not about the South Carolina Housing Trust Fund. Obviously, it says Jerry left some money there. And I've got to present something to somebody that that money is for the subdivision. Yeah.

Q Okay. So it would be reasonable to assume that he was holding money that was used in the construction of Eagle Harbor subdivision?

A It would be reasonable to believe that he's got some escrow money that Jerry gave them because that's what is says.

Q Okay. Then when you'd ask for money, you'd ask for a check from Mr. Spell?

A I can't recall how the disbursements were made. That was 15 years ago.

Q Let's look at that last -- this letter, for example.

A Sure.
Q Okay. Who is Sue? You know?
A Sue was somebody in his office, I believe.
Q Okay. And at the bottom, what does it say?
A Please tell Jeff I need ten account today. Expect a check next week. Yeah.
Q Okay. Now, let me show you one final letter. Now, did Jeff ever represent you personally?
A I think Jeff tried to represent me personally, yeah.
Q I'm talking about before he tried to represent you in this case?
A You know, I can't remember. I'm not sure.
Q All right. (Brief pause.)

MR. JACKSON: Let's go ahead and mark this for identification.

COURT REPORTER: I just got a question. I don't know if we are on 50 or 51. Because the last one -- he handed up two documents that went in for ID only. I only marked 49 but not a 50.

MR. JACKSON: Yeah. Those are ID only. I guess 51.

COURT REPORTER: You want to do 51. All right.

THE COURT: The letters, are those in as 50?

MR. JACKSON: Okay.

THE COURT: Were they?

COURT REPORTER: Well, no. There was one I marked 49. And then there's a separate one you gave --

MR. JACKSON: Yeah. It was construction --

COURT REPORTER: It was 49 and 50. So I'll just do this one as 51.

THE COURT: Let's make sure what's coming in.

MR. JACKSON: Yeah, okay. Sure. This is Exhibit No. 51. And I was going to ask him some questions and get him to identify it firs.

Q I think my question was did you -- did Jeff Spell ever represent you personally? You said he tried to. Do you remember that letter? Is that your signature?

A Yeah. It's my signature, sure. Carbon copy to Jeff Spell, Doug Cotton. Yeah.

Q Okay. So you remember writing that letter?

A I don't remember writing it, but it's obvious I wrote it.

Q Okay. Now, can you publish the first line.

A "I received your fax this morning."

Q I'm sorry. The first paragraph. I should have clarified.
A I'm sorry?
Q Your first paragraph.
A "I received your fax this morning dated September 26, 2003. I understand that you represent Mrs. Winn and all correspondence in the future should go through your office. I too am represented by attorney Jeff Spell, but will continue to correspond with you, with all legal decisions referring back to my attorney. It is for this reason I write you --"
Q That's far enough. So it would be accurate to say Jeff Spell was your attorney on that date and time?
A Well, I guess. Yeah. Looks like he -- looks like he was brought into by this letter. Yeah. I'm not sure if he did anything in regards to that.

MR. JACKSON: I'd offer this as Plaintiffs' Exhibit No. 51.
THE COURT: Any objection to 51?
MR. FERRARA: No, Your Honor. Derrick, did he say he wrote the letter and signed --
MR. JACKSON: Yeah, he said --

MR. FERRARA: No objection, Your Honor.

MR. JACKSON: -- he signed the letter.

MR. HUBBARD: No objection.

THE COURT: In without objection.

(Whereupon, Plaintiffs' Exhibit No. 51, Letter, was received into evidence.)

Q We're about finished here. So I'll wind it up a little bit. Now, you mentioned before about those appliances. Isn't it true that the Prices bought those appliances and stored them?

A We have a 4,000 square-foot storage building. Yeah, and I let them store those in there. Absolutely.

Q Okay. But they bought it, right?

A Yeah, yeah. Absolutely.

Q Okay. Now, I'm trying to find your attorney's -- defendant's exhibit that has a list of costs, 20-something thousand, whatever it was.

MR. JACKSON: Carl, do you know where you left your exhibit?

MR. HUBBARD: I'm sorry -- I'm sorry?

MR. JACKSON: Trying to say where you left

your exhibit.

MR. HUBBARD: Which one was it?

MR. JACKSON: Here it is. We got it.

Q Just a couple of questions about this.
A Sure.
Q Do some of these have to do with the pierings or any of the things the Prices' expert testified were defective?
A All those costs have to do with the foundation, yeah, that their expert witness said. Yeah, absolutely.
Q Okay. So if they had to tear it down because it was defective, they shouldn't be charged for that, should they?
A Well, that's not the case here. You know, anybody can find something wrong with anything. So it's like I didn't have an opportunity to go back and fix anything that was --
Q Well, can you identify on this very short list, or just tell us in general how much related to that did the Prices' have to demolish?
A Well, they said they demolished the walls, the perimeter walls, and I would assume the perimeter footings and kept the internal footing and built a

building on top of that.
Q And you have a dollar figure? Do you know?
A Well, I think we discussed a dollar figure.
Q Okay.
A And then, that's all I know. They could've left the other footings. I'm not sure.
Q Okay. Now, did you take out from here the Knight's Redi-Mix expenses?
A They're not in there. Why would I take them out?
Q I though the copy I saw had some in there.
A Well, there's some concrete in there, but that's for the footings. It's not for the slab.
Q Okay. So that's not -- so this Knight's Redi-Mix invoices is not for the stuff that was at dispute?
A Right.
Q Okay. Now, you testified earlier that the Prices didn't pay you. Now, did you recommend that they use National City Mortgage? Did you have any relationship to Patty Zerbst?
A Sure, I had a relationship with Patty Zerbst.
Q Okay. Did you suggest that they might want to use National City Mortgage?
A Probably did. I found them to be real easy to work with.
Q Okay. Let's look at that standard form contract.

It's for the draw requirements. You would agree that a copy of the building permit and a septic tank is a requirement for the first draw?

A Well, I can't read this because there -- the first draw was supposed to be paid at the closing and it wasn't paid.

Q Okay. But this says --

A I understand that's the first draw and the construction started. But I'm talking about before construction started.

Q Okay. What does it say --

A You can't read that stuff.

Q You can't read it?

A No. I can't read it. It's -- can you read that right there?

Q Okay.

MR. JACKSON: Court's indulgence. (Brief pause.) That's all the questions I have, Your Honor.

THE COURT: Any redirect?

MR. FERRARA: None, Your Honor.

THE COURT: Sir?

MR. HUBBARD: No, Judge.

THE COURT: All right. You can step down.

Thank you. What time line are we looking at? How much more you got?

MR. FERRARA: Your Honor, we have Mr. Michael Parker whose a witness about the soil in the neighborhood. And I don't anticipate his testimony to be more than about ten minutes or 15 minutes tops with direct and cross.

THE COURT: All right. I need to be able to -- there's folks in the courthouse here that I don't have control over. I'd be more than happy to stay if y'all were. But I don't have control over everybody else, and they deserve to be able t go home. So if you can wrap them up in ten minutes, otherwise we're gonna have to -- they'll have to figure out what to do to finish it up. Okay?

MR. FERRARA: Yes, sir. Yes, sir. At this time we would call Mr. Michael Parker to the stand.

THE COURT: And if you think you can't, then we'll sort it out. I don't want to rush you. All right.

MR. FERRARA: Okay.

THE COURT: All right. Mr. Parker.

THE WITNESS: Your Honor.

THE COURT: Good afternoon.

(Whereupon, the witness, MICHAEL G. PARKER, was duly sworn.)

THE COURT: Thank you, sir. Sit down right there, and give your name, spell your last name for the court reporter.

THE WITNESS: Name is Michael G. Parker, P-A-R-K-E-R.

- - - - -

DIRECT EXAMINATION

BY MR. FERRARA:

Q Mr. Parker, you're familiar with Mr. Gilbert and the Eagle Harbor subdivision?

A Yes, sir.

Q Okay you've been listed in this lawsuit that we're involved in here as a witness to the conditions out at Eagle Harbor between some point in time up until 2003 or 2004. Is that correct?

A I don't know the time lines very much.

Q Okay. Well, I'll ask you this: Do you have any knowledge to assist the judge about the soils of Eagle Harbor that you observed in the time period between 1999 and 2003?

A Danny called me to come out to look at some of the lots that had been turned down by DHEC so they could get the plat approved.
Q And let's go back real quick. If you can quickly tell the Court, what is your current employment?
A I run Coastal Soil Evaluators.
Q And what is Coastal Soil Evaluators?
A It's a business to help individuals look for suitable sites on their property for septic systems.
Q And prior to running Coastal Soil Evaluators, did you work for South Carolina DHEC?
A Yes.
Q In Berkeley County?
A 1972 until I retired in 1999.
Q Okay. That's a long time. So that's --
A Twenty-eight years.
Q Twenty-eight years. Okay. And so, do you have firsthand knowledge of the soil conditions, sir, of the phase two of Eagle Harbor? And I'll hand you this plat to maybe assist you in making that determination.
A Not overall. I mean, the soils on a lot of these lots are terrible. And that's why a lot of them had to be pumped offsite. So we had to go with

easements to other lots to make them --
Q Did you --
A -- pass.
Q Yes, sir. I'm sorry. Did you assist Mr. Gilbert in designing the septic system for Eagle Harbor in general?
A No, not overall. They was already on the plat. I looked at existing lots to see if we could find suitable areas on those lots so DHEC could approve them.
Q Mr. Gilbert has just testified -- and I don't know, sir, if you've heard his testimony about you and he being and walking the property of Eagle Harbor in phase two. Did you hear Mr. Gilbert testify --
A What is phase two, now?
Q Oh, I'm sorry.
A I don't keep up with the phase.
Q Sure. Saddlehorn Road?
A So this is the subdivision to the right as you come in?
Q I'm not sure, but I know it's on Saddlehorn Road and it terminates in a cul-de-sac. And I believe, I'll represent to you, sir, that this was the second phase of Eagle Harbor that was developed.

Close to Leisure Lane if you know where that is.
A Yes. A lot of them in there, like I say, you know, we walked that weren't approved. And then we found some sites on some, you know, so we could get them approved. Then we got the health department to come back and reevaluate them to get approved.
Q Did you assist Mr. Gilbert and Eagle Harbor in that process?
A Yes. We found some sites for some of the houses.
Q Do you know if -- or can you assist the Court in opining whether a particular lot can be subdivided?
A An existing lot?
Q Yes.
A It depends on, again, the soil conditions and what we call the seasonal water tables. Each lot has to be so big. And if there's a big enough area where you could subdivide the lot, then you could do so. Back then, it all had to be standard systems. And if not, you know, they had to be, you know, denied. Now you can get into what we call engineered design systems which was started in 2008 where you could -- a lot that was actually denied, you could get the soil scientist and

engineer to come and possibly get multiple lots now.

Q Sure. In your experience in dealing with DHEC over the years, is it typical for a developer to receive denial letters on various development requests in the beginning of the subdivision process?

A Oh, yeah, all the time.

Q Is that the normal process that there's a back-and-forth between DHEC and the developer?

A Yes.

Q And accounting?

A That's why a lot of them hire me first. I go out there and look at what he has and say okay, you can get X number of lots and we'll put the road here and just say you could get five lots. Well, before they had to go to a surveyor, to the county, to DHEC. DHEC goes back out and looks at the five lots, says no, you can't get five lots, you can only get four lots. Then you got to go back to the surveyor, back to the County, back to DHEC. And it takes months to get it done. Whereas, I usually go out and look at it and we can get it laid out, get it surveyed, get it into the County, get it approved, and get DHEC to

approve it.
Q In your experience, sir, once the County approves a plat for subdivision, is the process with DHEC substantially completed with the County before a plat --
A Normally, because they have to have DHEC approval before they'll approve them.
Q Because the County, in your experience, is looking for some confirmation from DHEC that the plat -- that their preliminarily approving is approved?
A Right.
Q Okay. And in your experience, did you have any familiarity with reviewing plats for subdivision?
A Yeah. A lot of them I do from scratch.
Q Okay. All right. And you assisted Mr. Gilbert and Eagle Harbor between 2000 and 2004? I apologize. It's been a long time.
A I don't know the dates. But yes, I did a lot -- I don't know when I started out there, but I spent many hours out there hunting and pecking on lots to find good sites.
Q Well, this might help. Was that before the roads were in or after?
A I think one of the roads was possibly in partway and in part with the other. Because I know we

found the -- you were talking earlier about the ones across Leisure. And we actually found the lots over there and recommended that he use pump systems to get some of these other lots approved.

Q So did you assist Mr. Gilbert in the design to pump the sewer of site?

A No. DHEC does that.

Q DHEC did that.

A Right.

Q Okay.

MR. FERRARA: Thank you, sir. Answer any questions counsel may have.

MR. JACKSON: I don't have any questions of this witness.

MR. HUBBARD: No questions.

THE COURT: Okay. You can step down, sir. Thank you.

So you were correct on the time line. That's great. All right. How much more of a case do you have or are you completed?

MR. FERRARA: I'm completed, Your Honor. The defendant rests at this time.

THE COURT: Mr. Hubbard, do you need to present any testimony?

MR. HUBBARD: No, Your Honor. We're done.

THE COURT: Anything in reply from the Plaintiff?

MR. JACKSON: No, Your Honor.

THE COURT: Okay. So I'll take it that we are complete for today and as to this portion of the case. Is that right?

MR. JACKSON: I think so.

THE COURT: Okay. Good job. All right. So what I'm going to do is ask y'all to double check with the court reporter to make sure that we've got all those in there properly identified and marked. I think I've got copies of everything already. If I need copies, I may have to rely on hers' as well. But I just wanted to make sure y'all get y'all's straight today before we leave. Okay.

MR. JACKSON: Yes, sir.

THE COURT: And then what I'm going to do is I'm going to review what I've got and then make sure that I've got everything as far as the records and so forth. If I need any follow up, I'll get with y'all. In all likelihood, I'll solicit a draft order from one or all or an in part depending on what I eventually conclude.

Okay.

MR. JACKSON: Yes, Your Honor.

MR. FERRARA: Thank you, Your Honor. Just, also, additionally before we close the record, I just wanted for the record just to renew the directed verdicts. The Court's already ruled on that, and I understand the Court's ruling. But at this time as the plaintiff has fully rested and the defense has presented their case, I would respectfully renew the directed verdict motions.

THE COURT: I'll do the same again and deny those.

MR. HUBBARD: I'll do the same. You took one under advisement. We were gonna hear some testimony about the Unfair and Deceptive Trade Practices Act. I renew that as well, Your Honor.

THE COURT: Right I've got everything on the plate. I'll deny the motion, but I'll consider all the arguments. And I may draw on you to present some or all of the arguments. But I may do that by burdening y'all with an order because sometimes it's better that way. I'll try not to, but I may. Okay.

MR. JACKSON: Okay.

THE COURT: I appreciate y'all's hard work in

putting this together. There's a lot of information, a lot of documents. I appreciate y'all's cooperation in moving it forward and being such good advocates for your clients. Thank y'all.

MR. JACKSON: Thank you, Judge.

- - - - -

(Whereupon, there being nothing further, the trial concluded on Friday, May 4, 2018, 4:54 p.m.)

CERTIFICATE

Be it known that the foregoing trial proceedings of the captioned case was taken by Heather R. Landry, CVR;

That I was then and there a notary public in and for the State of South Carolina-at-Large;

That the witness(es) were sworn or administered an oath of affirmation to testify the truth, the whole truth, and nothing but the truth, concerning the matter in controversy aforesaid;

The foregoing transcript represents a true, accurate and complete transcription of the testimony so given at the time and place aforesaid to the best of my skill and ability;

That I am not related to nor an employee of any of the parties hereto, nor a relative or employee of any attorney or counsel employed by the parties hereto, nor interested in the outcome of this action.

Witness my hand and seal this 16th day of August 2018.

Heather R. Landry, CVR

Notary Public for South Carolina
My Commission Expires: April 10, 2024

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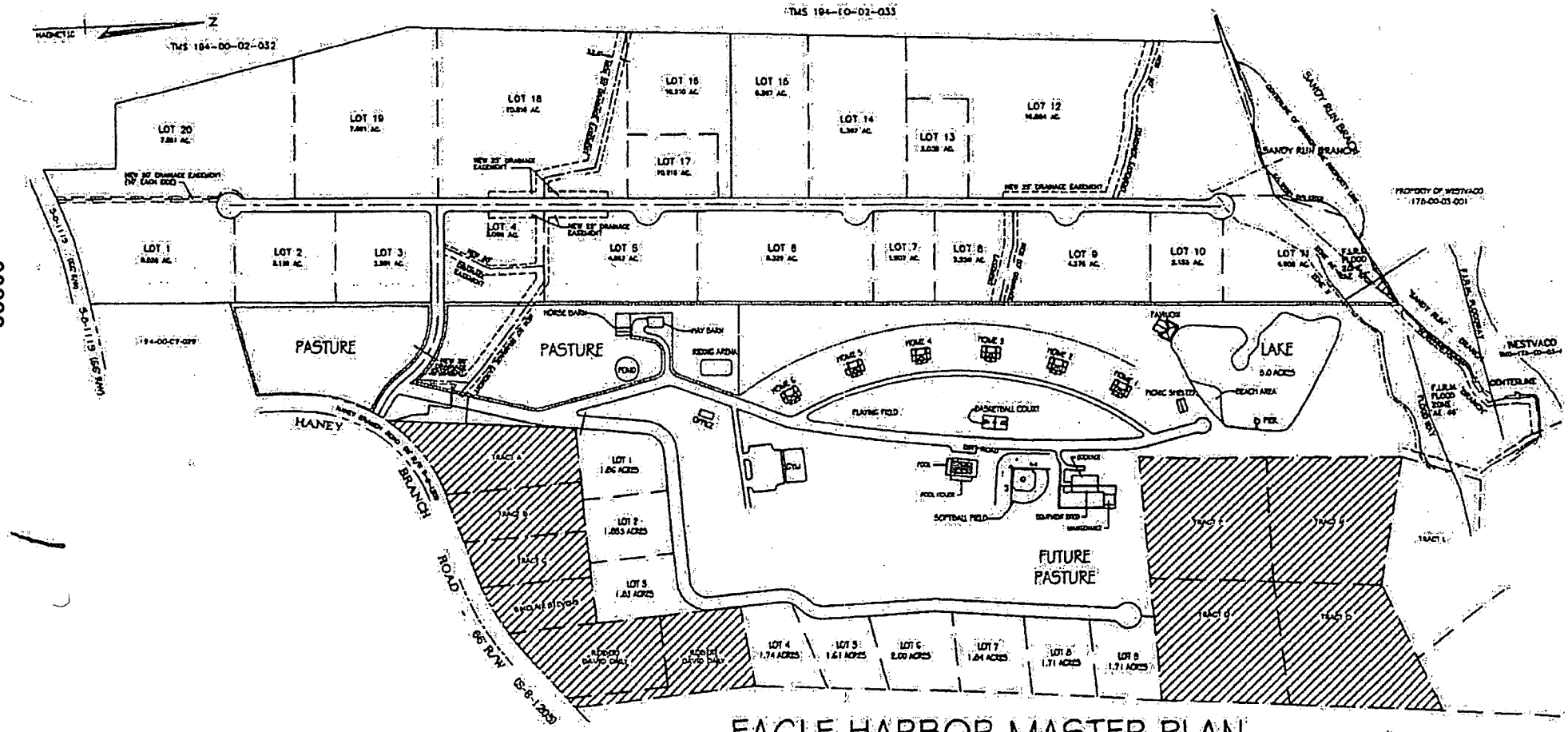


EAGLE HARBOR MASTER PLAN

1" = 200'-0"

TMS-178-00-03-051

EXHIBIT

WITNESS

DATE: 5/3/2018

REPORTER: H. LANDRY

AGREEMENT TO BUY AND SELL
(GENERAL)

1. **PARTIES** This legally binding contract, entered into on this 15th day of September, 2003 between,

Seller: Belinda Fox TIN#/SS# _____
Buyer: Ronald E. Price & Diana R.B. Price TIN#/SS# _____

2. **PROPERTY TO BE SOLD.** Subject to terms and conditions herein, Seller agrees to sell the following:
   (a) **REAL PROPERTY**, described as follows:

   That lot designated as Lot # 20 containing 7.861 acres as shown on a Plat entitled "Eagle Harbor" Tract A subdivision of TMS #194-00-02—030 & 031

   (b) **TAX MAP NUMBER**
   194-00-02-121

3. **PURCHASE PRICE** shall be $90,400 (Ninety Thousand Four Hundred Dollars)

4. **METHOD OF PAYMENT** Purchase price shall be paid as follows:
   (a) Down Payment. $2000 EARNEST MONEY
   (b) Mortgage Loan. Buyer shall pay at closing from the proceeds of a Conventional loan.

5. **CLOSING COSTS**, including the costs of obtaining any financing, shall be paid as follows:
   (a) Seller shall provide or pay for preparation of deed, any recording charge based on value of the property, and any cost necessary to provide a marketable title, including recording of any satisfactions, property taxes to the day of closing and any other cost agreed to herein.
   (b) Unless otherwise agreed herein, Buyer shall pay the costs of the title examination, and if applicable, any loan costs, the cost of any appraisal, survey, transfer fees, and the preparation of other closing documents.

6. **CLOSING DATE** shall be on or before October 30, 2003 at the office of the closing attorney or closing agent.
   Closing attorney or agent shall be Jeff Spell.

7. **POSSESSION** Seller shall give possession to the Buyer, subject to any tenant's rights, on or before October 30, 2003 provided title has passed.

8. **SPECIAL STIPULATIONS:** the following stipulations shall, if conflicting with printed matter, control:

   EXHIBIT 2
   WITNESS
   DATE: 5/3/2018
   REPORTER: H. LANDRY

   A. Buyer is purchasing property "as is".
   B. Property to be conveyed to buyer at closing.
   C. Buyer to receive copy of the covenants and restrictions from the closing attorney at closing.
   D. Property subject to restrictive covenants attached hereto.
   E. Subject to final subdivision of parent tract by Berkeley County.
   F. Buyer to pay cost of underground utilities (estimated at $250).
   G. Rollback taxes to be estimated by attorney and included in final closing cost, not to exceed $300.00.
   H. Buyer has right to withdraw from contract with full reimbursement within 30 days due to job uncertainty.
   I. Developer agrees to allow subdividing of property into 2 separate lots, with possibility of 3 upon approval of Homeowners Association.

9. **RECEIPT OF PAYMENT** The offer is accompanied by an earnest money deposit of $2000

10. **INSPECTION:** Buyer, at Buyer's expense, shall have the privilege and responsibility of inspecting, environmental concerns, including but not limited to, hazardous waste, wetland study, and radon gas. Buyer shall notify Seller or listing agent in writing by 12:00 noon on October 1, 2003 of any deficiencies revealed by inspection. If Buyer fails to notify Seller or listing agent of the results of such inspection on or before day stipulated, Buyer shall be deemed to have waived the privilege of any inspections.

11. **ENTIRE AGREEMENT.** This written instrument, including the additional terms and conditions set forth, expresses the entire agreement and all promises, covenants, and warranties between the Buyer and Seller. Only a subsequently written instrument signed by both parties can change it. Both Buyer and Seller hereby acknowledge that they have not received or relied upon any statements, which are not expressly stipulated herein.

12. **FINANCING** It is understood that at the time of application the Buyer will advance the necessary money to process any financing. Purchaser also agrees to apply for financing as called for above, from the institution of his/her choice, within 15 business days from the date of execution of this Contract and to provide all documents or information requested by the lending company in a prompt and timely manner. Buyer will take any reasonable action which is needed or requested by the Lender to process the loan application. If Seller has not received written confirmation that Buyer has received written conditional approval for the financing indicated above on or before October 1, 2003, Seller shall have the right to cause the refund of the earnest money and terminate the Contract and neither party shall have any further rights hereunder.
    (All parties must initial this paragraph.) Buyer _____ Seller for Belinda Fox

13. **LOAN APPLICATION** The aforementioned land shall be secured by the real property described herein. Buyer shall endeavor in good faith to obtain said loan and when requested by lender shall supply all necessary information and sign the customary loan applications, forms, and instruments and shall pay a non-refundable appraisal fee and credit report fee. If Buyer's loan application is rejected for a cause that cannot reasonably be cured, or if a commitment for said financing cannot reasonably be obtained by specified closing date, or a reasonable length of time thereafter, Buyer shall be deemed unable to obtain said loan, in such case, either Buyer or Seller may terminate this agreement and both will execute a release of contract. The Escrow Agent shall then refund earnest money to the Buyer.

14. **APPRAISAL FOR CONVENTIONAL LOANS** In the event the appraised value of the herein described property is less than stipulated purchase price, the Seller may elect to sell for the appraised value. In such case, the Buyer agrees to proceed with the consummation of this sale at the reduced price. Should the seller elect not to sell for the appraised value, the Buyer shall have the option to proceed with the consummation of the sale without regard to the appraised value. If applicable, all earnest money will be refunded to buyer.

15. **CLOSING COSTS** Including all loan charges, escrow deposits and prepaid recurring items, shall be paid as follows:

1 of 2

(a) SELLER shall provide or pay for preparation of deed, any recording charge based on value of the property, and all costs necessary to deliver a marketable title, including recording of satisfactions and property taxes to the day of closing.
(b) BUYER shall pay, unless otherwise agreed herein, the cost of the Buyer's credit report, property insurance, appraisal, survey, cost of obtaining loan, discount points, title examination, escrow deposits, escrow deposits and prepaid expenses. The Buyer shall also pay, if applicable, interim interest and mortgage insurance premium or VA funding fee.

16. **PRORATIONS**: Property taxes and rent, as well as other expenses and in come of the property, if applicable, shall be apportioned to the date of closing. Annual expenses or income shall be apportioned using 365 days. Monthly property expenses or income shall be apportioned by the number of days in the month of closing. The amount of property taxes shall be estimated by closing attorney or agent, using best information available. Prorations at closing shall be final.

17. **RISK OF LOSS OR DAMAGE** to property by fire or other casualty until day of closing shall be the responsibility of the Seller. In such case, Seller shall have the option of restoring property to its present condition within 30 days after herein specified closing date, with date of closing and possession to be extended accordingly. If property is not restored within said period, either party shall have the right to terminate this contract by written notice to the other in such case both parties shall execute a written release of the other from this contract.

18. **DEFAULT** Buyer's or Seller's failure to perform any covenant of this contract constitutes default and subject to the agreement, if any, to resolve disputes through mediation as provided herein, the other may elect to seek any remedy provided by law or terminate this contract with a five day written notice. If terminated, both parties shall execute a written release of the other from this contract and both shall agree to hold the Escrow Agent harmless. If termination is because of a default by Buyer, Seller shall have the option of pursuing any remedy provided by law, and, in addition, the Escrow Agent shall retain half the balance of the earnest money deposit (not to exceed the amount of commission due for this sale) and divide same equally with the cooperating firm. The remainder shall be paid to the Seller. If either Buyer or Seller refuses to execute release, Escrow Agent will hold earnest money in trust until said releases are executed or until the court dictates legal disposition, or the statute of limitations terminates the parties' cause for action.

19. **ACTUAL COSTS INCURRED shall include all costs and expenses incurred or obligated for by Buyer, or Seller in an effort to consummate this sale. Such costs shall include, but are not limited to, cost of credit report, appraisal, survey, inspections and reports, and title examination.**

20. **PERSONS BOUND** The benefits and obligations of this contract shall insure and bind the parties hereto and their heirs, assigns, successors, executors, or administrators. Whenever used, singular shall included plural, and use of any gender shall include all.

21. **Contingent upon drain field site (soil test).**

The following matters are excluded from mediation hereunder: (a) judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage, or land contract; (b) an unlawful detainer action; (c) the filing or enforcement of a mechanic's lien; or (d) any matter which is within the jurisdiction of a probate or family court. The filing of a judicial action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a waiver of the right to mediate under this provision, nor shall it constitute a breach of the duty to mediate.

This is legally binding contract. Both Buyer and Seller should seek further assistance if the contents are not understood. BOTH BUYER AND SELLER ACKNOWLEDGE RECEIPT OF A COPY OF THIS AGREEMENT.

Both Buyer and Seller acknowledge that they have read items #1-21 of this contract
FHA or VA Financing requires separate addendum

IN WITNESS WHEREOF, this agreement has been duly executed by the parties.

Witness: _____ Date: 9/15/03 Buyer: _____ Date: 9/13/03
Witness: _____ Date: 9/13/03 Buyer: _____ Date: 9/13/03
Witness: _____ Date: 9/13/03 Seller: _____ Date: 9/13/03
Witness: _____ Date: _____ Seller: _____ Date: _____

Upon execution of this document Buyer will be consulting an attorney, as well as Jeff Spell, concerning "correctness" and duplication of items listed above. If Buyer elects VA financing, the addendum indicated above will be provided as required.

4 of 2

EXHIBIT A-1
May 2007

ORIG NO. 2003-03115

A. U.S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT
SETTLEMENT STATEMENT

B. TYPE OF LOAN: 1. FHA 2. FmHA 3. CONV. UNINS. 4. VA 5. CONV. INS.
S. FILE NUMBER: PRICE 03-11-021
7. LOAN NUMBER: 0002894389
8. MORTGAGE INS CASE NUMBER:

C. NOTE: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(POC)" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.

D. NAME AND ADDRESS OF BORROWER:
Ronald E. Price and
Diana R.B. Price
Lot 20, Phase II, Eagle Harbor
SSN: 257-42-4993 459-84-5763

E. NAME AND ADDRESS OF SELLER:
Belinda Fox
SSN: 257-25-6561

F. NAME AND ADDRESS OF LENDER:
National City Mortgage Company
7400 CARMEL EXECUTIVE PARK STE 100
CHARLOTTE, NC 28226

G. PROPERTY LOCATION:
Lot 20, Phase II, Eagle Harbor
Berkeley County County
TMS # 194-00-02-031
Lot 20, Phase II
Eagle Harbor

H. SETTLEMENT AGENT: 58-2187500
Lowcountry Title Services, LLC
PLACE OF SETTLEMENT:
2183 Ashley Phosphate Road, Suite A
Charleston, SC 29406

I. SETTLEMENT DATE:
November 26, 2003

J. SUMMARY OF BORROWER'S TRANSACTION			K. SUMMARY OF SELLER'S TRANSACTION	
100. GROSS AMOUNT DUE FROM BORROWER:			400. GROSS AMOUNT DUE TO SELLER:	
101. Contract Sales Price		90,400.00	401. Contract Sales Price	90,400.00
102. Personal Property			402. Personal Property	
103. Settlement Charges to Borrower (Line 1400)		7,144.00	403.	
104. Construction undisbursed		168,175.00	404.	
105.			405.	
Adjustments For Items Paid By Seller in advance			*Adjustments For Items Paid By Seller in advance*	
106. City/Town Taxes	to		406. City/Town Taxes	to
107. County Taxes 11/26/03	to 01/01/04	98.49	407. County Taxes	to
108. Assessments	to		408. Assessments	to
109.			409.	
110.			410.	
111.			411.	
112.			412.	
120. GROSS AMOUNT DUE FROM BORROWER		282,814.49	420. GROSS AMOUNT DUE TO SELLER	90,400.00
200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER:			500. REDUCTIONS IN AMOUNT DUE TO SELLER:	
201. Deposit or earnest money		2,000.00	501. Excess Deposit (See instructions)	
202. Principal Amount of New Loan(s)		281,700.00	502. Settlement Charges to Seller (Line 1400)	44,807.02
203. Existing loan(s) taken subject to			503. Existing loan(s) taken subject to	
204.			504. Payoff of first Mortgage	
205.			505. Payoff of second Mortgage	7,000.00
206.			506. Deposit returned by seller	
207.			507.	
208.			508.	
209.			509.	
Adjustments For Items Unpaid By Seller			*Adjustments For Items Unpaid By Seller*	
210. City/Town Taxes	to		510. City/Town Taxes	to
211. County Taxes	to		511. County Taxes 01/01/03	to 11/26/03 872.65
212. Assessments	to		512. Assessments	to
213.			513.	
214.			514.	
215.			515.	
216.			516.	
217.			517.	
218.			518.	
219.			519.	
220. TOTAL PAID BY/FOR BORROWER		283,700.00	520. TOTAL REDUCTION AMOUNT DUE SELLER	47,379.67
300. CASH AT SETTLEMENT FROM/TO BORROWER:			600. CASH AT SETTLEMENT TO/FROM SELLER:	
301. Gross Amount Due From Borrower (Line 120)		282,814.49	601. Gross Amount Due To Seller (Line 420)	90,400.00
302. Less Amount Paid By/For Borrower (Line 220)		283,700.00	602. Less Reductions Due Seller (Line 520)	47,379.67
303. CASH (X FROM) (TO) BORROWER		19,114.49	603. CASH (X TO) (FROM) SELLER	43,020.33

This undersigned hereby acknowledge receipt of a completed copy of pages 1&2 of this statement & any attachments referred to herein.

Borrower: Ronald E. Price
Diana R.B. Price by Ronald E. Price A.I.F. Attorney in Fact.

Seller: Belinda Fox
Belinda Fox

EXHIBIT 3
WITNESS
DATE: 5/3/2018
REPORTER: H. LANDRY

L. SETTLEMENT CHARGES

		PAID FROM BORROWER'S FUNDS AT SETTLEMENT	PAID FROM SELLER'S FUNDS AT SETTLEMENT
700. TOTAL COMMISSION Based on Price $ @ %			
Division of Commission (line 700) as Follows:			
701. $ to			
702. $ to			
703. Commission Paid at Settlement			
704. to			
800. ITEMS PAYABLE IN CONNECTION WITH LOAN			
801. Loan Origination Fee 1.0000 %	to National City Mortgage Company	2,617.00	
802. Loan Discount %	to	300.00	
803. Appraisal Fee	to Robert Porter	18.00	
804. Credit Report	to CBC Mortgage Service		
805. Lender's Inspection Fee	to	600.00	
806. Lender Inspection Fee	to National City Mortgage Company	1,308.50	
807. Const Fee	to National City Mortgage Company	250.00	
808. Modification FEE	to National City Mortgage Company	17.00	
809. FLOOD CERT FEE	to FIRST AMERICAN FLOOD DATA	77.50	
810. TAX SERVICE FEE	to National City Mortgage Company	215.00	
811. UNDERWRITING FEE	to National City Mortgage Company		
812. YIELD SPREAD PD BY LENDER TO			
813. BROKER FEE			
814. BROKER PROCESSING FEE			
815. BROKER COURIER FEE			
816.			
817.		250.00	
818. Underground Utilities fee	to Belinda Fox		41,520.32
819. Consulting Fee	to Heritage Classic Homes		3,000.00
820. Settlement fee GB Fairfield	to Ogle Otte Cox		
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE			
901. Interest From 11/25/03 to 12/01/03 @ $ /day (6 days @ %)			
902. Mortgage Insurance Premium for months to			
903. Hazard Insurance Premium for 1.0 years to			
904.			
905.			
1000. RESERVES DEPOSITED WITH LENDER			
1001. Hazard Insurance	months @ $ per month		
1002. Mortgage Insurance	months @ $ 176.11 per month		
1003. City/Town Taxes	months @ $ per month		
1004. County Taxes	months @ $ per month		
1005. Assessments	months @ $ per month		
1006.	months @ $ per month		
1007.	months @ $ per month	0.00	
1008. AGGREGATE ADJUSTMENT			
1100. TITLE CHARGES			
1101. Settlement or Closing Fee	to Lowcountry Title Services, LLC	300.00	
1102. Abstract or Title Search	to Lowcountry Title Services, LLC	175.00	
1103. Title Examination	to	75.00	
1104. Title Insurance Binder	to Lowcountry Title Services, LLC POA/DEED PREP	150.00	150.00
1105. Document Preparation	to Lowcountry Title Services, LLC	40.00	
1106. Wire Fee/EMail	to		
1107. Attorney's Fees	to		
(includes above item numbers:)		509.50	
1108. Title Insurance	to INVESTORS TITLE INSURANCE COMPANY		
(includes above item numbers:)			
1109. Lender's Coverage	$ 281,700.00	359.50	
1110. Owner's Coverage	$ 92,200.00	50.00	
1111.			
1112.			
1113.			
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES		40.00	
1201. Recording Fees: Deed $ 10.00; Mortgage $ 30.00; Releases $			100.10
1202. City/County Tax/Stamps: Deed 100.10; Mortgage 200.00; Mortgage			200.00
1203. State Tax/Stamps: Revenue Stamps	to Berkeley County County RMD	15.00	
1204. Power of Attorney Recording			
1205. Assignment Recording Fee			
1300. ADDITIONAL SETTLEMENT CHARGES			
1301. Survey	to		
1302. Pest Inspection	to Lowcountry Title Services, LLC PR/LP/POA OVERNIGHTS	70.00	
1303. Courier Fee			
1304.			
1305.		7,144.00	44,897.92
1400. TOTAL SETTLEMENT CHARGES (Enter on Lines 103, Section J and 502, Section K)			

By signing page 1 of this statement, the signatories or representatives of each party hereto acknowledge receipt of a completed copy of page 2 of this six page statement.

Lowcountry Title Services, LLC
Settlement Agent

Certified to be a true copy

(PAGE 03-11-03) (PAGE 03-11-03) (1)

000068

FILED, RECORDED, INDEXED
12/03/2003 02:59:39PM
Rec Fee: 10.00 St Fee: 235.30
Co Fee: 99.55 Pages: 4
Issued to: LOWCOUNTRY TITLE
Register of Deeds Berkeley Co., SC
Cynthia B. Forte

PRICE 03-11-021

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY COUNTY)

DEED

NOW THEREFORE:

KNOW ALL MEN BY THESE PRESENTS, I, Belinda Fox, in the State aforesaid for/and in the consideration of the sum of Ninety Thousand Four Hundred and 00/100 DOLLARS ($90,400.00), TO ME IN HAND PAID AT AND BEFORE THE SEALING OF THESE PRESENTS BY, Ronald E. Price and Diana R.B. Price, the receipts whereof are hereby acknowledged, have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the said Grantees, Ronald E. Price and Diana R.B. Price, their heirs and assigns, my interest forever in the following described property, to-wit:

EXHIBIT "A"

All that certain piece, parcel, or tract of land, situate, lying and being in Second Goose Creek Tax District, County of Berkeley, State of South Carolina, measuring and containing 7.861 acres, more or less, known and designated as Lot 20, "Prepared for: Eagle Harbor Incorporated, Danny L. Gilbert, CEO, Berkeley County, South Carolina", as more particularly shown and delineated on a plat entitled: "FINAL PLAT OF EAGLE HARBOR, PHASE II, ST. JAMES, GOOSE CREEK PARISH" prepared by William M. Ferguson, Stantec Consulting Services, Inc., dated July 25, 2002, and recorded September 26, 2002, in Plat Book P, at Page 281-A, in the RMC Office for Berkeley County, South Carolina. Said property having such size, shape, metes, butting and bounds as will by reference to said plat.

Being a portion of the same property conveyed to Belinda Fox by deed of Bennie Harvey ordel, a/k/a Bennie Harvey Ordell, dated August 13, 2001 and recorded August 21, 2001, in Book 2382, at Page 143, in the RMC Office for Berkeley County, South Carolina.

TMS # 194-00-02-031

Grantees' Address: ~~Lot 20, Phase II, Eagle Harbor~~
P.O. Box 191
Mt. Blanchard, OH 45867

EXHIBIT 4
WITNESS
DATE: 5/3/2018
REPORTER: H. LANDRY

RECEIVED
12/03/2003
ASSESSOR
BERKELEY COUNTY SC

4

TOGETHER with all and singular the Rights, Members, Hereditaments and Appurtenances to the Premises belonging, or in any way incident or appertaining.

TO HAVE AND TO HOLD, all and singular the premises before mentioned unto the Grantees, Ronald E. Price and Dana RB Price, their heirs and assigns forever.

And the Grantor does hereby bind them and their heirs and assigns, to warrant and forever defend, all and singular, the said Premises unto the said Ronald E. Price and Dana RB Price, their heirs and assigns, against them and their heirs, and all persons whomsoever lawfully claiming or to claim the same or any part thereof.

IN WITNESS WHEREOF, the Grantor has hereunto set her Hand and Seal this 25 day of November, 2003 in the year of our Lord two thousand three and in the two hundred and twenty-seventh year of the Sovereignty and Independence of the United States of America.

Signed, Sealed and Delivered
in the Presence of:

Witness #1

Witness #2

Belinda Fox (Seal)
Belinda Fox

PRICE 03-11-021

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

PROBATE

PERSONALLY appeared before me the undersigned witness, who, being duly sworn, says that (s)he saw the within named Grantor sign, seal and deliver the within Deed; and that (s)he with the other witness whose signature appears above witnessed the execution thereof.

SWORN to before me, this
25 day of November, 2003.

Nancy M. Allen
Witness #1

Peggy D. Hagan (Seal)
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: 11-7-2012

PRICE 03-11-021
STATE OF SOUTH CAROLINA)
)
AFFIDAVIT

Date of Transfer of Title
(Closing Date) November _ , 2003

Standard Form of Agreement Between Owner and Contractor

where the basis of payment is a
STIPULATED SUM

THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES; CONSULTATION WITH AN A TTORNEY IS ENCOURAGED WITH RESPECT TO ITS COMPLETION OR MODIFICATION.
General Conditions of the Contract for Construction is adopted in this document by reference. Do not use with other general conditions unless this document is modified."

AGREEMENT

made as of the 13th day of September in the year of Two Thousand and Three

BETWEEN the Owner:
(Name and address)

Ronald E. and Diana R.B. Price
P.O. Box 285
New Memphis, Il 62266

and the Contractor:
(Name and address)

Danny Gilbert
Heritage Classic Homes
1044 Eagle Harbor Lane
Summerville, SC 29483

The Project is:
(Name and location)

Price Residence
Lot 20, Eagle Harbor Subdivision Phase 2
Summerville, SC, 29483

The Architect is:
(Name and address)

NA

The Owner and Contractor agree as set forth below.

P EXHIBIT 5
WITNESS
DATE: 5/3/2018
REPORTER: H. LANDRY

1 of 8

ARTICLE 1
THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions). Drawings. Specifications, addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement; these form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

ARTICLE 2
THE WORK OF THIS CONTRACT

The Contractor shall execute the entire Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others, or as follows:

Landscaping
Driveway material between ROC or Pavement at Saddlehorn Road and concrete slab at garage doors
Bath hardware
Door hardware
Mirrors
Shelving
Job-site cleaning
Punch out items not completed by sub-contractors

ARTICLE 3
DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

3.1 The date of commencement is the date from which the Contract Time of Paragraph 3.2 is measured, and shall be the date of this Agreement, as first written above, unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.
(Insert the date of commencement, if it differs from the date of this Agreement, or, if applicable, state that the date will be fixed in a notice to proceed.)

On closing of loan or October 30, 2003 which ever comes first. Closed Nov 25, 2003

Unless the date of commencement is established by a notice to proceed issued by the Owner., the Contractor shall notify the Owner in writing not less than five days before commencing the Work to permit the timely filing of mortgages, mechanic's liens and other security interests.

3.2 The Contractor shall achieve Substantial Completion of the entire Work not later than
(Insert the calendar date or number of calendar days after the date of commencement. Also, insert any requirements for earlier Substantial Completion of certain portions of the Work, if not stated elsewhere in the Contract Documents.)

February 1, 2004 Extended to Feb 25, 2004

,subject to adjustments of this Contract Time as provided in the Contract Documents.
(Insert provisions, if any, for liquidated damages relating to failure to complete on time.)

1088

ARTICLE 4
CONTRACT SUM

4.1 The Owner shall pay the Contractor in current funds for the Contractor's performance of the Contract the Contract Sum of Dollars ($ 185,175), subject to additions and deductions as provided in the Contract Documents.

Atch 1

An estimate sheet dated 13 September, 2003 is attached to this contract that gives a cost estimate of work to be done. The Owner assumes responsibility for any cost exceeding that cost in each description.

The only exception to be: Overhead and Job Management, which will not exceed the amount of $6907 and $9354 respectively.

4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:
(State the numbers or other identification of accepted alternates. If decisions on other alternates are to be made by the Owner subsequent to the execution of such other alternates showing the amount for each and the date until which that amount is valid.)

4.3 Unit prices, if any, are as follows:

398

ARTICLE 5
PROGRESS PAYMENTS

5. 1 Based upon Applications for Payment submitted to the Architect or Owners Lender by the Contractor and Certificates for Payment issued by the Architect or Owners Lender, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.
5.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

1) At commencement of contract an amount determined by the lender.
2) Draw schedule to be followed as per lending requirements as referenced in Builder information received from National City Mortgage Company.

Atch 1

5.3 Provided an Application for Payment is received by the Architect or Owners Lender not later than the 1st day of a business week, the Owner shall make payment to the Contractor not later than the day of the 5th day of the same business week. If an Application for Payment is received by the Architect or Owners Lender after the application date fixed above, payment shall he made by the Owner not later than 5 business days after the Architect or Lender receives the Application for Payment.
5.4 Each Application for Payment shall be based upon the schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work and be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected by the Architect or Owner, shall be used as a basis for reviewing the Contractor's Applications for Payment.
5.5 Applications for Payment shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.
5.6 Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:
5.6.1. Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in the dispute may be included as provided in Subparagraph 7.3.7 of the General Conditions even though the Contract Sum has not yet been adjusted by Change Order;
5.6.2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing).
5.6.3 Subtract the aggregate of previous payments made by the Owner; and
5.6.4 Subtract amounts, if any, for which the Architect or Lender has withheld or nullified a Certificate for Payment as provided In Paragraph 9.5 of the General Conditions.
5.7 The progress payment amount determined in accordance with Paragraph 5.6 shall be further modified under the following circumstances:
5.7.1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to 100 % of the Contract Sum, less such amounts as the Architect or Lender shall determine for incomplete Work and unsettled claims; and
5.7.2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Subparagraph 9.10.3 of the General Conditions.
5.8 Reduction, if any, shall be as follows:
(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Subparagraphs 5.6.1 and 5.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

4/08 8

ARTICLE 6
FINAL PAYMENT

Final payment, constituting the entire unpaid balance of the Contract Sum, shall he made by the Owner to the Contractor when (1) the Contract has been fully performed by the Contractor except for the Contractor's responsibility to correct nonconforming Work as provided In Subparagraph 12.2.2 of the General Conditions and to satisfy other requirements, if any, which necessarily survive final payment; and (2) a final Certificate for Payment has been issued by the Architect or Lender; such final payment shall be made by the Owner not more than 5 days after the issuance of the Architect's or Lenders final Certificate for Payment, or as follows:

ARTICLE 7
MISCELLANEOUS PROVISIONS

7.1 Where reference is made in this Agreement to a provision of the General Conditions or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents,
7.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.
(Insert rate of interest agreed upon, if any.)

(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Contractor's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)
7.3 Other provisions:

Contractor has provided an allowance of $2500 for all appliances.

Contractor has provided an allowance of $3000 for all driveways and sidewalks.

Contractor has provided an allowance of $600 for all countertops

Contractor has provided an allowance of $1500 for all lighting fixtures.

Contractor offers a one year warranty on all work preformed, with exception to driveways and sidewalks and any damages attributed to weather.

ARTICLE 8
TERMINATION OR SUSPENSION

8.1 The Contract may he terminated by the Owner or the Contractor as provided in Article 14 of the General Conditions.
8.2 The Work may he suspended by the Owner as provided in Article 14 of the General Conditions,

5 of 8

ARTICLE 9
ENUMERATION OF CONTRACT DOCUMENTS

9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:

Current drawings of all three levels of home are attached, in addition to porch and deck estimate. (Att 2, 3, 4, 5

9.1.1 The Agreement is this executed Standard Form of Agreement Between Owner and Contractor.
9.1.2 The General Conditions are the General Conditions of the Contract for Construction, AIA Document A201, 1987 Edition.
9.1.3 The Supplementary and other Conditions (if any) of the Contract are those contained in the Project Manual dated

NA

9.1.4 The Specifications are those contained in the Project Manual dated as in Subparagraph 9.1.3, and are as follows:
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

Description of Materials for the Price Residence will be provided to the Buyer at the time provided to the financing institution, on or about September 20, 2003.

6 of 8

9.1.5 The Drawings are as follows, and are dated 9-12-03 unless a different date is shown below:
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Number	Title	Date

Note: All construction drawings for the Price Residence will be completed by Contractor

9.1.6 The addenda, if any, are as follows:

Number	Date	Pages

Portions of addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.

7588

9.1.7 Other documents, if any, forming part of the Contract Documents are as follows:

Att 6

Sketches of all three levels of home, current as of this date September 13, 2003 and Site Plan of this date as well.

(List here any additional documents which are intended to form part of the Contract Documents. The General Conditions provide that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

This Agreement is entered into as of the day and year first written above and is executed in at least two original copies of which one is to be delivered to the Contractor for use in the administration of the Contract, and the remainder to the Owner.

OWNER

(Signature)

(Printed name and title)

CONTRACTOR

(Signature)

(Printed name and title)

Articles referenced above: 9.10.3, 7.3.7, 9.5, 14 and 12.2.2 will be provided to buyer as well as copies of construction drawings which are required by financing institution. - Gave us the AIA Document A201 o/a Oct 5, 2003

Upon execution of this document, buyer will be consulting an attorney and/or Jeff Spell with any questions.

Witnessed by:

Doug C. Cotton

2078

EXHIBIT F

IMPORTANT BUILDER INFORMATION!!!

DRAW PROCEDURES
CONSTRUCTION/PERM LOANS

Listed below are items that must be presented to the Construction Lending Department when requesting progress draw disbursements. We ask that you pay particular attention to the items required prior to the first and final draws as these items are NOT subject to exception. If you have any questions regarding these procedures, please contact the Construction Lending Department at 1-800-367-9305, ext. 4160 (local #910-4160) immediately.

ALL DRAWS: Before the Construction Lending Department will process a draw request, they will upon each request, make sure the construction loan interest payment is current. If it is not, they will follow-up with the builder/borrower to obtain the payment. The draw will not be processed until the interest payment has been made. Builder's risk insurance should be in effect at all times during construction. The expiration date on the Builder's Risk Insurance Policy will be checked to make sure it has not expired. If it has expired, the draw will be delayed until proof of coverage is received.

Request for a draw should be made by contacting NCM Construction Lending Department at 1-800-367-9305, ext. 4160 (local #910-4160).

All required draw paperwork should be faxed to 937-910-4085.
Original paperwork should then be sent to: National City Mortgage Co.
Attention: Construction Lending Dept.
3232 Newmark Drive
Miamisburg, OH 45342

FIRST DRAW: At the time of the first draw, the following items must be submitted by the Borrower/Builder:

- Copy of Building Permit
- Septic System Permit (if applicable)
- Termite Soil Treatment (if applicable)
- Request for Disbursement form. This form must be signed by the borrower(s) and builder. A supply of these forms will be given out at the closing.
- Any other paperwork required by the title company/closing attorney must also be completed. The title company/closing attorney will explain any additional paperwork that will be required at the time of closing.
- Foundation Survey stating that the primary improvements are within the lot lines and there are no apparent encroachments or visible easements unless otherwise shown. (NCM will order unless other instructions are given)
- Inspection of Property (NCM will order)
- Title Update (NCM will order if applicable)

SUBSEQUENT DRAWS: At the time of subsequent draws the following items must be submitted by the builder/borrower:

- Request for Disbursement form.
- Original Request for Disbursement form from the previous draw.
- Inspection (NCM will order)
- Title Update (NCM will order if applicable)
- Satisfactory FHA inspection (if applicable)

FINAL DRAW: At the time of the final draw the following items must be submitted by the builder/borrower:

- Water Test (if applicable)
- Septic System Approval (if applicable)
- Occupancy Permit
- Request for Disbursement form
- Completion Certification
- Warranty of Completion of Construction - HUD Form 92544 and 92544-A
- Copies of borrower's canceled checks (if applicable)
- Acceptable proof of coverage under 10 year warranty
- Satisfactory final FHA inspection (required on all FHA loans)
- Original Request for Disbursement form from the previous draw
- Inspection (NCM will order)
- Title Update (NCM will order if applicable)

[redacted]

A draw is ready to be disbursed after the following has occurred:

- The title company/closing attorney has contacted the Construction Lending Dept. that the title update is ok and they authorize the draw to be disbursed (where applicable).
- The Inspector has notified the Construction Lending Dept. as to what work has been completed.
- All Paperwork has been reviewed and is accurate. Paperwork should consist of the documents described above.
- Original paperwork from previous draw is received.

A check will be written/funds will be wired based on the information filled out on the Request for Disbursement form. If this information was left blank, a joint check will be issued to the borrower and builder.

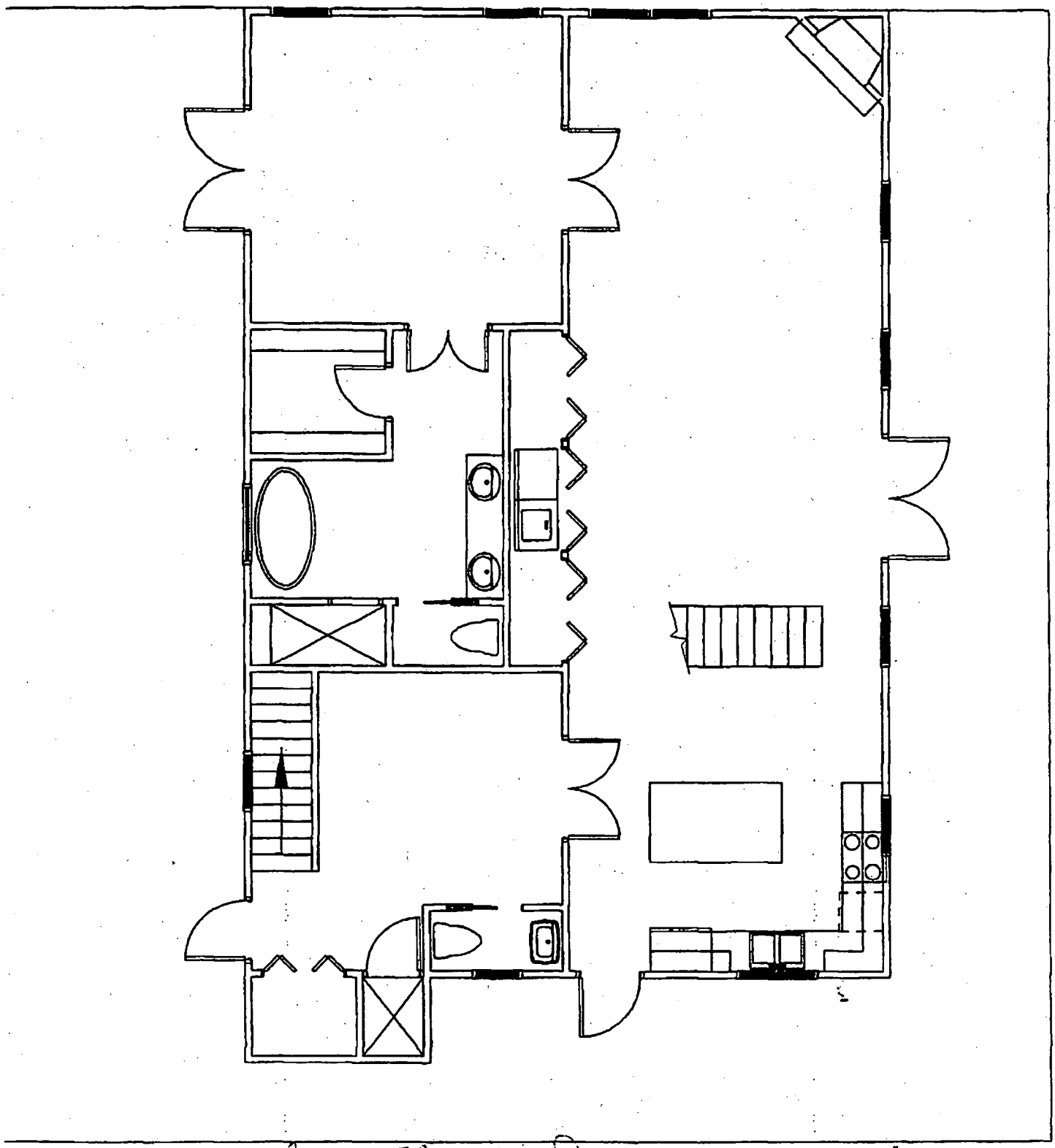
BE SURE YOU HAVE A SUPPLY OF THE FOLLOWING DRAW PAPERWORK:

- REQUEST FOR DISBURSEMENT FORMS
- COMPLETION CERTIFICATION FORM (for final draw)

Call the Construction Lending Department if you need a supply of these forms.

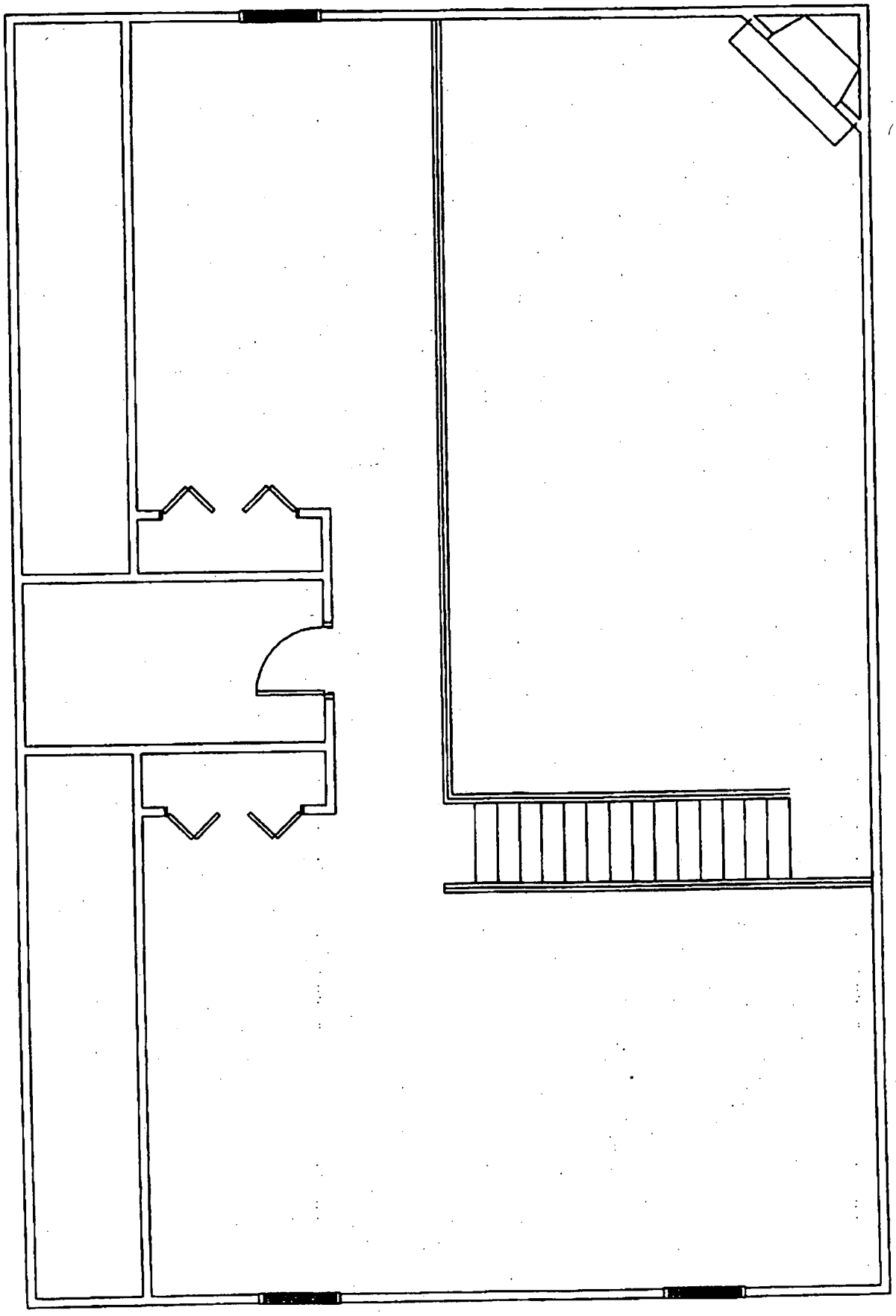
I hereby acknowledge receipt of these Draw Procedures and agree to comply with these requirements.

_____ Date_____
(Builder/Contractor)

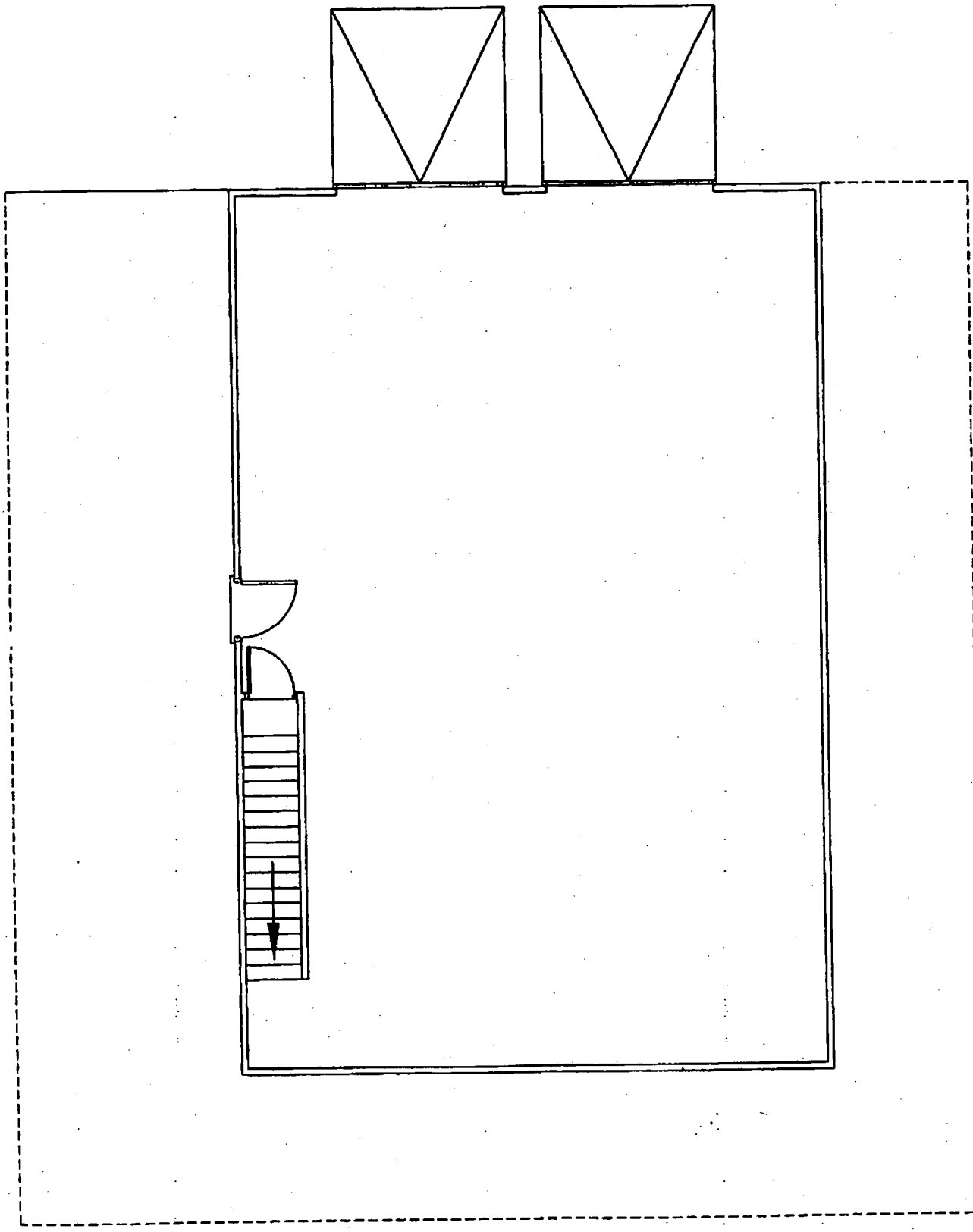


4/13 - Computed sf in Tower approx 2500 sf for this floor and loft (shelf's pending).

Att 7



Attach 3



Attach 1

ADO REPAIRS & REMODELING

8430 CREEKSTONE COURT
NORTH CHARLESTON, SC 29406
(843) 200-4877

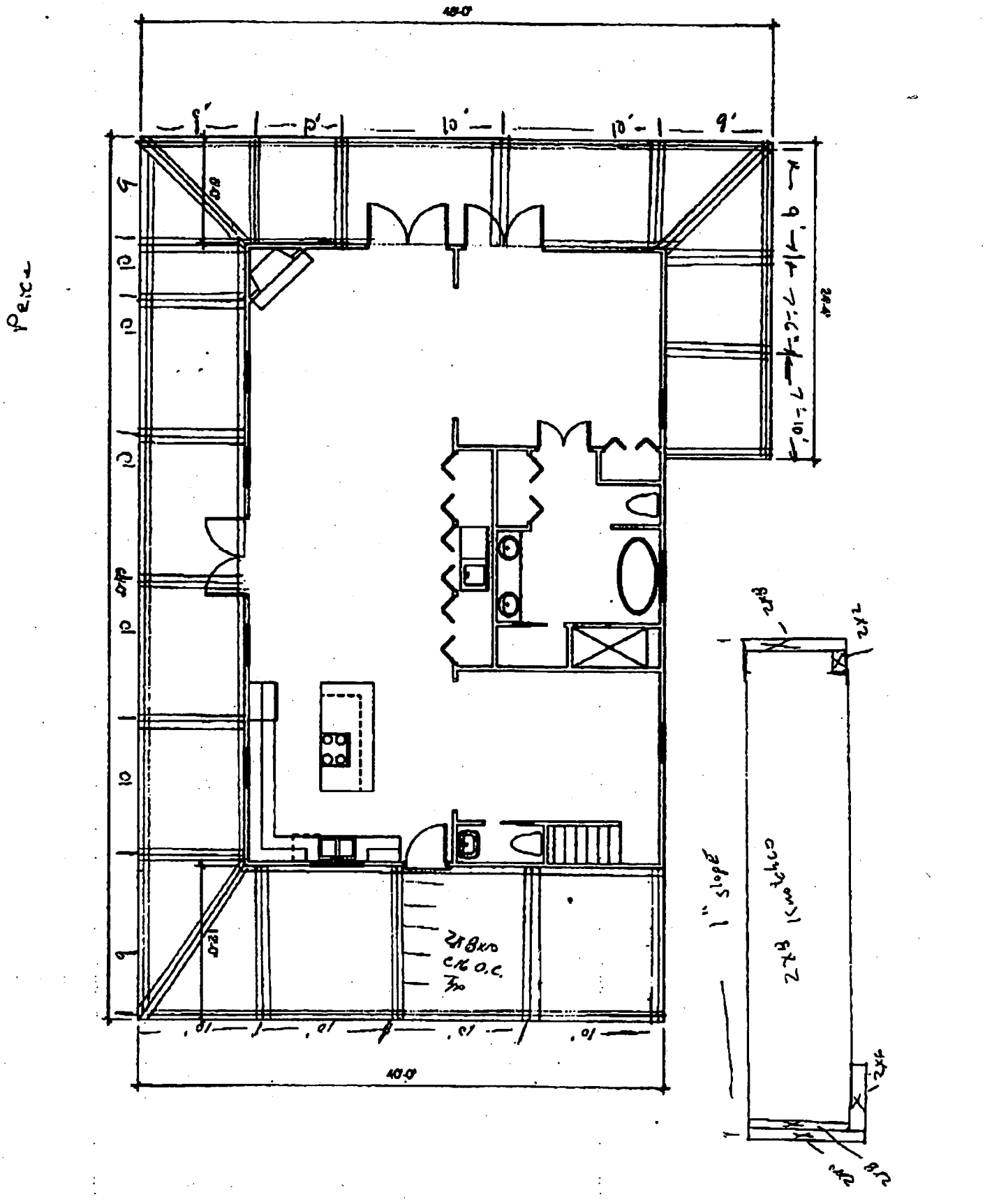
Estimate

DATE	ESTIMATE NO.
9/9/2003	105

NAME / ADDRESS
Price Ranch

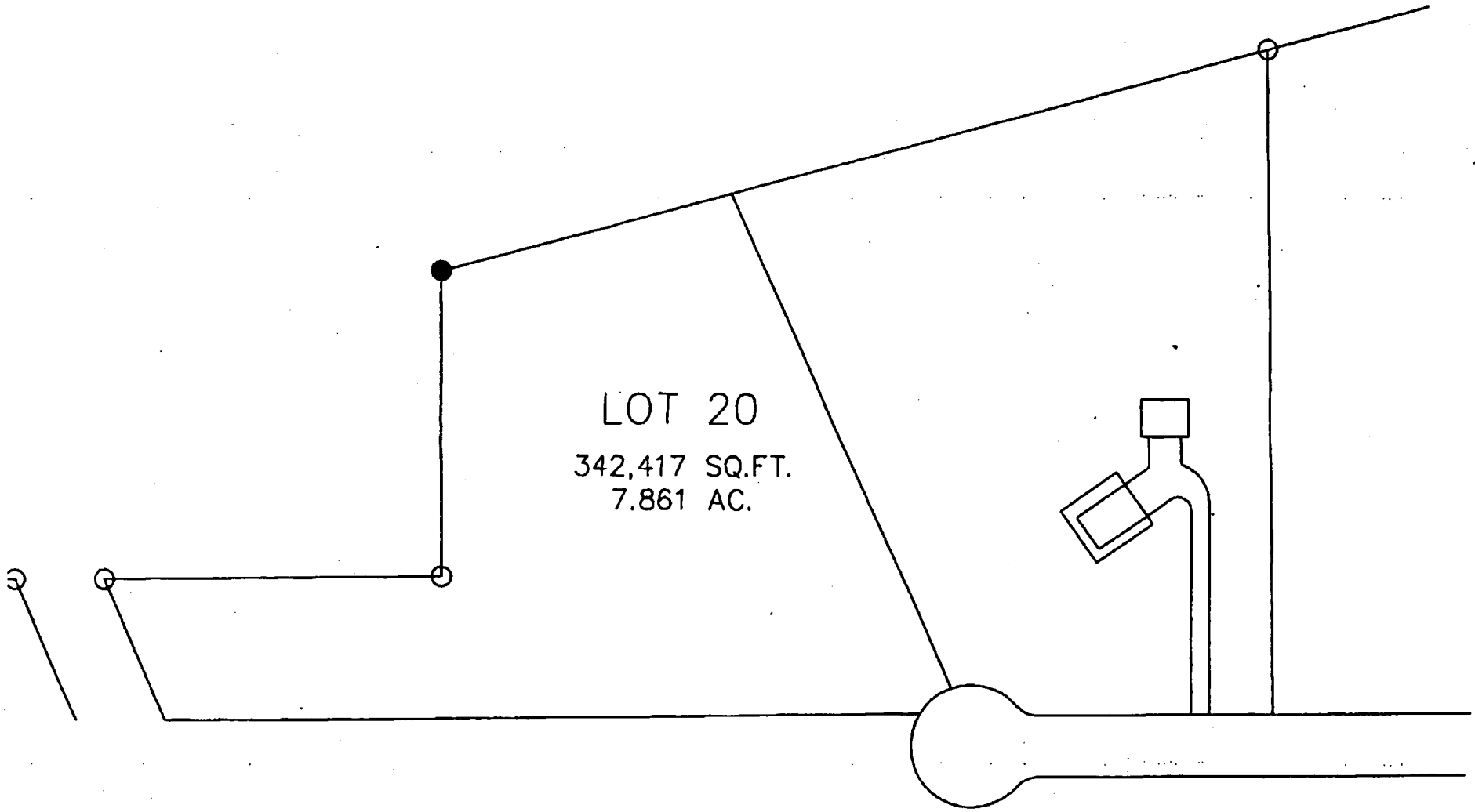
PROJECT

DESCRIPTION	QTY	RATE	TOTAL
frame porch 2x6 plate treated 2x10 and 2x8 band treated 2x8 joist treated 5/4 treated decking 2x4 with 2x2 treated pickets for handrails colonial style columns at 8ft. on center		0.00 17,307.00	0.00 17,307.00
		TOTAL	$17,307.00



Plan

Attic 5-1



00905

September 13, 2003

COST ESTIMATE FOR:
Ron and Diana Price

ITEM	DESCRIPTION	MATERIALS	LABOR	COST	TOTAL
1	Design and Const Dwgs				1000
2	Permits			900	900
3	Reproductions			250	250
4	Builders Risk			500	500
5	General Liability			700	700
6	Survey/Plat				0
7	Porta John Rental			300	300
8	Dumpster Rental			600	600
9	Temporary Utilities				150
10	Lot Preparation			4000	4000 / 2000 labor
11	Well				4000
12	Septic				4000
13	Temporary Power Pole			150	150
14	Footings			2600	2600
15	Foundation			6072	6072
16	Soil Termite Treatment			700	700
17	Garage Slab				2500
18	Framing				23,400
19	Roofing				3000
20	Windows* P/O 16				0
21	Exterior Doors* P/O 16				0
22	Electrical			0	7000
23	HVAC				8000
24	Plumbing	3000	6300		9300
25	Siding				1500
26	Soffitt/Fascia				1162
27	Porches/Decks				17,000
28	Stucco				4000
29	Insulation				3700
30	Sheetrock				6000
31	Paint				3000
32	Fireplace				1000
33	Cabinets				5000
34	Hardwood ~2000 sf				7500
35	Garage Doors	500	500		1000
36	Interior Doors	770	660		1430
37	Interior Trim				3900

Attach 7

38	Bath Hardware (owner)	425	170		0
39	Door Hardware (owner)				0
40	Countertops*				600
41	Mirrors (owner)				0
42	Gutters			1000	1000
43	Driveway/Sidewalks*			3000	3000
44	Appliances*			2500	2500
45	Lighting Fixtures*			1500	1500
46	Shelving (owner)				0
47	Cleaning (owner)				0
48	Punch List (owner)				0
	Total				143,914
	4.8% Overhead				6907
	6.5% Job Management				9354
	GRAND TOTAL				160,175

* Allowance

THE AMERICAN INSTITUTE OF ARCHITECTS

Ron Reed Out

AIA Document A201

General Conditions of the Contract for Construction

THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES. CONSULTATION WITH AN ATTORNEY IS ENCOURAGED WITH RESPECT TO ITS MODIFICATION

1987 EDITION

TABLE OF ARTICLES

EXHIBIT P
WITNESS
DATE: 5/3/2018
REPORTER: H. LANDRY

1. GENERAL PROVISIONS
2. OWNER
3. CONTRACTOR
4. ADMINISTRATION OF THE CONTRACT
5. SUBCONTRACTORS
6. CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS
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8. TIME
9. PAYMENTS AND COMPLETION
10. PROTECTION OF PERSONS AND PROPERTY
11. INSURANCE AND BONDS
12. UNCOVERING AND CORRECTION OF WORK
13. MISCELLANEOUS PROVISIONS
14. TERMINATION OR SUSPENSION OF THE CONTRACT

This document has been approved and endorsed by the Associated General Contractors of America.

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ARTICLE 1

GENERAL PROVISIONS

1.1 BASIC DEFINITIONS

1.1.1 THE CONTRACT DOCUMENTS

The Contract Documents consist of the Agreement between Owner and Contractor (hereinafter the Agreement), Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include other documents such as bidding requirements (advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or portions of addenda relating to bidding requirements).

1.1.2 THE CONTRACT

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Architect and Contractor, (2) between the Owner and a Subcontractor or Subsubcontractor or (3) between any persons or entities other than the Owner and Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

1.1.3 THE WORK

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

1.1.4 THE PROJECT

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner or by separate contractors.

1.1.5 THE DRAWINGS

The Drawings are the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.

1.1.6 THE SPECIFICATIONS

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards and workmanship for the Work, and performance of related services.

1.1.7 THE PROJECT MANUAL

The Project Manual is the volume usually assembled for the Work which may include the bidding requirements, sample forms, Conditions of the Contract and Specifications.

1.2 EXECUTION, CORRELATION AND INTENT

1.2.1 The Contract Documents shall be signed by the Owner and Contractor as provided in the Agreement. If either the Owner or Contractor or both do not sign all the Contract Documents, the Architect shall identify such unsigned Documents upon request.

1.2.2 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

1.2.3 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.

1.2.4 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

1.2.5 Unless otherwise stated in the Contract Documents, words which have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

1.3 OWNERSHIP AND USE OF ARCHITECT'S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

1.3.1 The Drawings, Specifications and other documents prepared by the Architect are instruments of the Architect's service through which the Work to be executed by the Contractor is described. The Contractor may retain one contract record set. Neither the Contractor nor any Subcontractor, Subsubcontractor or material or equipment supplier shall own or claim a copyright in the Drawings, Specifications and other documents prepared by the Architect, and unless otherwise indicated the Architect shall be deemed the author of them and will retain all common law, statutory and other reserved rights, in addition to the copyright. All copies of them, except the Contractor's record set, shall be returned or suitably accounted for to the Architect, on request, upon completion of the Work. The Drawings, Specifications and other documents prepared by the Architect, and copies thereof furnished to the Contractor, are for use solely with respect to this Project. They are not to be used by the Contractor or any Subcontractor, Subsubcontractor or material or equipment supplier on other projects or for additions to this Project outside the scope of the

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Work without the specific written consent of the Owner and Architect. The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are granted a limited license to use and reproduce applicable portions of the Drawings, Specifications and other documents prepared by the Architect appropriate to and for use in the execution of their Work under the Contract Documents. All copies made under this license shall bear the statutory copyright notice, if any, shown on the Drawings, Specifications and other documents prepared by the Architect. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Architect's copyright or other reserved rights.

1.4 CAPITALIZATION

1.4.1 Terms capitalized in these General Conditions include those which are (1) specifically defined, (2) the titles of numbered articles and identified references to Paragraphs, Subparagraphs and Clauses in the document or (3) the titles of other documents published by the American Institute of Architects.

1.5 INTERPRETATION

1.5.1 In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

ARTICLE 2

OWNER

2.1 DEFINITION

2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Owner" means the Owner or the Owner's authorized representative.

2.1.2 The Owner upon reasonable written request shall furnish to the Contractor in writing information which is necessary and relevant for the Contractor to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein at the time of execution of the Agreement and, within five days after any change, information of such change in title, recorded or unrecorded.

2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

2.2.1 The Owner shall, at the request of the Contractor, prior to execution of the Agreement and promptly from time to time thereafter, furnish to the Contractor reasonable evidence that financial arrangements have been made to fulfill the Owner's obligations under the Contract. *[Note: Unless such reasonable evidence were furnished on request prior to the execution of the Agreement, the prospective contractor would not be required to execute the Agreement or to commence the Work.]*

2.2.2 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site.

2.2.3 Except for permits and fees which are the responsibility of the Contractor under the Contract Documents, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

2.2.4 Information or services under the Owner's control shall be furnished by the Owner with reasonable promptness to avoid delay in orderly progress of the Work.

2.2.5 Unless otherwise provided in the Contract Documents, the Contractor will be furnished, free of charge, such copies of Drawings and Project Manuals as are reasonably necessary for execution of the Work.

2.2.6 The foregoing are in addition to other duties and responsibilities of the Owner enumerated herein and especially those in respect to Article 6 (Construction by Owner or by Separate Contractors), Article 9 (Payments and Completion) and Article 11 (Insurance and Bonds).

2.3 OWNER'S RIGHT TO STOP THE WORK

2.3.1 If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents as required by Paragraph 12.2 or persistently fails to carry out Work in accordance with the Contract Documents, the Owner, by written order signed personally or by an agent specifically so empowered by the Owner in writing, may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Subparagraph 6.1.3.

2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

2.4.1 If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may after such seven-day period give the Contractor a second written notice to correct such deficiencies within a second seven-day period. If the Contractor within such second seven-day period after receipt of such second notice fails to commence and continue to correct any deficiencies, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the cost of correcting such deficiencies, including compensation for the Architect's additional services and expenses made necessary by such default, neglect or failure. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

ARTICLE 3

CONTRACTOR

3.1 DEFINITION

3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Contractor" means the Contractor or the Contractor's authorized representative.

3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

3.2.1 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner pursuant to Subparagraph 2.2.2 and shall at once report to the Architect errors, inconsistencies or omissions discovered. The Contractor shall not be liable to the Owner or Architect for damage resulting from errors, inconsistencies or omissions in the Contract Documents unless the Contractor recognized such error, inconsistency or omission and knowingly failed to report it to the Architect. If the Contractor performs any construction activity knowing it involves a recognized error, inconsistency or omission in the Contract Documents without such notice to the Architect, the Contractor shall assume appropriate responsibility for such performance and shall bear an appropriate amount of the attributable costs for correction.

3.2.2 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies or omissions discovered shall be reported to the Architect at once.

3.2.3 The Contractor shall perform the Work in accordance with the Contract Documents and submittals approved pursuant to Paragraph 3.12.

3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless Contract Documents give other specific instructions concerning these matters.

3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons performing portions of the Work under a contract with the Contractor.

3.3.3 The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons other than the Contractor.

3.3.4 The Contractor shall be responsible for inspection of portions of Work already performed under this Contract to determine that such portions are in proper condition to receive subsequent Work.

3.4 LABOR AND MATERIALS

3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

3.4.2 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

3.5 WARRANTY

3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

3.6 TAXES

3.6.1 The Contractor shall pay sales, consumer, use and similar taxes for the Work or portions thereof provided by the Contractor which are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

3.7 PERMITS, FEES AND NOTICES

3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work which are customarily secured after execution of the Contract and which are legally required when bids are received or negotiations concluded.

3.7.2 The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities bearing on performance of the Work.

3.7.3 It is not the Contractor's responsibility to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. However, if the Contractor observes that portions of the Contract Documents are at variance therewith, the Contractor shall promptly notify the Architect and Owner in writing, and necessary changes shall be accomplished by appropriate Modification.

3.7.4 If the Contractor performs Work knowing it to be contrary to laws, statutes, ordinances, building codes, and rules and regulations without such notice to the Architect and Owner, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs.

3.8 ALLOWANCES

3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities against which the Contractor makes reasonable objection.

3.8.2 Unless otherwise provided in the Contract Documents:

.1 materials and equipment under an allowance shall be selected promptly by the Owner to avoid delay in the Work;

.2 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;

.3 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum and not in the allowances;

.4 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Clause 3.8.2.2 and (2) changes in Contractor's costs under Clause 3.8.2.3.

3.9 SUPERINTENDENT

3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case.

3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES

3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

3.10.2 The Contractor shall prepare and keep current, for the Architect's approval, a schedule of submittals which is coordinated with the Contractor's construction schedule and allows the Architect reasonable time to review submittals.

3.10.3 The Contractor shall conform to the most recent schedules.

3.11 DOCUMENTS AND SAMPLES AT THE SITE

3.11.1 The Contractor shall maintain at the site for the Owner one record copy of the Drawings, Specifications, addenda, Change Orders and other Modifications, in good order and marked currently to record changes and selections made during construction, and in addition approved Shop Drawings, Product Data, Samples and similar required submittals. These shall be available to the Architect and shall be delivered to the Architect for submittal to the Owner upon completion of the Work.

3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

3.12.1 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

3.12.3 Samples are physical examples which illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

3.12.4 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required the way the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents. Review by the Architect is subject to the limitations of Subparagraph 4.2.7.

3.12.5 The Contractor shall review, approve and submit to the Architect Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors. Submittals made by the Contractor which are not required by the Contract Documents may be returned without action.

3.12.6 The Contractor shall perform no portion of the Work requiring submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the Architect. Such Work shall be in accordance with approved submittals.

3.12.7 By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

3.12.8 The Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Architect in writing of such deviation at the time of submittal and the Architect has given written approval to the specific deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Architect's approval thereof.

3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by the Architect on previous submittals.

3.12.10 Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents.

3.12.11 When professional certification of performance criteria of materials, systems or equipment is required by the Contract Documents, the Architect shall be entitled to rely upon the accuracy and completeness of such calculations and certifications.

3.13 USE OF SITE

3.13.1 The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

3.14 CUTTING AND PATCHING

3.14.1 The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.

3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or separate contractors by cutting, patching or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter such construction by the

Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Owner or a separate contractor the Contractor's consent to cutting or otherwise altering the Work.

3.15 CLEANING UP

3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work the Contractor shall remove from and about the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials.

3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the cost thereof shall be charged to the Contractor.

3.16 ACCESS TO WORK

3.16.1 The Contractor shall provide the Owner and Architect access to the Work in preparation and progress wherever located.

3.17 ROYALTIES AND PATENTS

3.17.1 The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Architect.

3.18 INDEMNIFICATION

3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph 3.18.

3.18.2 In claims against any person or entity indemnified under this Paragraph 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Paragraph 3.18 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

3.18.3 The obligations of the Contractor under this Paragraph 3.18 shall not extend to the liability of the Architect, the Architect's consultants, and agents and employees of any of them arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs or specifications, or (2) the giving of or the failure to give directions or instructions by the Architect, the Architect's consultants, and agents and employees of any of them provided such giving or failure to give is the primary cause of the injury or damage.

ARTICLE 4

ADMINISTRATION OF THE CONTRACT

4.1 ARCHITECT

4.1.1 The Architect is the person lawfully licensed to practice architecture or an entity lawfully practicing architecture identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Architect" means the Architect or the Architect's authorized representative.

4.1.2 Duties, responsibilities and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner, Contractor and Architect. Consent shall not be unreasonably withheld.

4.1.3 In case of termination of employment of the Architect, the Owner shall appoint an architect against whom the Contractor makes no reasonable objection and whose status under the Contract Documents shall be that of the former architect.

4.1.4 Disputes arising under Subparagraphs 4.1.2 and 4.1.3 shall be subject to arbitration.

4.2 ARCHITECT'S ADMINISTRATION OF THE CONTRACT

4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents, and will be the Owner's representative (1) during construction, (2) until final payment is due and (3) with the Owner's concurrence, from time to time during the correction period described in Paragraph 12.2. The Architect will advise and consult with the Owner. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified by written instrument in accordance with other provisions of the Contract.

4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the completed Work and to determine in general if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check quality or quantity of the Work. On the basis of on-site observations as an architect, the Architect will keep the Owner informed of progress of the Work, and will endeavor to guard the Owner against defects and deficiencies in the Work.

4.2.3 The Architect will not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility as provided in Paragraph 3.3. The Architect will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. The Architect will not have control over or charge of and will not be responsible for acts or omissions of the Con-

tractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work.

4.2.4 Communications Facilitating Contract Administration. Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall endeavor to communicate through the Architect. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner.

4.2.5 Based on the Architect's observations and evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

4.2.6 The Architect will have authority to reject Work which does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable for implementation of the intent of the Contract Documents, the Architect will have authority to require additional inspection or testing of the Work in accordance with Subparagraphs 13.5.2 and 13.5.3, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons performing portions of the Work.

4.2.7 The Architect will review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Paragraphs 3.3, 3.5 and 3.12. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may authorize minor changes in the Work as provided in Paragraph 7.4.

4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion, will receive and forward to the Owner for the Owner's review and records written warranties and related documents required by the Contract and assembled by the Contractor, and will issue a final Certificate for Payment upon compliance with the requirements of the Contract Documents.

4.2.10 If the Owner and Architect agree, the Architect will provide one or more project representatives to assist in carrying out the Architect's responsibilities at the site. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in an exhibit to be incorporated in the Contract Documents.

4.2.11 The Architect will interpret and decide matters concerning performance under and requirements of the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made with reasonable promptness and within any time limits agreed upon. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Paragraph 4.2, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until 15 days after written request is made for them.

4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions so rendered in good faith.

4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

4.3 CLAIMS AND DISPUTES

4.3.1 Definition. A Claim is a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. Claims must be made by written notice. The responsibility to substantiate Claims shall rest with the party making the Claim.

4.3.2 Decision of Architect. Claims, including those alleging an error or omission by the Architect, shall be referred initially to the Architect for action as provided in Paragraph 4.4. A decision by the Architect, as provided in Subparagraph 4.4.4, shall be required as a condition precedent to arbitration or litigation of a Claim between the Contractor and Owner as to all such matters arising prior to the date final payment is due, regardless of (1) whether such matters relate to execution and progress of the Work or (2) the extent to which the Work has been completed. The decision by the Architect in response to a Claim shall not be a condition precedent to arbitration or litigation in the event (1) the position of Architect is vacant, (2) the Architect has not received evidence or has failed to render a decision within agreed time limits, (3) the Architect has failed to take action required under Subparagraph 4.4.4 within 30 days after the Claim is made, (4) 45 days have passed after the Claim has been referred to the Architect or (5) the Claim relates to a mechanic's lien.

4.3.3 Time Limits on Claims. Claims by either party must be made within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Claims must be made by written notice. An additional Claim made after the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner.

4.3.4 Continuing Contract Performance. Pending final resolution of a Claim including arbitration, unless otherwise agreed in writing the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

4.3.5 Waiver of Claims: Final Payment. The making of final payment shall constitute a waiver of Claims by the Owner except those arising from:

.1 liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;

.2 failure of the Work to comply with the requirements of the Contract Documents; or

.3 terms of special warranties required by the Contract Documents.

4.3.6 Claims for Concealed or Unknown Conditions. If conditions are encountered at the site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, then notice by the observing party shall be given to the other party promptly before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall so notify the Owner and Contractor in writing, stating the reasons. Claims by either party in opposition to such determination must be made within 21 days after the Architect has given notice of the decision. If the Owner and Contractor cannot agree on an adjustment in the Contract Sum or Contract Time, the adjustment shall be referred to the Architect for initial determination, subject to further proceedings pursuant to Paragraph 4.4.

4.3.7 Claims for Additional Cost. If the Contractor wishes to make Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Paragraph 10.3. If the Contractor believes additional cost is involved for reasons including but not limited to (1) a written interpretation from the Architect, (2) an order by the Owner to stop the Work where the Contractor was not at fault, (3) a written order for a minor change in the Work issued by the Architect, (4) failure of payment by the Owner, (5) termination of the Contract by the Owner, (6) Owner's suspension or (7) other reasonable grounds, Claim shall be filed in accordance with the procedure established herein.

4.3.8 Claims for Additional Time

4.3.8.1 If the Contractor wishes to make Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.

4.3.8.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time and could not have been reasonably anticipated, and that weather conditions had an adverse effect on the scheduled construction.

4.3.9 Injury or Damage to Person or Property. If either party to the Contract suffers injury or damage to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally liable, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Subparagraphs 4.3.7 or 4.3.8.

4.4 RESOLUTION OF CLAIMS AND DISPUTES

4.4.1 The Architect will review Claims and take one or more of the following preliminary actions within ten days of receipt of a Claim: (1) request additional supporting data from the claimant, (2) submit a schedule to the parties indicating when the Architect expects to take action, (3) reject the Claim in whole or in part, stating reasons for rejection, (4) recommend approval of the Claim by the other party or (5) suggest a compromise. The Architect may also, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim.

4.4.2 If a Claim has been resolved, the Architect will prepare or obtain appropriate documentation.

4.4.3 If a Claim has not been resolved, the party making the Claim shall, within ten days after the Architect's preliminary response, take one or more of the following actions: (1) submit additional supporting data requested by the Architect, (2) modify the initial Claim or (3) notify the Architect that the initial Claim stands.

4.4.4 If a Claim has not been resolved after consideration of the foregoing and of further evidence presented by the parties or requested by the Architect, the Architect will notify the parties in writing that the Architect's decision will be made within seven days, which decision shall be final and binding on the parties but subject to arbitration. Upon expiration of such time period, the Architect will render to the parties the Architect's written decision relative to the Claim, including any change in the Contract Sum or Contract Time or both. If there is a surety and there appears to be a possibility of a Contractor's default, the Architect may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

4.5 ARBITRATION

4.5.1 Controversies and Claims Subject to Arbitration. Any controversy or Claim arising out of or related to the Contract, or the breach thereof, shall be settled by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator or arbitrators may be entered in any court having jurisdiction thereof, except controversies or Claims relating to aesthetic effect and except those waived as provided for in Subparagraph 4.3.5. Such controversies or Claims upon which the Architect has given notice and rendered a decision as provided in Subparagraph 4.4.4 shall be subject to arbitration upon written demand of either party. Arbitration may be commenced when 45 days have passed after a Claim has been referred to the Architect as provided in Paragraph 4.3 and no decision has been rendered.

4.5.2 Rules and Notices for Arbitration. Claims between the Owner and Contractor not resolved under Paragraph 4.4 shall, if subject to arbitration under Subparagraph 4.5.1, be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect, unless the parties mutually agree otherwise. Notice of demand for arbitration shall be filed in writing with the other party to the Agreement between the Owner and Contractor and with the American Arbitration Association, and a copy shall be filed with the Architect.

4.5.3 Contract Performance During Arbitration. During arbitration proceedings, the Owner and Contractor shall comply with Subparagraph 4.3.4.

4.5.4 When Arbitration May Be Demanded. Demand for arbitration of any Claim may not be made until the earlier of (1) the date on which the Architect has rendered a final written decision on the Claim, (2) the tenth day after the parties have presented evidence to the Architect or have been given reasonable opportunity to do so, if the Architect has not rendered a final written decision by that date, or (3) any of the five events described in Subparagraph 4.3.2.

4.5.4.1 When a written decision of the Architect states that (1) the decision is final but subject to arbitration and (2) a demand for arbitration of a Claim covered by such decision must be made within 30 days after the date on which the party making the demand receives the final written decision, then failure to demand arbitration within said 30 days' period shall result in the Architect's decision becoming final and binding upon the Owner and Contractor. If the Architect renders a decision after arbitration proceedings have been initiated, such decision may be entered as evidence, but shall not supersede arbitration proceedings unless the decision is acceptable to all parties concerned.

4.5.4.2 A demand for arbitration shall be made within the time limits specified in Subparagraphs 4.5.1 and 4.5.4 and Clause 4.5.4.1 as applicable, and in other cases within a reasonable time after the Claim has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitations as determined pursuant to Paragraph 13.7.

4.5.5 Limitation on Consolidation or Joinder. No arbitration arising out of or relating to the Contract Documents shall include, by consolidation or joinder or in any other manner, the Architect, the Architect's employees or consultants, except by written consent containing specific reference to the Agreement and signed by the Architect, Owner, Contractor and any other person or entity sought to be joined. No arbitration shall include, by consolidation or joinder or in any other manner, parties other than the Owner, Contractor, a separate contractor as described in Article 6 and other persons substantially involved in a common question of fact or law whose presence is required if complete relief is to be accorded in arbitration. No person or entity other than the Owner, Contractor or a separate contractor as described in Article 6 shall be included as an original third party or additional third party to an arbitration whose interest or responsibility is insubstantial. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of a dispute not described therein or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

4.5.6 Claims and Timely Assertion of Claims. A party who files a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded. When a party fails to include a Claim through oversight, inadvertence or excusable neglect, or when a Claim has matured or been acquired subsequently, the arbitrator or arbitrators may permit amendment.

4.5.7 Judgment on Final Award. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

ARTICLE 5

SUBCONTRACTORS

5.1 DEFINITIONS

5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor.

5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

5.2.1 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Architect will promptly reply to the Contractor in writing stating whether or not the Owner or the Architect, after due investigation, has reasonable objection to any such proposed person or entity. Failure of the Owner or Architect to reply promptly shall constitute notice of no reasonable objection.

5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. The Contract Sum shall be increased or decreased by the difference in cost occasioned by such change and an appropriate Change Order shall be issued. However, no increase in the Contract Sum shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

5.2.4 The Contractor shall not change a Subcontractor, person or entity previously selected if the Owner or Architect makes reasonable objection to such change.

5.3 SUBCONTRACTUAL RELATIONS

5.3.1 By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by these Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement which may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner provided that:

.1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Paragraph 14.2 and only for those subcontract agreements which the Owner accepts by notifying the Subcontractor in writing; and

.2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

5.4.2 If the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted.

ARTICLE 6

CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided elsewhere in the Contract Documents.

6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with other separate contractors and the Owner in reviewing their construction schedules when directed to do so. The Contractor shall make any revisions to the construction schedule and Contract Sum deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, separate contractors and the Owner until subsequently revised.

6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights which apply to the Contractor under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6 and Articles 10, 11 and 12.

6.2 MUTUAL RESPONSIBILITY

6.2.1 The Contractor shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Architect apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acknowledgment that the Owner's or separate contractors' completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.

6.2.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefor.

6.2.4 The Contractor shall promptly remedy damage wrongfully caused by the Contractor to completed or partially completed construction or to property of the Owner or separate contractors as provided in Subparagraph 10.2.5.

6.2.5 Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of Paragraph 4.3 provided the separate contractor has reciprocal obligations.

6.2.6 The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Paragraph 3.14.

6.3 OWNER'S RIGHT TO CLEAN UP

6.3.1 If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish as described in Paragraph 3.15, the Owner may clean up and allocate the cost among those responsible as the Architect determines to be just.

ARTICLE 7

CHANGES IN THE WORK

7.1 CHANGES

7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor and Architect; a Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor; an order for a minor change in the Work may be issued by the Architect alone.

7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive or order for a minor change in the Work.

7.1.4 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are so changed in a proposed Change Order or Construction Change Directive that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

7.2 CHANGE ORDERS

7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor and Architect, stating their agreement upon all of the following:

.1 a change in the Work;

.2 the amount of the adjustment in the Contract Sum, if any; and

.3 the extent of the adjustment in the Contract Time, if any.

7.2.2 Methods used in determining adjustments to the Contract Sum may include those listed in Subparagraph 7.3.3.

7.3 CONSTRUCTION CHANGE DIRECTIVES

7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work and stating a proposed basis for adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

.1 mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;

.2 unit prices stated in the Contract Documents or subsequently agreed upon;

.3 cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or

.4 as provided in Subparagraph 7.3.6.

7.3.4 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

7.3.5 A Construction Change Directive signed by the Contractor indicates the agreement of the Contractor therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

7.3.6 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the method and the adjustment shall be determined by the Architect on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, a reasonable allowance for overhead and profit. In such case, and also under Clause 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Subparagraph 7.3.6 shall be limited to the following:

.1 costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' or workmen's compensation insurance;

.2 costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;

.3 rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;

.4 costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and

.5 additional costs of supervision and field office personnel directly attributable to the change.

7.3.7 Pending final determination of cost to the Owner, amounts not in dispute may be included in Applications for Payment. The amount of credit to be allowed by the Contractor to the Owner for a deletion or change which results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

7.3.8 If the Owner and Contractor do not agree with the adjustment in Contract Time or the method for determining it, the adjustment or the method shall be referred to the Architect for determination.

7.3.9 When the Owner and Contractor agree with the determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and shall be recorded by preparation and execution of an appropriate Change Order.

7.4 MINOR CHANGES IN THE WORK

7.4.1 The Architect will have authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order and shall be binding on the Owner and Contractor. The Contractor shall carry out such written orders promptly.

ARTICLE 8

TIME

8.1 DEFINITIONS

8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

8.1.2 The date of commencement of the Work is the date established in the Agreement. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.

8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Paragraph 9.8.

8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

8.2 PROGRESS AND COMPLETION

8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor. The date of commencement of the Work shall not be changed by the effective date of such insurance. Unless the date of commencement is established by a notice to proceed given by the Owner, the Contractor shall notify the Owner in writing not less than five days or other agreed period before commencing the Work to permit the timely filing of mortgages, mechanic's liens and other security interests.

8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

8.3 DELAYS AND EXTENSIONS OF TIME

8.3.1 If the Contractor is delayed at any time in progress of the Work by an act or neglect of the Owner or Architect, or of an employee of either, or of a separate contractor employed by the Owner, or by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control, or by delay authorized by the Owner pending arbitration, or by other causes which the Architect determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine.

8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Paragraph 4.3.

8.3.3 This Paragraph 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9

PAYMENTS AND COMPLETION

9.1 CONTRACT SUM

9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

9.2 SCHEDULE OF VALUES

9.2.1 Before the first Application for Payment, the Contractor shall submit to the Architect a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

9.3 APPLICATIONS FOR PAYMENT

9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment for operations completed in accordance with the schedule of values. Such application shall be notarized, if required, and supported by such data substantiating the Contractor's right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material suppliers, and reflecting retainage if provided for elsewhere in the Contract Documents.

9.3.1.1 Such applications may include requests for payment on account of changes in the Work which have been properly authorized by Construction Change Directives but not yet included in Change Orders.

9.3.1.2 Such applications may not include requests for payment of amounts the Contractor does not intend to pay to a Subcontractor or material supplier because of a dispute or other reason.

9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

9.4 CERTIFICATES FOR PAYMENT

9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the

Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part as provided in Subparagraph 9.5.1.

9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's observations at the site and the data comprising the Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Architect's knowledge, information and belief, quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to minor deviations from the Contract Documents correctable prior to completion and to specific qualifications expressed by the Architect. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

9.5 DECISIONS TO WITHHOLD CERTIFICATION

9.5.1 The Architect may decide not to certify payment and may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Subparagraph 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Subparagraph 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also decide not to certify payment or, because of subsequently discovered evidence or subsequent observations, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss because of:

.1 defective Work not remedied;

.2 third party claims filed or reasonable evidence indicating probable filing of such claims;

.3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;

.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;

.5 damage to the Owner or another contractor;

.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or

.7 persistent failure to carry out the Work in accordance with the Contract Documents.

9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

9.6 PROGRESS PAYMENTS

9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

9.6.2 The Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of such Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of such Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in similar manner.

9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

9.6.4 Neither the Owner nor Architect shall have an obligation to pay or to see to the payment of money to a Subcontractor except as may otherwise be required by law.

9.6.5 Payment to material suppliers shall be treated in a manner similar to that provided in Subparagraphs 9.6.2, 9.6.3 and 9.6.4.

9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

9.7 FAILURE OF PAYMENT

9.7.1 If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents the amount certified by the Architect or awarded by arbitration, then the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down, delay and start-up, which shall be accomplished as provided in Article 7.

9.8 SUBSTANTIAL COMPLETION

9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use.

9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or desig-

nated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract Documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. The Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion. The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate.

9.8.3 Upon Substantial Completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect, the Owner shall make payment, reflecting adjustment in retainage, if any, for such Work or portion thereof as provided in the Contract Documents.

9.9 PARTIAL OCCUPANCY OR USE

9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer as required under Subparagraph 11.3.11 and authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Subparagraph 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

9.10 FINAL COMPLETION AND FINAL PAYMENT

9.10.1 Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's observations and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in said final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Subparagraph 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be cancelled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment and (5), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims. The making of final payment shall constitute a waiver of claims by the Owner as provided in Subparagraph 4.3.5.

9.10.4 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment. Such waivers shall be in addition to the waiver described in Subparagraph 4.3.5.

ARTICLE 10

PROTECTION OF PERSONS AND PROPERTY

10.1 SAFETY PRECAUTIONS AND PROGRAMS

10.1.1 The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

10.1.2 In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, the Contractor shall immediately stop Work in the area affected and report the condition to the Owner and Architect in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Owner and Contractor, or in accordance with final determination by the Architect on which arbitration has not been demanded, or by arbitration under Article 4

10.1.3 The Contractor shall not be required pursuant to Article " to perform without consent any Work relating to asbestos or polychlorinated biphenyl (PCB)

10.1.4 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, anyone directly or indirectly employed by the Owner or anyone for whose acts the Owner may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Subparagraph 10.1.4.

10.2 SAFETY OF PERSONS AND PROPERTY

10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

.1 employees on the Work and other persons who may be affected thereby;

.2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and

.3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction

10.2.2 The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

10.2.3 The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.

10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Clauses 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Clauses 10.2.1.2 and 10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Paragraph 3.18.

10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

10.2.7 The Contractor shall not load or permit any part of the construction or site to be loaded so as to endanger its safety.

10.3 EMERGENCIES

10.3.1 In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Paragraph 4.3 and Article ".

ARTICLE 11

INSURANCE AND BONDS

11.1 CONTRACTOR'S LIABILITY INSURANCE

11.1.1 The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

.1 claims under workers' or workmen's compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed;

.2 claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;

.3 claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;

.4 claims for damages insured by usual personal injury liability coverage which are sustained (1) by a person as a result of an offense directly or indirectly related to employment of such person by the Contractor, or (2) by another person;

.5 claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;

.6 claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; and

.7 claims involving contractual liability insurance applicable to the Contractor's obligations under Paragraph 3.18

11.1.2 The insurance required by Subparagraph 11.1.1 shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the Work until date of final payment and termination of any coverage required to be maintained after final payment.

11.1.3 Certificates of Insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work. These Certificates and the insurance policies required by this Paragraph 11.1 shall contain a provision that coverages afforded under the policies will not be cancelled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the final Application for Payment as required by Subparagraph 9.10.2. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

11.2 OWNER'S LIABILITY INSURANCE

11.2.1 The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.

11.3 PROPERTY INSURANCE

11.3.1 Unless otherwise provided, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance in the amount of the initial Contract Sum as well as subsequent modifications thereto for the entire Work at the site on a replacement cost basis without voluntary deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Paragraph 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Paragraph 11.3 to be covered, whichever is earlier. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Work.

11.3.1.1 Property insurance shall be on an all-risk policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, false-work, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's services and expenses required as a result of such insured loss. Coverage for other perils shall not be required unless otherwise provided in the Contract Documents.

11.3.1.2 If the Owner does not intend to purchase such property insurance required by the Contract and with all of the coverages in the amount described above, the Owner shall so inform the Contractor in writing prior to commencement of the Work. The Contractor may then effect insurance which will protect the interests of the Contractor, Subcontractors and Sub-subcontractors in the Work, and by appropriate Change Order the cost thereof shall be charged to the Owner. If the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain insurance as described above, without so notifying the Contractor, then the Owner shall bear all reasonable costs properly attributable thereto.

11.3.1.3 If the property insurance requires minimum deductibles and such deductibles are identified in the Contract Documents, the Contractor shall pay costs not covered because of such deductibles. If the Owner or insurer increases the required minimum deductibles above the amounts so identified or if the Owner elects to purchase this insurance with voluntary deductible amounts, the Owner shall be responsible for payment of the additional costs not covered because of such increased or voluntary deductibles. If deductibles are not identified in the Contract Documents, the Owner shall pay costs not covered because of deductibles.

11.3.1.4 Unless otherwise provided in the Contract Documents, this property insurance shall cover portions of the Work stored off the site after written approval of the Owner at the value established in the approval, and also portions of the Work in transit.

11.3.2 Boiler and Machinery Insurance. The Owner shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work, and the Owner and Contractor shall be named insureds.

11.3.3 Loss of Use Insurance. The Owner, at the Owner's option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. The Owner waives all rights of action against the Contractor for loss of use of the Owner's property, including consequential losses due to fire or other hazards however caused.

11.3.4 If the Contractor requests in writing that insurance for risks other than those described herein or for other special hazards be included in the property insurance policy, the Owner shall, if possible, include such insurance, and the cost thereof shall be charged to the Contractor by appropriate Change Order.

11.3.5 If during the Project construction period the Owner insures properties, real or personal or both, adjoining or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the Owner shall waive all rights in accordance with the terms of Subparagraph 11.3.7 for damages caused by fire or other perils covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

11.3.6 Before an exposure to loss may occur, the Owner shall file with the Contractor a copy of each policy that includes insurance coverages required by this Paragraph 11.3. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy shall contain a provision that the policy will not be cancelled or allowed to expire until at least 30 days' prior written notice has been given to the Contractor.

11.3.7 Waivers of Subrogation. The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other perils to the extent covered by property insurance obtained pursuant to this Paragraph 11.3 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 6, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

11.3.8 A loss insured under Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Subparagraph 11.3.10. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.

11.3.9 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or in accordance with an arbitration award in which case the procedure shall be as provided in Paragraph 4.5. If after such loss no other special agreement is made, replacement of damaged property shall be covered by appropriate Change Order.

11.3.10 The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner's exercise of this power; if such objection be made, arbitrators shall be chosen as provided in Paragraph 4.5. The Owner as fiduciary shall, in that case, make settlement with insurers in accordance with directions of such arbitrators. If distribution of insurance proceeds by arbitration is required, the arbitrators will direct such distribution.

11.3.11 Partial occupancy or use in accordance with Paragraph 9.9 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

11.4 PERFORMANCE BOND AND PAYMENT BOND

11.4.1 The Owner shall have the right to require the Contractor to furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in bidding requirements or specifically required in the Contract Documents on the date of execution of the Contract.

11.4.2 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall permit a copy to be made.

ARTICLE 12

UNCOVERING AND CORRECTION OF WORK

12.1 UNCOVERING OF WORK

12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if required in writing by the Architect, be uncovered for the Architect's observation and be replaced at the Contractor's expense without change in the Contract Time.

12.1.2 If a portion of the Work has been covered which the Architect has not specifically requested to observe prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be charged to the Owner. If such Work is not in accordance with the Contract Documents, the Contractor shall pay such costs unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

12.2 CORRECTION OF WORK

12.2.1 The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections and compensation for the Architect's services and expenses made necessary thereby.

12.2.2 If, within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date

for commencement of warranties established under Subparagraph 9.9.1, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual performance of the Work. This obligation under this Subparagraph 12.2.2 shall survive acceptance of the Work under the Contract and termination of the Contract. The Owner shall give such notice promptly after discovery of the condition.

12.2.3 The Contractor shall remove from the site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

12.2.4 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Paragraph 2.4. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect, the Owner may remove it and store the salvable materials or equipment at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten days after written notice, the Owner may upon ten additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, including compensation for the Architect's services and expenses made necessary thereby. If such proceeds of sale do not cover costs which the Contractor should have borne, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

12.2.5 The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

12.2.6 Nothing contained in this Paragraph 12.2 shall be construed to establish a period of limitation with respect to other obligations which the Contractor might have under the Contract Documents. Establishment of the time period of one year as described in Subparagraph 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

12.3 ACCEPTANCE OF NONCONFORMING WORK

12.3.1 If the Owner prefers to accept Work which is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13

MISCELLANEOUS PROVISIONS

13.1 GOVERNING LAW

13.1.1 The Contract shall be governed by the law of the place where the Project is located.

13.2 SUCCESSORS AND ASSIGNS

13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns and legal representatives to the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

13.3 WRITTEN NOTICE

13.3.1 Written notice shall be deemed to have been duly served if delivered in person to the individual or a member of the firm or entity or to an officer of the corporation for which it was intended, or if delivered at or sent by registered or certified mail to the last business address known to the party giving notice.

13.4 RIGHTS AND REMEDIES

13.4.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

13.4.2 No action or failure to act by the Owner, Architect or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

13.5 TESTS AND INSPECTIONS

13.5.1 Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so the Architect may observe such procedures. The Owner shall bear costs of tests, inspections or approvals which do not become requirements until after bids are received or negotiations concluded.

13.5.2 If the Architect, Owner or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection or approval not included under Subparagraph 13.5.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so the Architect may observe such procedures.

The Owner shall bear such costs except as provided in Subparagraph 13.5.3.

13.5.3 If such procedures for testing, inspection or approval under Subparagraphs 13.5.1 and 13.5.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, the Contractor shall bear all costs made necessary by such failure including those of repeated procedures and compensation for the Architect's services and expenses.

13.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

13.5.5 If the Architect is to observe tests, inspections or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

13.5.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

13.6 INTEREST

13.6.1 Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at such rate as the parties may agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

13.7 COMMENCEMENT OF STATUTORY LIMITATION PERIOD

13.7.1 As between the Owner and Contractor:

.1 **Before Substantial Completion.** As to acts or failures to act occurring prior to the relevant date of Substantial Completion, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than such date of Substantial Completion;

.2 **Between Substantial Completion and Final Certificate for Payment.** As to acts or failures to act occurring subsequent to the relevant date of Substantial Completion and prior to issuance of the final Certificate for Payment, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the date of issuance of the final Certificate for Payment; and

.3 **After Final Certificate for Payment.** As to acts or failures to act occurring after the relevant date of issuance of the final Certificate for Payment, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the date of any act or failure to act by the Contractor pursuant to any warranty provided under Paragraph 3.5, the date of any correction of the Work or failure to correct the Work by the Contractor under Paragraph 12.2, or the date of actual commission of any other act or failure to perform any duty or obligation by the Contractor or Owner, whichever occurs last.

ARTICLE 14

TERMINATION OR SUSPENSION OF THE CONTRACT

14.1 TERMINATION BY THE CONTRACTOR

14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 days through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor, for any of the following reasons:

.1 issuance of an order of a court or other public authority having jurisdiction;

.2 an act of government, such as a declaration of national emergency, making material unavailable;

.3 because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Subparagraph 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents;

.4 if repeated suspensions, delays or interruptions by the Owner as described in Paragraph 14.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less; or

.5 the Owner has failed to furnish to the Contractor promptly, upon the Contractor's request, reasonable evidence as required by Subparagraph 2.2.1.

14.1.2 If one of the above reasons exists, the Contractor may, upon seven additional days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed and for proven loss with respect to materials, equipment, tools, and construction equipment and machinery, including reasonable overhead, profit and damages.

14.1.3 If the Work is stopped for a period of 60 days through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor because the Owner has persistently failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' written notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Subparagraph 14.1.2.

14.2 TERMINATION BY THE OWNER FOR CAUSE

14.2.1 The Owner may terminate the Contract if the Contractor:

.1 persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials;

.2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;

.3 persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction; or

.4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

14.2.2 When any of the above reasons exist, the Owner, upon certification by the Architect that sufficient cause exists to jus-

tify such action, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

.1 take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;

.2 accept assignment of subcontracts pursuant to Paragraph 5.4; and

.3 finish the Work by whatever reasonable method the Owner may deem expedient.

14.2.3 When the Owner terminates the Contract for one of the reasons stated in Subparagraph 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Architect, upon application, and this obligation for payment shall survive termination of the Contract

14.3 SUSPENSION BY THE OWNER FOR CONVENIENCE

14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

14.3.2 An adjustment shall be made for increases in the cost of performance of the Contract, including profit on the increased cost of performance, caused by suspension, delay or interruption. No adjustment shall be made to the extent:

.1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or

.2 that an equitable adjustment is made or denied under another provision of this Contract.

14.3.3 Adjustments made in the cost of performance may have a mutually agreed fixed or percentage fee.

EXHIBIT 1
WITNESS
DATE: 5/3/2018
REPORTER: H. LANDRY

October 9, 2003

Description of Materials

Price Residence
Lot 20, Eagle Harbor Subdivision, Phase 2, TMS # 194-00-02-122
Saddlehorn Road, Summerville, SC, 29483

1. Excavation
Bearing soil, type *To be determined by Builder if suitable for construction*

2. Foundations
Footings *poured concrete* Strength psi *3000 p.s.i.* Reinforcing *2 # 5 rods*
Foundation wall material *continuous block* Reinforcing *verticals as per code*
Interior foundation wall material *concrete block* Columns material and sizes *concrete block*
Piers material and reinforcing _____ Sills material *P.T. 2 x 8*
Waterproofing *6 mil poly* Termite protection *5 year bonded treatment*
Crawl space ground cover _____ insulation _____ foundation vents *8 x 16*
Special foundations _____
Additional information:

3. Chimneys
Material *NA* Prefabricated (make and size) *See Plan*
Flue lining material _____ Heater flue size _____ Fireplace flue size _____
Vents (material and size) gas or oil heater *Gas* Water heater vent *NA*
Additional information:

4. Fireplaces
Type solid fuel gas-burning circulator (make and size) *42" wood burning*
Ash dump and clean-out *NA* Fireplace facing *Wood/ Marble or Equal* lining *Fire Brick*
hearth *Marble or Equal* mantel *Wood as per owner specs*
Additional information:

5. Exterior Walls
Wood frame wood grade, and species *2 x 4 #2 YP* Building paper or felt *House Wrap*
Sheathing *O.S.B.* thickness *15/32"* width *8'-0"* height *4'-0"* direction *Horz.*
Siding *Vinyl* grade *lapped* type _____ size *7"* exposure *6"*
fastening *Nails/Staples* Stucco *Tabby* thickness *1/4"* Lath *1/4"* weight _____ lb.
Masonry veneer *NA* Sills _____ Lintels _____
Base flashing _____ Exterior painting material _____ number of coats _____
Gable wall construction same as main walls other construction _____
Additional information:

6. Floor Framing
Joists wood, grade, and species *Open Web Trusses* other _____ bridging _____ anchors *Glue/Nails*
Concrete slab *Storage* floor first floor _____ ground supported _____ self-supporting mix _____
thickness *4"* reinforcing *Concrete with fiber*
insulation _____ membrane _____
Fill under slab material *Treated Earth* thickness _____
Additional information:

7. Subflooring (Describe underflooring for special floors under item 21)
Material grade and species O.S.B. size 3/4" type T & G
Laid first floor Yes Laid second floor _____ Laid attic Yes sq. ft. Approx. 500
Additional information

8. Finish Flooring (Wood only. Describe other finish flooring under item 21)

9. Partition Framing
Studs wood, grade, and species #2 Y.P. size and spacing 2 x 4 @ 16" O.C.
Other _____
Additional information:

10. Ceiling Framing
Joists wood, grade, and species #2 Y.P. Other _____
Bridging 2 x 4 and 2 x 6 strongback
Additional information:

11. Roof Framing
Rafters wood, grade, and species #2 Y.P. 2 x 6
Roof trusses (see detail) grade and species See Drawings
Additional information:

12. Roofing
Sheathing wood, grade, and species 15/32" O.S.B. solid spaced _____ O.C.
Roofing Asphalt Shingle grade 30 yr size 5" reveal type Architectural
Underlay Asphalt Felt weight or thickness 15 lb size 36" roll fastening Galv. nails w/caps
Flashing material See Drawings gage or weight _____
Additional information:

13. Gutters and Downspouts
Gutters material Aluminum gage or weight _____ size 5" shape Boxed
Downspouts material Aluminum gage or weight _____ size 5" shape Boxed
Downspouts connected to: Storm sewer _____ sanitary sewer _____ dry-well _____
Splash blocks material and size _____
Additional information: Owner installed

14. Lath, Plaster and Gypsum Board
Lath & Plaster: walls NA ceilings NA material _____ weight or thickness _____
Plaster coats _____ finish _____
Dry-wall walls ceilings material _____ thickness 1/2" finish Smooth
Joint treatment Tape / Fill / 3 coats
Additional information:

15. Decorating (Paint, wallpaper, etc.)

Rooms	Wall Finish	Material and Application	Ceiling Finish	Material and Application
Kitchen	Smooth	Paint	Smooth	Paint
Powder Room	Smooth	Paint	Smooth	Paint
Family Room	Smooth	Paint	Smooth	Paint
Study	Smooth	Paint	Smooth	Paint
Utility	Smooth	Paint	Smooth	Paint
M. Bath	Smooth	Paint	Smooth	Paint
M. Bedroom	Smooth	Paint	Smooth	Paint
Bedroom 2	Smooth	Paint	Smooth	Paint
Bedroom 3	Smooth	Paint	Smooth	Paint
Bedroom 4	Smooth	Paint	Smooth	Paint
Bath 3	Smooth	Paint	Smooth	Paint

Additional information:

16. Interior Doors and Trim

Doors type *4 panel* material *Masonite* thickness *1-3/8"*
Door trim type *1 x 4* material *Wood* size *3-1/2"*
Base type *Typical* material *Wood* size *5"*
Crown type *Typical* material *Wood* size *5"*
Crown locations *Crown located throughout entire home*
Chair rail type *3"* material *Wood* locations *Dining Room*
Additional information: Owner installed

17. Windows

Windows type *Dbl Hung* make *Betterbilt* material *Vinyl*
Glass wind rating *Code* Glass insulation *Code*
Trim type *Vinyl* material *Vinyl* Paint _____ number coats _____
Weather stripping type _____ material _____
Screens full half type *Half Screens* number _____ screen cloth material *Vinyl*
Special windows *Awning on rear of home*
Additional information:

18. Entrances and Exterior Detail

Main entrance door material *Metal/Glass* sidelites *1/2 glass* width *3'-0* thickness *1-3/4"*
Frame material *Wood* thickness _____ Transom type _____
Other entrance doors material *Metal/Glass* width *3'-0"* thickness *1-3/4"*
Frame material *Wood* thickness _____
Head flashing *Bitchathane* Weatherstripping type *Alum/Vinyl* saddles *Alum/Vinyl*
Screen doors thickness *NA* number _____ screen cloth material *NA*
Storm doors thickness *NA* number _____ material _____
Combination storm and screen doors thickness _____ number _____ screen cloth material _____
Shutters: hinged _____ fixed *X* Railings _____ Attic louvers *Vinyl*
Exterior millwork grade and species _____ Paint _____ number coats _____
Additional information:

19. Cabinets and Interior Detail

Kitchen cabinets, wall units material *Pre-Fab Engineered* base unit material *Pre-Fab Engineered*
counter top *Laminate* edging *Laminate* back and end splash *Laminate*
Finish of cabinets *White* number coats *As per mfg specs*
Door profile description *Arch* Allowance $5000
Other cabinets and built-in furniture *M. Bath Vanities supplied by owner*
Additional information:

20. Stairs

Location	Treads	Risers	Strings	Handrail	Balusters
Main	Wood	Wood	2 x 12	Oak	NA
Attic	NA	NA	NA	NA	NA
Exterior 1	P.T. 5/4 x 6	P.T. 5/4 x 6	P.T. 2 x 12	P.T	2" Turned
Exterior2	P.T. 5/4 x 6	P.T. 5/4 x 6	P.T. 2 x 12	P.T	2" Turned

Additional information:

21. Special Floors and Wainscot (Describe Carpet as listed in Certified Products Directory)

Location	Floor Material	Thickness	Width	Color	Wainscot Material	Height	Finish
Kitchen	Oak	¾"	3"				
Powder Room	Oak	¾"	3"				
Family Room	Oak	¾"	3"				
Study	Oak	¾"	3"				
Utility	Oak	¾"	3"				
M. Bath	Oak	¾"	3"				
M. Bedroom	Carpet						
Bedroom 2	Carpet						
Bedroom 3	Carpet						
Bedroom 4	Carpet						

Additional information:

22. Plumbing

Fixture	Description	Allowance
Kitchen Sink	Owner specified	$300
Kitchen Sink Faucet	Owner specified	
M. Bath Lavatory	Cultured Marble	
M. Bath Water Closet	American Standard	
M. Bath Shower	Custom Built, 2 spray heads, Ceramic Tile	
M. Bath Tub	Drop-in Owner Specified	
Lavatory 2	Pedestal	
Lavatory 2 Faucet	Owner Specified	
Water closet 2	American Standard	

Lavatory 3	Pedestal	
Lavatory 3 Faucet	Owner Specified	
Water closet 3	American Standard	
Bathtub 3	1 piece fiberglass	
Water Heater	80 gallon electric	

Additional information:

Bathroom accessories

	Description	Allowance
Towel Bars	Owner specified	Owner supplied

Water supply: public community system individual (private) system* X
Sewage disposal: community system individual (private) system* X
House drain (inside) PVC House sewer (outside) PVC
Water piping galvanized steel copper tubing other PEX
Domestic water heater type _____ make and model _____
Additional information:

23. Heating

Location	Type	Mfg	Size	Seer	Duct type	Thermostat
First Floor	Heat Pump	Carrier or Eq		12 Seer		

Additional information:

Ventilating equipment attic fan, make and model _____ capacity _____ cfm.
Kitchen exhaust fan, make and model _____
Other heating, ventilating, or cooling equipment _____
Additional information:

24. Electric Wiring
Service: overhead underground X Panel: Mfg. Square D Size 200 amp
Wiring: conduit armored cable nonmetallic cable X knob and tube other _____
Special outlets: range X water heater other _____
Doorbell Chimes Push-button locations _____
Additional information:

25.Lighting Fixtures
Total number of fixtures See Plan Total allowance for fixtures, typical installation, $ $1500
Non-typical installation _____
Additional information:

26. Insulation

Location	Thickness	Material Type	Installation	Vapor Barrier
Roof	6"	Fiberglass	Rolled	Paper
Ceiling	12"	Recycled Paper	Blown	NA
Wall	3-1/2"	Fiberglass	Rolled	Paper
Floor	6"	Fiberglass	Rolled	Paper

Additional information:

27. Miscellaneous: (Describe any main dwelling materials, equipment, or construction items not shown elsewhere; or use to provide additional information where the space provided was inadequate. Always reference by item number to correspond to numbering used on this form.)

Hardware (make, material, and finish.)

Special Equipment (State material or make, model and quantity. Include only equipment and appliances which are acceptable by local law, custom and applicable FHA standards. Do not include items which, by established custom, are supplied by occupant and removed when he vacates premises or chattles prohibited by law from becoming realty.)

Porches *Porches built using P.T. post and rail system, Decking to be 5/4 P.T. or equal*

Terraces

Garages

Walks and Driveways

Driveway: width *30'* length *30'* base material *Compacted Earth*
thickness *NA* surfacing material *Concrete* thickness *4"*
Front walk: width *4'-0"* length *35"* material *Concrete* thickness *4"*
Service walk width _____ length _____ material _____ thickness _____

Other Onsite Improvements

(Specify all exterior onsite improvements not described elsewhere, including items such as unusual grading, drainage structures, retaining walls, fence, railings, and accessory structures.)

Landscaping, Planting, and Finish Grading

Allowance _____
Topsoil _____ thick front yard side yards rear yard to _____ feet behind main building _____
Lawns (seeded, sodded, or sprigged) front yard _____ side yards _____ rear yard _____
Planting as specified below: *Owner supplied and specified*

Hotmail® ehdlgilbert@msn.com Inbox | Previous Page

From : "Price, Ronald E. CIV SPAWAR" <Ronald.Price@navy.mil>
To : <ehdlgilbert@msn.com>
CC : <drbprice@msn.com>
Subject : House construction
Date : Mon, 1 Dec 2003 08:10:58 -0500

EXHIBIT 8
WITNESS
DATE: 5/3/2018
REPORTER: H. LANDRY

Danny,

DO NOT DELETE THIS EMAIL LIKE YOU DID ALL OF DIANA's AND DO NOT PROCEED UNTIL I HAVE EMAIL CONFIRMATION FROM YOU AND GIVE YOU A GO !!!

Now that the closing has taken place, we are readuy to press on with getting this house built. However, with all the mistakes that have taken place to this point, I am going to take a very active role in ensuring that this house is built to our needs, in the time allotted, with the lowest cost possible. To that end, here are the some things I want done.

- Move the front of the house out four (4) feet. (new dimensions 36' x 48') that means the house from the interior wall (interior wall does not move) just moves four (4) feet. Since Boozer does not have the correct floor plan drawings from you anyway, and the foundation hasn't been done, and the preparation for the foundation is incomplete, I don't see this as a major problem. I want to see what we are sending to Boozer and would like the contact number for their representative.

-- The kitchen door will still be next to the interior wall.
-- The Great Room door on the NW side will move four (4) feet with the wall.
-- The kitchen window on the SE side will be increased in width by two(2) feet going towards the kitchen door.
-- The frame will be increased appropriatley and the garage doors will still be centered within their halves of the NW end.
-- The window on the second floor of theNW end will follow the placement of the Great Room door
-- The window beneath the kitchen windoe will be centered on the the kitchen window

- The upstairs closet still needs to have two separate closet doors, as we have discussed, vice the single cased opening in the drawing. You would walk through that opening (opening size to match the window) that is drawn and face left to enter one door, and face right to enter the other door.

- The master bathroom window should be as tall as the other widows on that floor on that SW side. We are using a clawed tub that is not connected to the wall and want that window to be approximately tub height--up.

- I still want a schedule of events as to how this house is to go together. I need to understand the sequence to make sure it goes together properly.

For example:
1. Land properly cleared and leveled
2. Fill placed on home site, leveled and packed
3. Foundation dug and poured
4. Plumbing and power access routed under foundation in preparation for pouring slab
5. Driveway put in
6. Well put in
7. Septic put in
8. Temp power installed
9. Frame-up accomplished

This sequence is not the correct sequence I know. I do want to know what the correct sequence is and when we should expect those things to happen.

We have 90 days from the 24th of Nov to move in. That means we will need some of your time and attention, that is not interupted by other things, to get this job done, done right, and done on time.

Thanks, I look forward to working with you on this project and intend for both you and me to keep better written records as to what is agreed to. By-the-way, I am your decision contact point. Diana will probably have questions and you should answer them. But I am the one who will make the decisions and provide you with the direction.

Ron

msn Hotmail

ehdlgilbert@msn.com Printed: Wednesday, July 19, 2006 6:27 PM

From : DIANA BRZOZOWSKI PRICE <drbprice@msn.com>
Sent : Tuesday, December 30, 2003 8:59 AM
To : ehdlgilbert@msn.com
Subject : RE: Home

Thanks for the update.

I am concerned about the timeline. Lot preparation must not take very long if the footings are to be dug on the 6th. Will they be poured on the 7th then? When is the block work scheduled for?
Does that mean all the concrete and block work will be cured and ready for the 12 Jan frameup?

Keep us posted, I will be back there on the 5th and will drop by.

We had a good Christmas and hope yours was as good.

Ron & Diana

EXHIBIT 9
WITNESS
DATE: 5/3/2018
REPORTER: H. LANDRY

From: "Danny Gilbert" <ehdlgilbert@msn.com>
To: drbprice@msn.com
Subject: Home
Date: Mon, 29 Dec 2003 12:15:43 -0500

Ron and Diana,

The following is an update on your project and answers to your questions prior to Christmas.

Verification of windows from Boozer is being done hopefully today. It is important to them as it is to you to get this right because these are special order items. I spoke to Boozer at 11:45 AM today and I am expecting a fax with all window and door information for my approval.

I received the framing plans last week. I have reviewed and hand delivered the approvals back to Boozer.

The new price just came in on the fax: $55,732

Tim Blakely (Dirt Man) walked your lot this morning and still thinks we need to let it dry a little longer. I am going to walk it this afternoon for my own opinion.

Footings are scheduled to be dug Tuesday the 6th.

The building permit has been approved but not picked up yet. I will do that the day before I call for my first inspection. The permit was submitted by me. The permit # is BP2003-1517 for 1104 Saddlehorn Road, TMS #194-00-02-122.

The septic tank will be put in by a different company, I gave many opportunities to the first company and was continually stood up. Currently we are waiting for the design of your septic tank system to by completed by DHEC.

The pictures and the different elevations are in the mail.

Although we have a good chance to make up time, we have experienced a delay on the lot prep and footings due to the rain in the area and the lack of the proper climate to help dry out your lot. Others have experienced the same delays on other jobs, which in turn, sets everyone back.

msn Hotmail®

ehdgilbert@msn.com Printed: Wednesday, July 19, 2006 6:18 PM

From : Price, Ronald E. CIV SPAWAR <Ronald.Price@navy.mil>
Sent : Friday, January 9, 2004 9:08 AM
To : "Danny (E-mail)" <ehdgilbert@msn.com>
CC : "DIANA BRZOZOWSKI PRICE (E-mail)" <drbprice@msn.com>
Subject : Price Residence

Danny,

We need to know where you stand in preparation for the first draw. Is this weather changing your expectations of next week. Diana plans to come down so we can sign the authorization together, and she can look over the progress.

We're using the contract, the attached Sept 13th cost estimate, the attached draw procedures information you gave us from National City Mortgage, and the draw schedule as a basis for our expectations with this first draw.

We are expecting copies of the following:

— Document and receipts for–permits (building and septic), builders risk & gen liability insurance, and termite treatment.

— Invoices and receipts for work done, such as:
lot preparation,
porta john rental,
dumpster rental,
temporary utilities
temporary power pole,
footings,
foundation,
garage slab

We believe we're finally getting a handle on how this construction/draw thing goes...it's great to know the Mortgage Company has such strict procedures protecting you, us, and them. That makes us much more comfortable concerning the biggest investment (this home construction) we have or ever will make.

As long as you are getting work done, keeping us informed and producing receipts, we'll eagerly sign for authorizations. We have taken care of the driveway, and it appears we are taking care of some lot prep, which is already in the cost estimate...we'll get this all worked out when we're reviewing bills & receipts for authorizing the draw.

We ask that you are more attentive to keeping us informed during the rest of the construction. It's especially critical now because of scheduling Diana to be here–not wasting a plane ticket. She's trying to get our house in
Ohio ready for sale and we have some family medical situations to deal with too.

Looking forward to showing Diana the progress made.

v/r
Ron Price
SPAWAR-Chas code 741rp
843.218.4981

P EXHIBIT 10
WITNESS
DATE: 5/3/2018
REPORTER: H. LANDRY

msn Hotmail

ehdlgilbert@msn.com Printed: Wednesday, July 19, 2006 6:15 PM

From: DIANA BRZOZOWSKI PRICE <drbprice@msn.com>
Sent: Tuesday, January 13, 2004 1:17 AM
To: zerbstp@compuserve.com, wigginsch@compuserve.com
CC: ehdlgilbert@msn.com, closing@lowcountrytitle.com', Ronald.Price@navy.mil
Subject: First Draw & Plan to completion

Patty (National City Mortgage), and assistant: Charity

In anticipation of the first phase of the construction period, as defined by the draw schedule, we want to be sure "we're all singing from the same sheet of music". We have researched requirements and responsibilities and finally feel we're getting a handle on how these construction projects work, protection for all parties, and obligations of all parties--one to another.

The following is how we see Owner/Borrower expectations/responsibilities; Builder/Contractor and Lender requirements/responsibilities. Please correct us if we are mistaken in any aspect.

1. We understand Danny will be ready with all applicable documents submitted to you and the first phase of construction completed by Jan 16th. We further understand the "critical" aspect of this initial draw and want to perform it exactly by YOUR rules: "IMPORTANT BUILDER INFORMATION, DRAW PROCEDURES, CONSTRUCTION LOANS", the draw schedule and Contractor's rules defined in our Contract with Danny.

2. On Jan 20, after receiving & reviewing our copies of bldg/septic permits, termite treatment, builders's risk/general liability insurance, receipts and invoices for work (material and labor breakdown), a copy of the "frame up" contract, and the request for authorization from Danny, we will sign it. We understand if we do not ensure all actions/documents are in order, we take the chance of a "failed" inspection--resulting in delay of disbursement, additional cost to contractor, and delay in construction. We do not want to take any unnecessary risks.

3. Jan 16 - 20, after you have received all required documents mentioned previously you will order:

--The inspection/appraisal
--Foundation survey
--Title update (on Jan 8th Sue at Lowcountry was notified of draw)

4. On Jan 26th, as per our contract with Danny and outlined in disbursement authorization, a check will be cut.

5. In February we expect at least 2 subsequent draws, with draw #4 on March 1 and the final draw on March 15th.

6. On Mar 15th we expect to lock in our mortgage and be completely moved in by Mar 31st. Those dates take into consideration delays in this first phase of construction, without future delay, except for weather--and we have faith the Lord will give us great weather and good will to work together until completion.

Please let us know if our expectations are out of order or if we have misunderstood any requirement or procedure. We need your "expertise"!

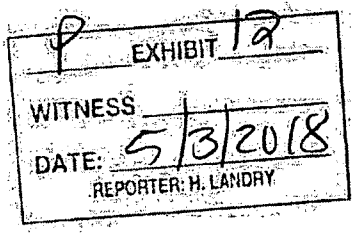
Ron & Diana

EXHIBIT 11
WITNESS
DATE: 5/3/2018
REPORTER: H. LANDRY

JAN 22, 2004

TO: DANNY GILBERT

FROM: RONALD AND DIANA PRICE



SUBJECT: NEGLIGENCE

AFTER OUR MEETINGS OF THE LAST 2 DAYS (JAN 20 AND 21ST) THE FOLLOWING ITEMS NEED TO BE "MADE GOOD" BY YOU. YOU NEED TO TELL US NOW (1) HOW THESE THINGS WILL BE TAKEN CARE OF, (2) HOW YOU WILL PREVENT FUTURE INCIDENTS OF THIS NATURE, (3) WHY WE SHOULD KEEP YOU ON AS OUR CONTRACTOR, AND (4) HOW YOU ARE GOING TO STAY WITHIN OUR BUDGET OF $185,000—THIS IS NOT NEGOTIABLE.

1. *RECEIPTS/INVOICES OF COSTS VS. FIRM QUOTES, AND UNREASONABLE % INCREASES FROM ESTIMATE LISTS DATED SEPTEMBER AND/OR OCTOBER 2003.*

   A. *BOOZER BUILDING SYSTEMS...$23,000, TO $47,000, TO $55,000*

      144% INCREASE IN PRICE

   B. *BUILDERS RISK INSURANCE....$500, TO $694*

      38% INCREASE (AND WITHOUT 6 WKS OF WORK)

   C. *FOOTINGS....(FIRM QUOTE IN OCT OF $2600), TO $3600 ON JAN 6, 2004, TO A BILL OF $5086 ON JAN 8*

      INCREASE OF 38% AND THEN ANOTHER 41%.

   D. *BUILDING PERMITS...$900, TO $1318*

      46% INCREASE (THE COUNTY TELLS ME PRICES HAVE NOT INCREASED IN OVER A YEAR)

   E. *BLOCK WORK...(FIRM QUOTE IN OCT OF $6072), TO $6957 AS OF Jan 20th, which does not appear to be complete.*

000103

15% INCREASE – ACCEPTABLE AS LONG AS NO OTHER COSTS ACCUMULATED!

F. LOT PREP...$4000, TO $2000—LABOR ONLY, TO _____????

WE'RE NOT SURE EXACTLY WHAT TO DO WITH THIS... WE WERE FORCED BY YOU TO GET INVOLVED WITH PAYING FOR A DRIVEWAY, A DEAL WITH A SUBCONTRACTOR, WHICH WE SHOULD NOT HAVE BEEN INVOLVED UNTIL ALMOST COMPLETION OF OUR HOME. YOU WERE "UNWILLING" TO PAY FOR A SUITABLE DRIVE FOR YOUR CONSTRUCTION TO CONTINUE AND FORCED US INTO THIS SITUATION.

WE'VE PAID $4620, OUT OF POCKET...YOU HAVE PAID $1300, AND OWE $850...NOW WHAT ARE YOU GOING TO DO TO FIX THE MESS WE HAVE WITH OUR DRIVEWAY AND COVER THOSE COSTS?

2. YOUR DELIBERATE IGNORING OUR REQUIREMENT FOR SEPTIC PERMIT TO BE DONE PRIOR TO THE FIRST DRAW OF FUNDS:

A. A SEPTIC PERMIT IS REQUIRED BY LAW BEFORE A BUILDERS PERMIT CAN BE OBTAINED. SEE ATTACHED CORRESPONDENCE FROM BERKELY COUNTY.

B. I HAVE APPLIED FOR THE SEPTIC PERMIT, WHICH YOU WERE REQUIRED TO OBTAIN PRIOR TO ANY BUILDING AND NOW DELAYS ANY FUTURE CONSTRUCTION UNTIL IT IS COMPLETE. COST: $100 AND POSSIBLY 3-4 WEEKS IN CONSTRUCTION.

C. ALL PERMITS ARE ON HOLD UNTIL THE SEPTIC PERMIT IS APPROVED. THE PLUMBING PERMIT WAS NOT PICKED UP PRIOR TO YOUR SUBCONTRACTOR PERFORMING PLUMBING ON OUR HOUSE–YOUR RESPONSIBILITY TO ENSURE HIS RESPONSIBILITY BEFORE HE PERFORMED ANY SUCH WORK. THERE IS

NOW A "DOUBLE COST" FOR THAT PERMIT, WHEN IT CAN BE PICKED UP.

WE ARE PREPARED TO LISTEN TO HOW YOU WILL FIX THESE PROBLEMS, ACHIEVE TIMELY PROGRESSION, ENSURE NO SUCH REOCCURENCES AND GUARANTEE OUR HOUSE IS BUILT FOR $185,000--- $25,000 OVER YOUR COSTS ESTIMATE OF SEPTEMBER 13TH, WHICH WE ATTACHED TO OUR CONTRACT WITH YOU.

WE HOPE YOU UNDERSTAND THIS IS NOT "PERSONAL". ON NUMEROUS OCCASIONS, WE HAVE MADE IT CLEAR TO YOU (1)OUR REQUIREMENTS, (2)OUR NEED TO BE KEPT INFORMED, AND (2)WE MUST APPROVE YOUR EXPENDITURES—FINANCIAL COMMITMENTS, FOR WHICH WE PAY BACK THROUGH OUR LENDER. WE DO NOT HAVE "UNLIMITED" FUNDS OR TIME TO ALLOW SUCH OCCURANCES AS THESE.

DIANA R. B. PRICE

ATTACHED: BERKLEY COUNTY PERMIT/HEALTH DEPARTMENT DOCUMENTS

BERKELEY COUNTY
Permitting Department

January 22, 2004

EXHIBIT 13
WITNESS
DATE: 5/3/2018
REPORTER: H. LANDRY

Danny Gilbert
C/O Heritage Classic Homes
1044 Eagle Harbor Lane
Summerville, SC 29483

Re: 1104 Saddlehorn Road (BP2003-1517)

Dear Mr. Gilbert,

It has come to our attention that a septic tank approval letter has not been issued by the Department of Health and Environmental Control for the above referenced project.

Pursuant to S.C. Code of Regulations §61-56 Section III. C. The general contractor (or prime contractor, or person constructing the building) shall not begin construction of the building until a permit to construct an individual sewage treatment and disposal system is issued by the Health Authority. ***If it is discovered that you do not have your own individual septic tank system and are not connected to an approved sewage system, you will be found in violation of this regulation and will be punished in accordance with Section 44-1-150, code of Laws of South Carolina, 1976, with each day being deemed a violation and treated as a separate offense; the maximum punishment for which is 30 days in jail or a fine of $200.00.***

Please be advised that you are to immediately stop construction on this project until you receive the proper permit for construction of the septic tank required by DHEC.

It has also come to our attention that the sub-contractor hired to install the plumbing did not pick up or apply for his permit on this project. The fee has been doubled for the permit and if they have not picked up their Permit Authorization Card, that too, will be double fees. The sub-contractors for the electrical and mechanical work have not picked up their permits, either. Those permits will not be double fees unless work began without their permits. This must also be rectified before construction can resume.

223 North Live Oak Drive • Moncks Corner, South Carolina 29461-3707
Moncks Corner (843) 719-4292 • Charleston (843) 723-3800 • St. Stephen (843) 567-3136

BERKELEY COUNTY
Permitting Department

Thank you in advance for your cooperation with this matter. If you have any questions, please feel free to give me a call.

Sincerely,

Bonni Watson
Permitting Manager

BMW/bmw

Cc: Mr. And Mrs. Price
File

223 North Live Oak Drive • Moncks Corner, South Carolina 29461-3707
Moncks Corner (843) 719-4292 • Charleston (843) 723-3800 • St. Stephen (843) 567-3136

$100.00

D H E C
PROMOTE PROTECT PROSPER

Application for Permit to Construct an Individual Sewage Treatment and Disposal System

Home Phone No.: 9196942175 Work Phone No.: 6187890961 Application No.: _____

I, Diana R.B. Price (Name), PO Box 191 (Mailing Address)

Mount Blanchard (City/Town) OH (State) 45867 (Zip Code)

hereby make application for a Permit to Construct an Individual Sewage Disposal System to serve a:

House: _____ Mobile Home: _____ Other (Specify): _____

If in subdivision, give name: Eagle Harbor, Lot #: 20

Street: 1104 Saddlehorn Rd Tax Map #: 194-00-02-122

Lot Identification

In order for your application to be processed, stake the corners of the proposed building and center of the lot with distinctive markers. Place site locator card on front of property in a conspicuous location. Contact the Health Department when the lot is staked, house site located, and lot posted. You can prevent delays in the evaluation by flagging all the property corners.

Please Give Exact Directions To Lot

I-26 W
Exit 194 to Starlite
- Turn Right to Candle
- Left. Continue
with Brander on Jan 21, 2004.

Applicant's Sketch Of Proposed Installation On Lot

Sketch must show dimensions, proposed and existing structures, proposed pool, proposed or existing wells (including wells on adjoining property), proposed septic tank location, proposed drive, and indicate distance from proposed building to road and property lines. Attach copy of deed describing boundaries or plat.

EXHIBIT 14
WITNESS
DATE: 5/3/2018
REPORTER: H. LANDRY

No. Bedrooms: 4

Basement: Full ☐ Partial ☐ None: ☒

Plumbing in Basement: Yes ☐ No ☒

Well: Existing ☐ Proposed ☒ None ☐

Public Water: Yes ☐ No ☐

If commercial establishment, answer following:

Type of Business: _____

Number of Occupants: _____ Number of Employees: _____

Other: _____
(i.e. seating capacity, meals per day)

Public Restrooms: _____ Number of Hours of Daily Operation: _____

Information not in conformance with actual conditions on the property will void the Permit to Construct.

"Permission is hereby granted for health department representatives to enter the above-described property at reasonable hours for the purpose of septic tank inspection and/or site evaluation."

Jan 22, 2004
Date

Property Owner or Agent's Signature

DHEC 1740 (01/1997)

Berkeley County
Environmental Health Division

YOU MUST CALL TO ACTIVATE YOUR APPLICATION.

Call (843) 719-4649 when your yellow site locator card is posted and your property corners and proposed building structure have been staked out. Please be prepared to give your tax map number when you call. **After we receive your call** stating you have completed the above mentioned, your property will then be scheduled for evaluation. If you have any questions in this matter, please call.

BERKELEY COUNTY ENVIRONMENTAL HEALTH SERVICES

When an application is completed, including good directions to the property to be evaluated, the following is necessary for the field technician to perform the soil boring:

A. The **Tax Map Number, a Tax Map and Deed, or a Boundary Plat**, from the RMC Office, specifying the lot size and it's boundaries, shall be furnished by the property owner or their agent, and attached to the application before the evaluation can be performed.

B. Prior to a site evaluation of the lot, the applicant must properly STAKE OFF the area.

1. Place the Yellow Site Location Card out by the road, and/or at the beginning of the lot so it is VISIBLE.

2. STAKE the four (4) corners of the property.

3. STAKE the four corners of the proposed house/mobile home/building.

4. Place a stake or flagging at the proposed well location. (A minimum of 50 feet from septic tank and drainfield; FHA/VA may require 100 feet)

5. If the property is thickly overgrown with weeds, underbrush, etc., clear a path to the site that is to be inspected.

C. If the field technician can't locate the property, you will receive a letter requesting better directions.

D. If the property is not properly staked off, the inspector cannot make an evaluation. Your application will be considered PENDING until you contact our office that it has been staked/flagged.

NOTE: Your cooperation in getting the above mentioned done will speed up this process. The WAITING period can vary from two to four weeks. This is an estimate! If the property is not staked off, this only causes us to get backed up even further.

The application Fee is $100.00 (for EACH septic permit) and is payable at the time the application if filed. If the fee is not paid, the application will not be processed. Checks should be made payable to S.C. DHEC and include driver's license number on the check.

D H E C

PROMOTE PROTECT PROSPER

NOTICE OF INTENT (NOI)

CONSTRUCTION OF INDIVIDUAL RESIDENTIAL OR IRRIGATION WELL UNDER THE SOUTH CAROLINA GENERAL PERMIT # SCW00000000

SEE REVERSE FOR INSTRUCTIONS

Submission of this Notice of Intent constitutes notice that the party identified in Section III of this form intends to be authorized by a permit issued for construction of an individual residential or irrigation well in the location identified in Section II of this form. Becoming a permittee obligates the construction to comply with the terms and conditions of the permit. ALL NECESSARY INFORMATION MUST BE PROVIDED ON THIS FORM. A FEE OF $70 FOR INDIVIDUAL RESIDENTIAL WELLS OR $50 FOR IRRIGATION WELLS IS REQUIRED FOR COVERAGE UNDER THIS PERMIT. KEEP A COPY OF THIS NOI AT THE DRILLING SITE.

I. Well Owner Information *(mailing address)*

SCW ____-____ (Permit Number)

Name: _____ (last) _____ (first)

Address: _____ Phone: (___) ___-____

City: _____ State: ___ Zip: _____-____

II. Well/Site Location Information

COUNTY: _____ **Proposed Start Date:** ___/___/___ (month / day / year)

Name: _____ (last) _____ (first)

☐ No Address Exists
Location Map Attached

Address: _____

City: _____ State: SC Zip: _____-____

☐ RESIDENTIAL ☐ IRRIGATION (livestock, chicken house, pond) (see instructions) ☐ REPLACEMENT ☐ EMERGENCY

III. Well Driller Information

Well Drillers Name: _____ (last) _____ (first) SC Cert No: ____

Company Name: _____

Company Address: _____

City: _____ State: ___ Zip: _____-____

Phone: (___) ___-____

Fax: (___) ___-____

Please note: the driller must have a copy of this NOI at the drill site.

IV. Fee Information

Method of Payment: Check (# _____) Cash Money Order Visa MasterCard (Provide credit card numbers by phone only)

Transfer from: name _____ permit# SCW _____

If the NOI was faxed to SCDHEC, record the date: ___/___/___ (month / day / year) and _____ (time) the fax was sent.

V. Certification:

I certify that this document and all attachments were prepared under my direction or supervision and the information submitted is, to the best of my knowledge and belief, true, accurate and complete.

Print Name: _____ Title: _____

Signature: _____ Date: _____

D H E C

PROMOTE PROTECT PROSPER

South Carolina Department of Health and Environmental Control

SITE LOCATION

NAME _____

SUBDIVISION _____

~~ADDRESS/LOT NO.~~ _____

~~APPLICATION NO.~~ _____

SEE BACK OF CARD FOR IMPORTANT INSTRUCTIONS

00951

1. Please post this card in front of the property where structure is to be located.

2. A permit for construction of the sewage disposal system must be issued by the county health department before beginning of any construction or the moving of a mobile home onto this property.

3. Place stakes with some identification as to what they mean at the following locations:

   a) [on property of less than 5 acres] at each property line corner.
   b) at the 4 corners of the proposed building or dwelling.
   c) at the proposed or existing water well location.
   d) at the proposed point of plumbing stubout.

FAILURE TO FOLLOW THE ABOVE INSTRUCTIONS WILL CAUSE DELAY IN PROCESSING YOUR APPLICATION

National City Mortgage

National City Mortgage Co.
7301 Rivers Ave, Suite 241
N. Charleston, SC 29406
Telephone: (843) 553-0410
Fax: (843) 824-9269

1/9/03

Dear Mrs. Price,

Per your request, I am sending this letter in regards to your concerns of the capped rate on your construction perm loan. If everything is complete –i.e. the house is done and all paperwork is complete and finalized-by May 24,2004 your rate will be no higher than 6.75%. However, if you miss the target date of May 24th, you will be charged an interest rate of 11.75% on the remaining principal balance owed. We can not change the paperwork that has already been submitted to post closing. You can, however, accept this letter as guarantee that if all criteria is met by May 24th, 2004 your capped rate will be 6.75%.

Sincerely,
Patty Zerbst
Patty Zerbst
Loan Officer

Rec'd w/letter Jan 22, 2004
Meeting w/ Patty + Brenda, Mgr

EXHIBIT 15
WITNESS
DATE: 5/3/2018
REPORTER: H. LANDRY

Jan 30, 2004

To: Heritage Classic Homes
Danny Gilbert
1044 Eagle Harbor Lane
Summerville, SC 29483

From: Ronald and Diana Price, Lot 20, Eagle Harbor
1104 Saddlehorn Rd
Summerville, SC 29483
Phones: 843 729 6050, 843 860 1055

Subject: Contract Termination—In accordance with our Contract of September 13, 2003, Standard Form of Agreement Between Owner and Contractor--Article 8 and 9, and Article 14 (14.2.1 and 14.2.2) of Contract Document, A1A Document A201, 1987 Edition, General Conditions of the Contract for Construction

1. This written notice is follow up to our brief discussion and verbal termination of the Contract on Jan 26, 2004, after you refused to discuss your negligence as our contractor (reference letter to you on Jan 22, 2004) and you said "I am done."

2. Under Article 14.2.1 (referenced above) and as Owners in the Contract referenced above, we terminate the Contract for Cause.

3. Under Article 5.4.1 of the A1A Document A201, we request subcontractor information and assignment as appropriate.

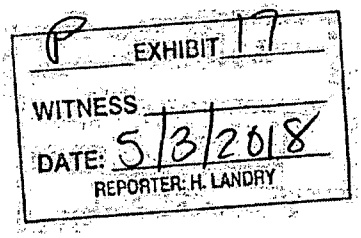
RONALD E. PRICE

DIANA R.B. PRICE

P EXHIBIT 11e
WITNESS
DATE: 5/3/2018
REPORTER: H. LANDRY

Feb 9, 2004

Diana and Ronald Price
1104 Saddlehorn Rd
Summerville, SC 29483



Danny Gilbert
Heritage Classic Homes
1044 Eagle Harbor Lane
Summerville, SC 29483

Dear Danny,

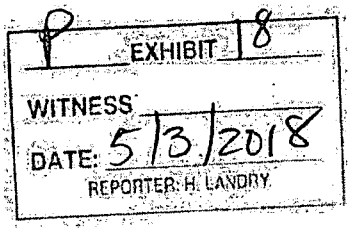
In reference to our brief dialogue on Jan 31 and messages between us:

1. We have contacted our insurance company—we have Builder's Risk.
2. I discussed the possibly of transferring your "building permit" with County Permitting. It cannot be done, it is not a "invalid" permit.
3. Please remove the power pole…it wasn't connected and never should have been set up, due to the permit requirements.
4. We have informed the Homeowners Association of termination of our contract and the need to proceed in getting another Contractor and the building of our home. We request your assistance and cooperation.
5. Please carefully review the Contract Documents, particularly those provisions concerning "owner termination for cause" and Contractor responsibility when proceeding with construction without getting the proper permits. Then give us your assessment (payment due you) based on the Contract and your responsibilities in abiding by our Contract, as well as how those measure/balance out against the 10 week delay/s in construction you have caused. We, likewise, are making our list of what we consider "fair payment" under these circumstances.
6. Your threat of a lien: If you have disclosed all circumstances surrounding the reasons you have not yet been paid, to legal counsel, filing a lien against our property is out of line. It would look like you are trying to threat or provoke the situation into litigation. The Lender is NOT paying anything until the construction is resumed and a draw can be made—we could not pay if we wanted to.

That "careful" review of the Contract, should also take into consideration the fact that "damages" to you do not overshadow the damages you have caused us. Please do not try to create obstacles in us proceeding with our Home. We have done nothing but "trust" you until it was obvious you were not being honest in your dealings with us and you had your own agenda. It is not a question of who's fault it is. The question is what are you willing to do about it, as we attempted to find out prior to terminating the Contract?

Diana R. B. Price

February 19, 2004



Mr. and Mrs. Ronald Price
P.O. Box 191
Mount Blanchard, Ohio 45867

Reference: Eagle Harbor Community Association

Mr. and Mrs. Price

Your recent letter and notes from your past conversation with acting Homeowners Association President, Tonya Evans, have been turned over to me. Until our 501(c)3 comes in from the federal government, Mrs. Evans has not been given the authority by the Developer, (Declarant) Eagle Harbor Inc., to handle such matters. Any future issues, in addition to the ARC requirements, should be handled directly by me and through the offices at 1044 Eagle Harbor Lane, Summerville, SC, 29483.

Your assumption that full approval has been granted is incorrect. The home plans and fee of $500 have not officially been submitted to our Architect who grants final approvals. They have although, been designed to meet all requirements as set forth by the ARC. I see now, as I saw when under contract to build your home, no problem in passing the ARC. The matter was delayed until payment for construction was made by you or your lending representative, at that point the fee and application would have been given to the Architect for final approval. It is because of my relationship with the Architect and because I am the developer that construction was started on your home. But, we still must adhere to covenants. It is not the concern of the ARC that a home such as yours will not pass the ARC requirements. The ARC is concerned with homes that will affect the value of your property and others in Eagle Harbor in a negative way.

Because to date you have not paid the money owed to me while under contract to build your home, you will be responsible for filling out the application (attached) and submitting it with a check to M. Brennan Architects for the amount of $500 to the Eagle Harbor Offices. This application and fee are non-negotiable and must be returned no later than March 1, 2004. If for any reason they are not submitted by that date, the Eagle Harbor Covenants 3.3.7 allow for a fine of non-compliance. The Covenants also allow for additional measures to be taken if for any reason you are not cooperative.

Be assured the measures were put in place to protect you and the value of what might be your largest investment.

Under no circumstance shall a mobile home be placed on your lot in Eagle Harbor. This is not in line with Article 2.1 and 3.3 and is subject to penalties under Article 3.3.7.

Thank you

Danny Gilbert
President, Eagle Harbor Inc.

cc: Tonya Evans, Charles Dix

Rec'd 2/28
Post mark 2/23

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

FILED, RECORDED, INDEXED
02/20/2004 03:02:45PM
Rec Fee: 10.00 St Fee: 0.00
Co Fee: 0.00 Pages: 4
Issued to: DANNY L GILBERT
Register of Deeds Berkeley Co., SC
Cynthia B. Forte

DANNY L. GILBERT D/B/A
HERITAGE CLASSIC HOMES, INC.)

Plaintiff,

vs.

RONALD & DIANA PRICE)

Defendants.

MECHANICS LIEN

P EXHIBIT 19
WITNESS
DATE: 5/2/2018
REPORTER: H. LANDRY

PERSONALLY appeared before me Danny L. Gilbert d/b/a Heritage Classic Homes, Inc., who being duly sworn, deposes and says as follows:

That the annexed statement is a true and just account of the amount due to the Plaintiff with all just credits given for labor and materials furnished and actually used in the erection, alteration, or repair of buildings or structures situated on the after-described real estate, by virtue of its contract with Ron and Diana Price, and with notice to and consent of the Defendants herein. The value of the labor and materials furnished is the sum of TWENTY THREE THOUSAND SEVEN HUNDRED NINE AND 25/100 ($23,709.25) Dollars, as evidenced by the sworn statement of account, attached as *Exhibit "A,"* and labor and materials were furnished to the after-described real estate less than ninety (90) days from the date of the filing and service of this Mechanic's Lien.

That by virtue of the aforesaid labor and materials furnished to the after-described property, and by the service and filing of this Mechanic's Lien Plaintiff has and claims as Mechanic's Lien for the payment of the indebtedness aforesaid and the cost of enforcing said lien upon the described real estate, attached hereto as *Exhibit "B."*

WHEREFORE Plaintiff claims a Mechanic's Lien in the sum of TWENTY THREE THOUSAND SEVEN HUNDRED NINE AND 25/100 ($23,709.25) Dollars, plus a reasonable attorney's fee (if necessary) as prescribed by statute, and for the costs and disbursements of this action.

Plaintiff Pro Se

SWORN to before me this 20 day
of Feb, 2004

Sharon Campbell (Seal)
Notary Public for South Carolina
My Commission Expires: _____

Notary Public, Berkeley County, South Carolina
My Commission Expires October 18, 2011

EXHIBIT A

ITEMIZED STATEMENT OF ACCOUNT

Re: Danny L. Gilbert d/b/a, Heritage Classic Homes, Inc. v. Ronald E. and Diana R. B. Price

Property Address: 1104 Saddlehorn Road
Summerville, SC 29483

Date	Invoice No.	Amount
02/20/04		$23,709.25
	TOTAL AMOUNT DUE	$23,709.25

I, Danny L. Gilbert, Plaintiff Pro Se, do hereby verify that this is a true and correct Statement of Account for Friday this 20th day of February, 2004.

Plaintiff Pro Se

SWORN to before me this 20 day of Feb, 2004.

Sharon Campbell (Seal)
Notary Public for South Carolina
My Commission Expires:
Notary Public, Berkeley County, South Carolina
My Commission Expires October 18, 2011

EXHIBIT B

LEGAL DESCRIPTION OF PROPERTY

All that certain piece, parcel, or tract of land, situate, lying and being in Second Goose Creek Tax District, County of Berkeley, State of South Carolina, measuring and containing 7.861 acres, more or less, known and designated as Lot 20, "Prepared foe: Eagle Harbor Incorporated, Danny L. Gilbert, CEO, Berkeley County, South Carolina", as more particularly shown and delineated on a plat entitled: "FINAL PLAT OF EAGLE HARBOR, PHASE II, ST. JAMES, GOOSE CREEK PARISH" prepared by William M. Ferguson, Stantec Consulting Services, Inc.; dated July 25, 2002, and recorded September 26, 2002, in Plat Book P, at Page 281-A, in the RMC Office for Berkeley County, South Carolina. Said property having such size, shape, metes, butting and bounds as will by reference to said plat.

TMS # 194-00-02-031

I, Danny L. Gilbert, Plaintiff Pro Se, do hereby verify that this is a true and correct Statement of Account for Friday this 20th day of February, 2004.

Plaintiff Pro Se

SWORN to before me this 20 day of Feb, 2004.

Susan Campbell (Seal)
Notary Public for South Carolina
My Commission Expires: _____

Notary Public, Berkeley County, South Carolina
My Commission Expires October 18, 2011

South Carolina

Western Surety Company

RELEASE OF LIEN BOND
(S.C. Code Ann. § 29-5-110)

KNOW ALL PERSONS BY THESE PRESENTS: Bond No. 69699362

That we, Diana and Ronald Price, as Principal(s), and WESTERN SURETY COMPANY, a corporation authorized to do surety business in the State of South Carolina, as Surety, are held and firmly bound unto Darry L. Gilbert dba Heritage Classic Homes, Inc., as Obligee(s), in the sum of not to exceed Thirty One Thousand Six Hundred Four And 43/100 — DOLLARS ($ 31, 604.43), for the payment of which well and truly to be made, we bind ourselves and our legal representatives, firmly by these presents.

THE CONDITION of the above obligation is such that WHEREAS the Principal(s) desires to have the lien filed by the Obligee(s) on February 20, 2004, in the office of the clerk of courts or register of deeds, discharged and is required to give bond pursuant to S.C. Code Ann. § 29-5-110. Recorded in Record Book 3843 Pg 38

NOW, THEREFORE, if the Principal(s) shall pay any amount found by judgment to be due to the Obligee(s) from the Principal(s) on such lien claim, not to exceed the amount of this bond, then this obligation to be void; otherwise to remain in full force and effect. In no event shall the total liability of the Surety for all breaches of the condition of this bond exceed the amount stated above.

Dated this 19th day of May, 2004.

FILED, RECORDED, INDEXED
05/24/2004 09:02:47AM
Rec Fee: 5.00 St Fee: 0.00
Co Fee: 0.00 Pages: 3
Issued to: RONALD E PRICE
Register of Deeds Berkeley Co., SC
Cynthia B. Forte

Diana R. B. Price, Principal

By _____

Ronald E. Price, Principal

By _____

Countersigned

By attached on back
South Carolina Resident Agent

WESTERN SURETY COMPANY, Surety

By R. Gray
R. GRAY, ASSISTANT SECRETARY

EXHIBIT 20
WITNESS
DATE: 5/3/2018
REPORTER: H. LANDRY

Form F4928

ACKNOWLEDGMENT OF SURETY
(Corporate Officer)

000014578 Bk=04011 PG=00154

STATE OF TEXAS }
County of Dallas } ss

On this 19th day of May, 2004, before me, a Notary Public in and for said County, personally appeared R. GRAY ASSISTANT SECRETARY personally known to me, who being by me duly sworn, did say that he is the aforesaid officer of WESTERN SURETY COMPANY, a corporation duly organized and existing under the laws of the State of South Dakota, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that the said instrument was signed, sealed and executed on behalf of said corporation by authority of its Board of Directors, and further acknowledge that the said instrument and the execution thereof to be the voluntary act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal at Dallas, Texas, the day and year last above written.

My commission expires

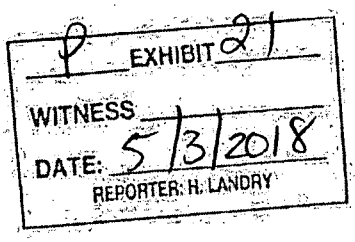
NOV 6 2005

K. Meek

Notary Public

May 13, 2004

Ronald and Diana Price
PO Box 191
Mt Blanchard, Oh 45867
AND
1104 Saddlehorn Rd.
Summerville, SC 29483



Danny Gilbert
Heritage Classic Homes
1044 Eagle Harbor Lane
Summerville, SC 29483

SUBJECT: "RIGHT TO CURE"

Mr. Gilbert,

For over six weeks, we have requested you give us access to the Eagle Harbor storage building, where you insisted in September 2003; we store many personal property items (motorcycle parts and new appliances for our house) while our house was under construction. It was unfortunate that you put us in a position in which we had to terminate our contract with you to build that house. We'll not reiterate those circumstances, we simply request you no longer detain allowing us to move our property, which is stored in a facility belonging to Eagle Harbor—The Boys Home, not Heritage Classic Homes—your personal business, as was suggested by your attorney Mr. Hollingsworth.

Our "personal" property has no bearing on your claim of funds owed you. You are well aware of your responsibility toward the termination provisions outlined by our contract with you, which clearly state you are not entitled to payment from us until the project (our house) is complete. We are working to "settle" with you while following those provisions, which you incorporated in the contract—not us. If the cause for termination had been our responsibility, you would expect us to perform up to that same standard.

As required by Magistrate, Small Claims Court, Monks Corner, SC., we are giving you 10 days from receipt of this letter to allow us access and removal of our property as listed below:

Item	Value
	$637.00
Stainless Range	$379.00
Stainless Dishwasher	$453.00
Stainless Compactor	$359.00
Stainless Microwave with Range Hood	$1,400.00
13 Ceiling Fans w/fixtures	$400.00
16 Boxes of Ceramic Tile	$858.00
Motorcycle Frame	$52.00
Motorcycle Fender	

Motorcycle Fender Brace	$44.00
Motorcycle Front Wheel with Tire 21"	$199.00
Motorcycle Front Brake Rotor w/hardware	$45.00
Motorcycle Rear Wheel 18x5.5	$276.00
Motorcycle Billet Forward Controls	$566.00
Motorcycle Gas Tank	$99.00
Motorcycle 16" Ape hangers 1.25"	$125.00
Motorcycle Headlight	$156.00
Motorcycle Speedometer with Top Clamp Mount	$250.00
Motorcycle Handlebar Risers	$35.00
Motorcycle Exhaust	$430.00
Motorcycle Taillight	$35.00
Motorcycle License plate frame w/lights	$43.00
Motorcycle License plate mount	$25.00
Motorcycle Billet Grips	$125.00
Motorcycle Mirrors	$35.00
Motorcycle Seat	$50.00
Motorcycle Jack	$65.00
Motorcycle Miscellaneous Parts	$100.00
Bucket of miscellaneous tools, pipe wrenches, etc.	$60.00
TOTAL	$7,301.00

We assume you are familiar with this process which will result in us filing for "Claim and Delivery" if you do not allow us to remove our property. Contact me at 843 729 6050 or 843 218 4981 to schedule the removal.

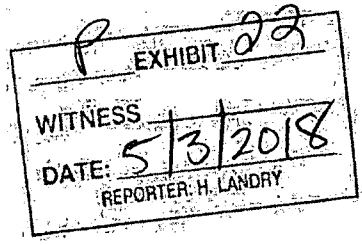
Sincerely,

Ronald E. Price

Cc: Dunn Hollingsworth, Attorney
Eagle Harbor—The Boys Home Board of Directors Chairman, Mr. John Moody

D H E C
PROMOTE PROTECT PROSPER

BERKELEY COUNTY HEALTH DEPARTMENT
Division of Environmental Health
109 W. Main Street
Moncks Corner, SC 29461
(843) 719-4649, 723-5355, 567-3125 ext. 4649
Fax (843) 719-4327



May 18, 2004

Danny Gilbert
1044 Eagle Harbor Lane
Summerville, SC 29483

Re: TMS# 194-00-02-031, Eagle Harbor Subdivision, Phase II

Dear Sir:

This department is in receipt of the final recorded plat of Eagle Harbor, Phase II and the recorded encroachment permit from S.C. Dept. of Transportation for the sanitary sewer transmission pipe across S.C. Road 1119 to serve remote drainfield sites for Lots 1, 2, 19 and 20.

Based on review of the easement dedications for remote drainfield sites for Lots 1, 2, 19 and 20, across Road 1119 and the easements for Lots 4, 7, and 18, each lot in this subdivision now meets current minimum S.C. DHEC Regulation 61-56 and Standards for at least a modified conventional subsurface treatment and disposal system for Lots 1 thru 16, and 18 thru 20.

Final approval for Phase II, Eagle Harbor S/D is granted for at least one three (3) bedroom single family dwelling for Lots 1 thru 16, and Lots 18 thru 20.

If you have any questions, please call me at 719-4649 or 202-7020, Monday thru Friday.

Sincerely,

B.B. Bozardt, Supervisor
District Onsite Wastewater Program

bg

cc: Diana Price

SPREADSHEET EXTRACT

EXHIBIT 23
WITNESS
DATE 5/3/2018

7/27/04	$73.03	Fram/Porch/Deck	Misc Framing Materials	OWNER
4/3/07	$10.42	LEGAL	Chellis/Frampton	OWNER
5/20/05	$9,313.72	SF, Art 2	Landscaping	OWNER
6/17/04	$1,120.00	SF, Art 2	Landscaping	OWNER
7/2/05	$1,908.00	SF, Art 2	Landscaping	OWNER
2/5/05	$22.59	ADMIN	Photos	OWNER
10/28/05	$350.00	SF Agree, Art 2	Excavation Dirt	OWNER
9/13/04	$148.39	SF Agree, Art 2	Hardware	OWNER
9/27/04	$682.11	Applliances	Appliances - Kitchen	OWNER
10/8/04	$126.60	Lighting	Light Fixtures	OWNER
4/12/04	$132.30	Plumbing	Plumbing	OWNER
4/2/04	$4.65	ADMIN	Certified Mail	OWNER
9/10/04	$4.42	ADMIN	Certified Mail	OWNER
12/12/03	$5.34	ADMIN	Certified Mail	OWNER
2/13/04	$4.42	ADMIN	Certified Mail	OWNER
3/16/04	$4.30	ADMIN	Certified Mail	OWNER
3/16/04	$29.97	ADMIN	Misc	OWNER
1/20/05	$157.36	SF Agree, Art 2	Hardware	OWNER
1/23/05	$123.72	SF Agree, Art 2	Hardware	OWNER
9/24/04	$4.42	ADMIN	Certified Mail	OWNER
11/2/04	$37.69	Cabinets	Pulls	OWNER
11/2/04	$37.69	Cabinets	Pulls	OWNER
8/27/04	$4.42	ADMIN	Cert Mail - NCM	OWNER
1/7/05	$102.75	WINDOWS	Covering	OWNER
1/9/05	$87.35	WINDOWS	Covering	OWNER
3/6/04	$107.55	WINDOWS	Covering	OWNER
2/17/04	$79.59	WINDOWS	Covering	OWNER
2/18/04	$61.10	WINDOWS	Covering	OWNER
3/3/04	$131.68	WINDOWS	Covering	OWNER
3/7/04	$51.45	RENTAL MISC	Linens	OWNER
3/7/04	$18.98	RENTAL MISC	Coffee Pot	OWNER
3/7/04	$12.00	RENTAL MISC	Dishes	OWNER
5/27/04	$49.20	ADMIN	Office Supplies	OWNER
2/6/04	$56.42	ADMIN	Interior Design	OWNER
8/6/04	$12.26	Framing/Porch/De	Misc Construction Items	OWNER
8/13/04	$2.11	Framing/Porch/De	Misc Construction Items	OWNER
9/19/04	$8.01	MISCELLANEOUS	TILE	OWNER
3/30/04	$4.42	ADMIN	Certified Mail	OWNER
12/17/04	$70.15	ADMIN	Admin Supplies	OWNER
11/3/04	$556.32	SF Agree, Art 2	Shelving	OWNER
7/16/04	$4.42	ADMIN	Cert Mail - J.Kahler	OWNER
7/23/04	$10.00	ADMIN	Bldg Co Recording	OWNER
7/29/04	$104.94	Fram/Porch/Deck	Misc Framing Materials	OWNER
10/27/04	$6.85	Interior Trim	Pulls	OWNER
10/20/04	$51.72	Plumbing	Plumb Mat &/O Lab	OWNER
10/7/04	$67.84	SF Agree, Art 2	Hardware	OWNER
10/4/04	$15.19	SF Agree, Art 2	Hardware	OWNER
10/4/04	$449.97	Interior trim	Misc	OWNER
10/11/04	$141.56	SF Agree, Art 2	Hardware	OWNER
10/8/04	$135.09	SF Agree, Art 2	Hardware	OWNER
10/22/04	$5.28	Interior trim	Caulk	OWNER
10/22/04	$39.19	Interior trim	Duraplex	OWNER
9/18/04	$64.87	Interior doors	Door	OWNER
10/14/04	$48.70	SF Agreement, Ar	Hardware	OWNER
11/30/04	$6,000.00	SF Agreement, Ar	Driveway	OWNER
9/19/04	$8.01	Hardwood/Floorin	Tile	OWNER
9/18/04	$18.25	Interior trim	Interior trim	OWNER

9/3/04	$199.71	Fram/Porch/Deck	Window Sealer			OWNER
8/31/04	$75.72	Dumpster	Container Rental			OWNER
8/29/04	$37.07	Fram/Porch/Deck	Spkr Wire			OWNER
4/29/04	$12.90	LEGAL	HCH Attorney			OWNER
5/31/04	$109.20	Foundation	Concrete Lad-BGM			OWNER
9/17/04	$1,211.83	SF Agree, Art 2	Hardware			OWNER
7/23/04	$3.85	Admin	Copies			OWNER
2/5/05	$22.00	Admin	Photos			OWNER
7/16/04	$8.92	ADMIN	NCM			OWNER
6/7/04	$332.88	SF Argee, Art 2	Hardware			OWNER
2/26/05	$1,202.00	SF Agree, Art 2	Shelving			OWNER
7/26/04	$265.58	Fram/Porch/Deck	Misc Framing Materials			OWNER
6/5/04	$17.94	Framing/Porch/De	Lumber			OWNER
3/29/04	$15.00	Admin	Coping			OWNER
1/15/04	$137.01	Hardwood/Floorin	Flooring			OWNER
3/15/04	$15.00	Recordings	Notices			OWNER
10/14/05	$100.00	Hardwood/Floorin	Defect Carpet Replace			OWNER
TOTAL	$26,525.65					
5/24/04	$75.00	STORAGE	Storage	Mini Whar	Receipt	SELLER/CONTRACTOR
6/10/04	$1,673.74	INSPECTION	Engineer F	C. Schneic	Check Rec	SELLER/CONTRACTOR
9/6/04	$250.00	INSPECTION	Engineer F	Sanford E	Check Rec	SELLER/CONTRACTOR
9/28/04	$75.00	STORAGE	Storage	Mini Ware	Check Rec	SELLER/CONTRACTOR
9/6/04	$650.88	STORAGE	Storage	A-1 Movin	Check Rec	SELLER/CONTRACTOR
7/16/04	$650.88	STORAGE	Storage	A-1 Movin	Check Rec	SELLER/CONTRACTOR
11/1/04	$650.88	STORAGE	Storage	A-1 Movin	Check Rec	SELLER/CONTRACTOR
8/26/04	$75.00	STORAGE	Storage	Mini Ware	Check Rec	SELLER/CONTRACTOR
8/15/04	$651.76	STORAGE	Misc Fram	A-1 Movin	Check Rec	SELLER/CONTRACTOR
7/24/04	$75.00	STORAGE	Storage	Mini Ware	Check Rec	SELLER/CONTRACTOR
7/1/04	$75.00	STORAGE	Storage	Mini Ware	Check Rec	SELLER/CONTRACTOR
6/7/04	$859.16	STORAGE	Storage	A-1 Movin	Receipt	SELLER/CONTRACTOR
9/27/04	$150.00	LEGAL	County Ct	Pederson	Check Rec	SELLER/CONTRACTOR
11/21/11	$111.15	LEGAL	Copying	Serve One	Check Rec	SELLER/CONTRACTOR
4/2007-12/2008	$1,572.90	LEGAL	$74.90 @ r	Westlaw S	Check Rec	SELLER/CONTRACTOR
8/11/08	$150.00	LEGAL	Depo Tran	Marrie Car	Check Rec	SELLER/CONTRACTOR
03/2009-04/2018	$7,000.00	LEGAL -ESTIMAT	Costs	T.Ward	Pending S	SELLER/CONTRACTOR
4/16/08	$75.00	LEGAL	Attorney F	George Bi	Check Rec	SELLER/CONTRACTOR
3/1/17	$218.75	LEGAL	Loss of Tr	TCR	T.Ward Inv	SELLER/CONTRACTOR
3/1/09	$5,000.00	LEGAL	Retainer (	T.Ward	Check Rec	SELLER/CONTRACTOR
8/11/08	$500.00	LEGAL	Attorney F	Oneal & P	Check Rec	SELLER/CONTRACTOR
9/27/04	$150.00	LEGAL	County Ct	Pederson	Check Rec	SELLER/CONTRACTOR
12/8/06	$5,000.00	LEGAL	Attorney F	Joe Ginn	Contract-C	SELLER/CONTRACTOR
10/25/05	$378.39	LEGAL	Legal Trai	USAA	CC Receip	SELLER/CONTRACTOR
10/3/16	$270.65	LEGAL	Copying	ProLegal	Ck Receip	SELLER/CONTRACTOR
8/20/07	$1,000.00	LEGAL	Attorney F	Simons &	CHeck Rec	SELLER/CONTRACTOR
6/6/05	$8,000.00	LEGAL	Attorney F	Chellis & F	check Rec	SELLER/CONTRACTOR
2/1/05	$25.00	LEGAL	Motion	Bill Scott	Ct. Record	SELLER/CONTRACTOR
3/11/04	$4.42	MECHANICS LIEN	Gilbert Ce	Post Offic	Receipt	SELLER/CONTRACTOR
3/1/04	$23.41	STORAGE	Property S	Public Sto	CC Receip	SELLER/CONTRACTOR
6/11/04	$647.09	MECHANICS LIEN	Surety Bo	USAA/Wes	CC Receip	SELLER/CONTRACTOR
4/29/04	$12.90	MECHANICS LIEN	HCH Attor	Post Offic	CC Receip	SELLER/CONTRACTOR
5/24/04	$12.10	MECHANICS LIEN	LIEN RELE	Berkeley C	Check Rec	SELLER/CONTRACTOR
5/14/04	$4.42	MECHANICS LIEN	Gilbert Ce	Post Offic	Receipt	SELLER/CONTRACTOR
5/19/04	$10.00	MECHANICS LIEN	MECHANI	US Legal F	CC Receip	SELLER/CONTRACTOR

SPREADSHEET EXTRACT

5/10/04	$14.00	MECHANICS LIEN	LIEN NOTI	Berkeley C	Receipt	SELLER/CONTRACTOR
4/2//04	$4.88	MECHANICS LIEN	Cert Mail -	Post Offic	CC Receip	SELLER/CONTRACTOR
5/14/04	$4.42	MECHANICS LIEN	Cert Mail -	Post Offic	CC Receip	SELLER/CONTRACTOR
6/3/04	$4.42	MECHANICS LIEN	Cert Mail -	Post Offic	CC Receip	SELLER/CONTRACTOR
6/18/04	$6.49	MECHANICS LIEN	Cert Mail -	Post Offic	CC Receip	SELLER/CONTRACTOR
4/2//04	$4.88	MECHANICS LIEN	Cert Mail -	Post Offic	CC Receip	SELLER/CONTRACTOR
12/13/04	$350.00	SURVEY	Closing	Ashley En	Check Rec	SELLER/CONTRACTOR
2004-2009	$4,349.48	LOAN COST	INTEREST	TSP LOAN	Check Rec	SELLER/CONTRACTOR
4/15/05	$225.24	REFUND ESCROW	NCM	Price	Loan Histo	SELLER/CONTRACTOR
10/3/04	$600.00	LODGING	Rent	Regency A	Check Rec	SELLER/CONTRACTOR
11/2/04	$747.35	LOAN COST	INTEREST	NCM	NCM Histo	SELLER/CONTRACTOR
12/10/04	$461.78	LOAN COST	Interest	NCM	NCM Histo	SELLER/CONTRACTOR
1/5/05	$4,753.59	LOAN COST	Refinance	USAA	HUD	SELLER/CONTRACTOR
1/9/05	$200.00	SURVEY	Closing	Ashley En	Check Rec	SELLER/CONTRACTOR
8/29/04	$600.00	LODGING	Rent	Regency A	Check Rec	SELLER/CONTRACTOR
7/23/04	$282.26	LOAN COSTS	INTEREST	NCM	Check Rec	SELLER/CONTRACTOR
7/3/04	$600.00	LODGING	Rent	Regency A	Check Rec	SELLER/CONTRACTOR
6/23/04	$291.67	LOAN COSTS	INTEREST	NCM	Check Rec	SELLER/CONTRACTOR
7/1/04	$600.00	LODGING	Rent	Regency A	Check Rec	SELLER/CONTRACTOR
5/31/04	$600.00	LODGING	Rent	Regency A	Check Rec	SELLER/CONTRACTOR
4/29/04	$600.00	LODGING	Rent	Regency A	Check Rec	SELLER/CONTRACTOR
5/21/04	$282.26	LOAN COSTS	INTEREST	NCM	Check Rec	SELLER/CONTRACTOR
4/23/04	$291.25	LOAN COSTS	INTEREST	NCM	Check Rec	SELLER/CONTRACTOR
4/6/04	$600.00	LODGING	RENT	Regency A	check Rec	SELLER/CONTRACTOR
3/1/04	$381.00	LODGING	Rent	Intown Su	Receipt	SELLER/CONTRACTOR
3/8/04	$735.00	LODGING	Rent	Regency A	CC Receip	SELLER/CONTRACTOR
3/19/04	$272.86	LOAN COSTS	INTEREST	NCM	Check Rec	SELLER/CONTRACTOR
3/9/04	$291.67	LOAN COSTS	INTEREST	NCM	Check Rec	SELLER/CONTRACTOR
2/25/04	$292.47	LOAN COSTS	INTEREST	NCM	Check Rec	SELLER/CONTRACTOR
TOTAL	$54,074.97					
	Storage	$6,159.39				
	Interest	$3,213.57				
	Rent	$5,316.00				
	Total	$14,688.96				

37877	$1,324.92	Lighting	Light Fixtur	Lowe's	CC Receip	CONTRACTOR
37955	$328.99	Interior Trim	Tile	Lowe's	CC Receip	CONTRACTOR
37992	$4,620.00	Lot Prep	Lot Prep	B&B Enterr	Check Rec	CONTRACTOR
38014	$3,580.00	Lot Prep	Lot Prep	B&B Enterr	Check Rec	CONTRACTOR
37643	$100.00	Permits	Septic Perr	DHEC	Check Rec	CONTRACTOR
37933	$1,827.32	Appliances	Appliances	Lowe's	CC Receip	CONTRACTOR
38021	$1,035.23	Builders Risk	Ins-Builder	USAA	Receipt	CONTRACTOR
38026	$6,000.00	Job Mgt a/o OverH	Contractor	John Kahle	Check Rec	CONTRACTOR
38026	$400.00	Lot Prep	Excavation	Bishop & S	CC Receip	CONTRACTOR
38043	$221.21	Temp Power Pole	Service & I	Berkeley C	cc & Recei	CONTRACTOR
38048	$71.15	Porta John	Porta Potty	Access Poi	Check Rec	CONTRACTOR
4/1//04	$141.24	Plumbing	Plumbing M	Home Dep	Receipt	CONTRACTOR
38088	$147.00	Plumbing	Plumbing M	Home Dep	Receipt	CONTRACTOR
38082	$5.34	Paint	Paint	Home Dep	CC Receip	CONTRACTOR
38061	$90.50	Porta John	Porta Potty	Access Poi	Check Rec	CONTRACTOR
38131	$47.77	Fram/Porch/Deck	Framing/Lu	Home Dep	CC Receip	CONTRACTOR
38131	$87.98	Footings	Rebar	Home Dep	CC Receip	CONTRACTOR
38132	$1,474.72	Foundation/G Slab	Block & Mc	General M	CC Receip	CONTRACTOR
38131	$166.06	Foundation/G Slab	Sand	Palmetto S	Check Rec	CONTRACTOR
38137	$7,389.26	Fram/Porch/Deck	Framing M	Home Dep	CC Receip	CONTRACTOR
38138	$465.73	Plumbing	Plumbing M	Home Dep	Receipt	CONTRACTOR
38138	$165.15	Plumbing	Plumbing M	Home Dep	CC Receip	CONTRACTOR

SPREADSHEET EXTRACT

38137	$71.65	Porta John	Porta Potty	Access Por	Check Rec	CONTRACTOR
38201	$1,086.29	Framing/Porch/Dec	Lumber	Builders 1s	CC Receip	CONTRACTOR
38138	$636.00	Foundation/G.Slab	Sand	Palmetto S	Check Rec	CONTRACTOR
38141	$97.46	Framing/Porch/Dec	Poly Sheet	Home Dep	CC Receip	CONTRACTOR
38140	$6.06	Foundation/G.Slab	Block Ties	Home Dep	CC Receip	CONTRACTOR
38149	$348.09	Foundation/G.Slab	Foundation	Home Dep	CC Receip	CONTRACTOR
38143	$193.79	Foundation/G.Slab	Foundation	Home Dep	CC Receip	CONTRACTOR
38141	$251.75	Foundation/G.Slab	Concrete	Star Redim	CC Receip	CONTRACTOR
38140	$127.20	Foundation/G.Slab	Dirt	Palmetto S	Check Rec	CONTRACTOR
38148	$1,550.00	Lot Prep	Excavation	Brad Hill	Check Rec	CONTRACTOR
38153	$1,125.00	Foundation/G.Slab	Concrete F	Tony Jeffer	Check Rec	CONTRACTOR
38154	$3,000.00	Foundation/G.Slab	Foundation	Randolph (	Check Rec	CONTRACTOR
38161	$3,000.00	Framing/Porch/Dec	Framing La	Mike Coop	Check Rec	CONTRACTOR
38161	$500.00	Plumbing	Plumbing L	Jason Hani	Check Rec	CONTRACTOR
38162	$700.00	Foundation/G.Slab	Concrete P	Statewide I	Check Rec	CONTRACTOR
38166	$5,000.00	Fram/Porch/Deck	Framing La	Mike Coop	Check Rec	CONTRACTOR
38159	$368.35	Fram/Porch/Deck	Lumber	Home Dep	Charge Ac	CONTRACTOR
38170	$387.73	Fram/Porch/Deck	Lumber	Home Dep	Charge Ac	CONTRACTOR
38168	$337.05	Fram/Porch/Deck	Lumber	Home Dep	Charge Ac	CONTRACTOR
38168	$401.94	Fram/Porch/Deck	Lumber	Home Dep	Charge Ac	CONTRACTOR
38168	$414.36	Fram/Porch/Deck	Lumber	Home Dep	Charge Ac	CONTRACTOR
38155	$316.83	Fram/Porch/Deck	Lumber	Home Dep	Charge Ac	CONTRACTOR
38149	$6.30	Reproductions	Repro of Pl	Inkpressior	CC Receip	CONTRACTOR
38140	$12.60	Reproductions	Repro of Pl	Inkpressior	CC Receip	CONTRACTOR
38146	$221.58	Foundation/G.Slab	Anchors	Lowe's	CC Receip	CONTRACTOR
38141	$97.84	Foundation/G.Slab	Slab Anchc	Lowe's	CC Receip	CONTRACTOR
38131	$383.72	Foundation/G.Slab	Rebar	Lowe's	CC Receip	CONTRACTOR
38146	$30.32	Foundation/G.Slab	Rebar	Home Dep	CC Receip	CONTRACTOR
38147	$14.61	Foundation/G.Slab	Anchor Str	Home Dep	CC Receip	CONTRACTOR
38148	$438.84	Foundation/G.Slab	Concrete	Star Redim	CC Receip	CONTRACTOR
38145	$2,226.00	Footings	Concrete	Star Redim	CC Receip	CONTRACTOR
38147	$3,600.00	Well	Well	Anderson \	Check Rec	CONTRACTOR
38139	$1,575.00	Footings	Footings La	Tony Jeffer	Check Rec	CONTRACTOR
38149	$2,549.30	Foundation/G.Slab	Concrete	Star Redim	CC Receip	CONTRACTOR
38141	$2,063.85	Fram/Porch/Deck	Front Door	Home Dep	CC Receip	CONTRACTOR
38149	$2,077.75	Fram/Porch/Deck	Lumber	84 Lumber	CC Receip	CONTRACTOR
38149	$4,063.73	Fram/Porch/Deck	Lumber	Home Dep	CC Receip	CONTRACTOR
38152	$260.00	Termite	Treatment	Palmetto E	Check Rec	CONTRACTOR
38152	$71.65	Porta John	Porta Potty	Access Por	Receipt	CONTRACTOR
38173	$187.62	Fram/Porch/Deck	Misc Frami	Mike Coop	Check Rec	CONTRACTOR
38147	$7,643.00	Electrical	Electrical	Joe Easter	Check Rec	CONTRACTOR
38201	$15.87	Fram/Porch/Deck	Lumber	Home Dep	CC Receip	CONTRACTOR
38186	$50.03	Reproductions	Drawing co	Office Max	CC Receip	CONTRACTOR
38188	$18.90	Reproductions	Drawing co	Inkpressior	CC Receip	CONTRACTOR
38175	$1,567.93	Fram/Porch/Deck	Lumber	84 Lumber	CC Receip	CONTRACTOR
38183	$54.27	Fram/Porch/Deck	Lumber	84 Lumber	CC Receip	CONTRACTOR
38176	$522.94	Fram/Porch/Deck	Lumber	84 Lumber	CC Receip	CONTRACTOR
38176	$12.15	Fram/Porch/Deck	Lumber	84 Lumber	CC Receip	CONTRACTOR
38296	$556.00	Interior Doors	Shower Do	Carolina Sl	Check Rec	CONTRACTOR
38192	$71.65	Porta John	Porta Potty	Access Por	Receipt	CONTRACTOR
38188	$939.69	Fram/Porch/Deck	Lumber	84 Lumber	CC Receip	CONTRACTOR
38183	$327.86	Fram/Porch/Deck	lumber	84 Lumber	CC Receip	CONTRACTOR
38190	$201.40	Fram/Porch/Deck	Tyvek	84 Lumber	CC Receip	CONTRACTOR
38191	$48.78	Fram/Porch/Deck	Lumber	84 Lumber	CC Receip	CONTRACTOR
38191	$166.39	Fram/Porch/Deck	Tyvek	84 Lumber	CC Receip	CONTRACTOR
38227	$82.88	Fram/Porch/Deck	Wire & Lun	Home Dep	CC Receip	CONTRACTOR
38174	$113.42	Fram/Porch/Deck	Misc Frami	Mike Coop	Receipt	CONTRACTOR
38188	$152.16	Fram/Porch/Deck	Misc Frami	Mike Coop	Receipt	CONTRACTOR

SPREADSHEET EXTRACT

38199	$1,012.26	Fram/Porch/Deck	Decking	84 Lumber	CC Receip	CONTRACTOR	
38195	$461.33	Fram/Porch/Deck	Lumber	84 Lumber	CC Receip	CONTRACTOR	
38192	$222.60	Fram/Porch/Deck	Windows	Home Dep	CC Receip	CONTRACTOR	
38192	$4,800.00	Roof	Labor & Ma	So Carolin	Check Rec	CONTRACTOR	
38196	$820.00	Roof	Labor & Ma	So Carolin	Check Rec	CONTRACTOR	
38192	$201.46	Fram/Porch/Deck	Tyvek	84 Lumber	Check Rec	CONTRACTOR	
38183	$327.86	Fram/Porch/Deck	Lumber	84 Lumber	CC Receip	CONTRACTOR	
38201	$46.38	Framing/Porch/Dec	Nails	Central Tru	Receipt	CONTRACTOR	
38226	$105.99	Interior Trim	Saw	Harbor Fre	CC Receip	CONTRACTOR	
38194	$5,500.00	Fram/Porch/Deck	Framing La	Mike Coop	Check Rec	CONTRACTOR	
38212	$3,000.00	Fram/Porch/Deck	Framing La	Mike Coop	Check Rec	CONTRACTOR	
38226	$3,072.00	Fram/Porch/Deck	Framing La	Mike Coop	Check Rec	CONTRACTOR	
38180	$5,000.00	Fram/Porch/Deck	Framing La	Mike Coop	Draw Sche	CONTRACTOR	
38175	$5,000.00	Fram/Porch/Deck	Framing La	Mike Coop	Check Rec	CONTRACTOR	
38221	$1,075.00	Fram/Porch/Deck	Porch labo	Bubba D R	Check Rec	CONTRACTOR	
38201	$1,350.00	Fram/Porch/Deck	Porch labo	Lucius R. E	Check Rec	CONTRACTOR	
38215	$12,500.00	Fram/Porch/Deck	Frame Pac	Boozer Lun	Check Rec	CONTRACTOR	
38203	$12,940.00	Fram/Porch/Deck	Frame Pac	Boozer Lun	CC Rec/PA	CONTRACTOR	
38210	$719.42	Counter Top	Vanity & Sh	McCann's	Check Rec	CONTRACTOR	
38212	$333.77	Fram/Porch/Deck	Misc Frami	Mike Coop	Check Rec	CONTRACTOR	
38262	$3,250.10	Interior doors	Interior Doo	Home Dep	CC Receip	CONTRACTOR	
38211	$5,000.00	Job Mgt a/o OverH	Contractor	Todd Seibe	Check Rec	CONTRACTOR	
38226	$50.88	Interior Trim	Nails	Air Fastene	CC Receip	CONTRACTOR	
38226	$109.88	Fram/Porch/Deck	Lumber	Home Dep	CC Receip	CONTRACTOR	
38200	$860.33	Fram/Porch/Deck	Lumber/BA	Home Dep	CC Receip	CONTRACTOR	
38215	$41.45	Fram/Porch/Deck	Lumber	Home Dep	CC Receip	CONTRACTOR	
38226	$93.21	Fram/Porch/Deck	Lumber	Home Dep	CC Receip	CONTRACTOR	
38202	$423.21	Fram/Porch/Deck	Lumber	Home Dep	CC Receip	CONTRACTOR	
38217	$55.02	Fram/Porch/Deck	Lumber/BA	Home Dep	CC Receip	CONTRACTOR	
38221	$57.57	Fram/Porch/Deck	Lumber	Home Dep	CC Receip	CONTRACTOR	
38219	$9.21	Fram/Porch/Deck	Lumber	Home Dep	CC Receip	CONTRACTOR	
38207	$220.44	Fram/Porch/Deck	Lumber	Home Dep	CC Receip	CONTRACTOR	
38584	$70.36	Fram/Porch/Deck	Lumber	Home Dep	CC Receip	CONTRACTOR	
38200	$77.81	Fram/Porch/Deck	Nails & flas	Central Tru	CC Receip	CONTRACTOR	
38200	$247.13	Fram/Porch/Deck	Lumber	Home Dep	CC Receip	CONTRACTOR	
38208	$45.58	Fram/Porch/Deck	Nails	Air Fastene	CC Receip	CONTRACTOR	
38203	$45.58	Fram/Porch/Deck	Nails	Air Fastene	CC Receip	CONTRACTOR	
38204	$8.46	Fram/Porch/Deck	Hangers	Builders 1s	CC Receip	CONTRACTOR	
38203	$96.69	Fram/Porch/Deck	Hangers	Builders 1s	CC Receip	CONTRACTOR	
38203	$334.07	Fram/Porch/Deck	Lumber	84 Lumber	CC Receip	CONTRACTOR	
38201	$215.79	Fram/Porch/Deck	Lumber	84 Lumber	CC Receip	CONTRACTOR	
38201	$70.60	Fram/Porch/Deck	Lumber	84 Lumber	CC Receip	CONTRACTOR	
38236	$108.75	Porta John	Porta Potty	Access Por	Check Rec	CONTRACTOR	
38217	$7,401.00	Siding	Siding	Doug Curry	Check Rec	CONTRACTOR	
38246	$2,550.00	Insulation	Insulation	Cohen's Dr	Check Rec	CONTRACTOR	
38231	$5,400.00	Plumbing	Plumbing L	Mark Mass	Check Rec	CONTRACTOR	
38206	$2,689.27	Plumbing	Fixtures	Home Dep	CC Receip	CONTRACTOR	
38252	$190.80	Hardwood/Flooring	Tile	Home Dep	CC Receip	CONTRACTOR	
38257	$1,500.00	Paint	Painting	Dennis Mol	Check Rec	CONTRACTOR	
9/6/4/4	$874.50	Fireplace	Fireplace	Bailey Spe	Check Rec	CONTRACTOR	
38249	$5,000.00	Job Mgt & OverHd	Contractor	Todd Seibe	Check Rec	CONTRACTOR	
38257	$1,544.00	Garage Doors	Garage Do	Acme Door	Check Rec	CONTRACTOR	
38231	$4,707.00	HVAC	HVAC	Lonzie & S	Check Rec	CONTRACTOR	
38236	$554.81	Fram/Porch/Deck	Boots/Winc	Todd Seibe	Check Rec	CONTRACTOR	
38252	$8,668.34	Cabinets	Cabinets	Welcom Ca	Check Rec	CONTRACTOR	
38246	$3,690.65	Sheetrock	Drywall	Todd Seibe	Check Rec	CONTRACTOR	
38246	$7,272.64	Sheetrock	Drywall Ins	Floyd Hayn	Check Rec	CONTRACTOR	
38257	$148.30	Porta John	Porta Potty	Access Por	Check Rec	CONTRACTOR	

SPREADSHEET EXTRACT

38236	$248.28	Insulation	Materials	Lowe's	CC Receip	CONTRACTOR
38242	$40.26	Interior trim	Interior trim	Home Dep	CC Receip	CONTRACTOR
38208	$312.98	Lighting	Fixtures	Home Dep	CC Receip	CONTRACTOR
38241	$33.57	Interior trim	Trim	Home Dep	CC Receip	CONTRACTOR
38254	$357.82	Hardwood/Flooring	Wonderboa	Home Dep	CC Receip	CONTRACTOR
38246	$263.94	Cabinets	Vanity	Home Dep	CC Receip	CONTRACTOR
38256	$25.23	Interior trim	Cedar	Home Dep	CC Receip	CONTRACTOR
38241	$29.73	Paint	Paint Mate	Home Dep	CC Receip	CONTRACTOR
38256	$90.52	Hardwood/Flooring	Tile & Ceda	Home Dep	CC Receip	CONTRACTOR
38235	$152.00	Sheetrock	Drywall	Home Dep	CC Receip	CONTRACTOR
38248	$133.81	Fram/Porch/Deck	Lumber & (	Home Dep	CC Receip	CONTRACTOR
38247	$12.64	Fram/Porch/Deck	Lumber	Home Dep	CC Receip	CONTRACTOR
38246	$153.87	Interior doors	Doors	Home Dep	CC Receip	CONTRACTOR
38257	$2,206.46	Siding	Siding Mat			CONTRACTOR
38243	-$206.44	Fram/Porch/Deck	Misc Frami	84 Lumber	CC Receip	CONTRACTOR
38257	$6,940.00	Hardwood/Flooring	Floor Mate	Wilson's C	Receipt	CONTRACTOR
38245	$372.26	Dumpster	Container I	Carolina W	Check Rec	CONTRACTOR
38253	$285.00	Electrical	Berkeley El	Berkeley El	Check Rec	CONTRACTOR
38275	$150.50	Interior trim	Handrail	Home Dep	CC Receip	CONTRACTOR
38266	$94.01	Lighting	Trim Mat	Lowe's	CC Receip	CONTRACTOR
38272	$9.54	Interior trim	Cedar	Home Dep	CC Receip	CONTRACTOR
38269	$219.05	Interior trim	Attic Door/	Home Dep	CC Receip	CONTRACTOR
38275	$88.15	Interior trim	Baseboard	Home Dep	CC Receip	CONTRACTOR
38279	$7.34	Interior trim	Screws	Home Dep	CC Receip	CONTRACTOR
38281	$28.74	Interior trim	Bulbs & Fir	Home Dep	CC Receip	CONTRACTOR
38282	$72.66	Interior trim	Cedar	Home Dep	CC Receip	CONTRACTOR
38271	$85.23	Interior trim	Cedar/Oak	Home Dep	CC Receip	CONTRACTOR
38284	$120.56	Interior trim	Cedar	Home Dep	CC Receip	CONTRACTOR
38290	$14.25	Interior trim	Brackets &	Lowe's	CC Receip	CONTRACTOR
38290	$98.54	Interior trim	Oak	Home Dep	CC Receip	CONTRACTOR
38287	$58.30	Interior trim	Misc Retur	Home Dep	CC Receip	CONTRACTOR
38273	$71.91	Interior trim	Oak Trim	Lowe's	CC Receip	CONTRACTOR
38267	$57.83	Interior trim	Bulbs	Home Dep	CC Receip	CONTRACTOR
38272	$142.97	Interior trim	Cedar & Pc	Home Dep	CC Receip	CONTRACTOR
38282	$62.31	Interior trim	Cedar	Home Dep	CC Receip	CONTRACTOR
38275	$35.83	Paint	Stain	Lowe's	CC Receip	CONTRACTOR
38261	$54.96	Interior trim	Blades & B	Home Dep	CC Receip	CONTRACTOR
38285	$198.91	Interior trim	Cedar Bas	Home Dep	CC Receip	CONTRACTOR
38247	$204.12	Framing/Porch/Dec	Casing & L	Home Dep	CC Receip	CONTRACTOR
38268	$668.94	Interior Trim	Fixture/Rec	Home Dep	CC Receip	CONTRACTOR
38262	$203.80	Interior doors	Door & Mis	Home Dep	CC Receip	CONTRACTOR
38265	$122.96	Framing/Porch/Dec	Flashing	Lowe's	CC Receip	CONTRACTOR
38278	$156.88	Plumbing	Fixtures	Home Dep	CC Receip	CONTRACTOR
38289	$56.92	Interior trim	Cedar	Home Dep	CC Receip	CONTRACTOR
38269	-$17.99	Interior trim	Misc Credi	Home Dep	CC Receip	CONTRACTOR
38268	$118.30	Plumbing	Fixture	Home Dep	CC Receip	CONTRACTOR
38277	$96.73	Interior trim	Cedar	Home Dep	CC Receip	CONTRACTOR

SPREADSHEET EXTRACT

38263	$33.48	Counter Top	Kit Counter	Home Depi	CC Receip	CONTRACTOR
38278	$30.57	Interior trim	Toilet seats	WalMart	CC Receip	CONTRACTOR
38262	$51.51	Paint	Materials	Home Dep	CC Receip	CONTRACTOR
38275	$26.34	Interior trim	Brackets	Home Dep	CC Receip	CONTRACTOR
38272	$104.94	Interior trim	Attic Ladde	Home Dep	CC Receip	CONTRACTOR
38290	$187.46	Interior trim	Cedar	Home Dep	CC Receip	CONTRACTOR
38265	$120.96	Lighting	Fixtures	Home Dep	CC Receip	CONTRACTOR
38191	$1,436.25	Permits	Permits	Berkeley C	Check Rec	CONTRACTOR
38265	$1,400.00	Septic	Drain field	Tolman Sal	Check Rec	CONTRACTOR
38265	$660.00	Driveway/Sidewalk	Material/ L	Tolman Sal	Check Rec	CONTRACTOR
38270	$330.00	Driveway/Sidewalk	Material/ L	Tolman Sal	Check Rec	CONTRACTOR
38275	$985.00	Siding	Hardiplank	Todd Seibe	Check Rec	CONTRACTOR
38278	$5,000.00	Job Mgt & OverHd	Contractor	Todd Seibe	Check Rec	CONTRACTOR
38270	$4,894.00	Siding	Materials /	Raul Martir	Check Rec	CONTRACTOR
38281	$3,138.40	HVAC	HVAC	Lonzie & Si	Check Rec	CONTRACTOR
38281	$3,560.00	Hardwood/Flooring	Floors, Fire	Low Counti	Check Rec	CONTRACTOR
38281	$4,306.75	Driveway/Sidewalk	Concrete a	Palmetto C	Check Rec	CONTRACTOR
38281	$2,104.25	Plumbing	Shower & \	Quality Mai	Check Rec	CONTRACTOR
38292	$2,479.59	Interior trim	Stairs Lab	Todd Seibe	Check Rec	CONTRACTOR
38281	$522.50	Septic	Survey	Trico Engir	Check Rec	CONTRACTOR
38265	$7,000.00	Septic	Septic Syst	Knights	Check Rec	CONTRACTOR
38274	$2,480.14	Hardwood/Flooring	Floor Mat /	Wilson's C	CC & Rec	CONTRACTOR
38279	$300.00	Lot Prep	Excavation	Tolman Sal	Check Rec	CONTRACTOR
38245	$440.87	Paint	Paint	Lord & Eva	CC Receip	CONTRACTOR
38269	$292.16	Paint	Paint	Lord & Eva	CC Receip	CONTRACTOR
38294	$3,950.00	Plumbing	Plumbing L	Mark Mass	Check Rec	CONTRACTOR
38291	$330.96	Dumpster	Container I	Carolina W	Check Rec	CONTRACTOR
38301	$4,012.00	Electrical	Electrical	Joe Easterl	Check Rec	CONTRACTOR
38279	$46.54	Interior trim	Trim	Central Tru	CC Receip	CONTRACTOR
38290	$154.98	Fireplace	Mantle	Berlin G. M	Check Rec	CONTRACTOR
38260	$214.99	Siding	Siding Lab	Hanson	Check Rec	CONTRACTOR
38261	$173.97	Siding	Siding Lab	Hanson	Check Rec	CONTRACTOR
38341	$48.12	Septic	Drain Pum	Coastline A	Check Rec	CONTRACTOR
38262	$400.00	Paint	Painting	Dennis Moi	Check Rec	CONTRACTOR
38010	$860.38	Cabinets	Utility RM	Home Dep	CC Receip	CONTRACTOR
38295	$31.77	Framing/Porch/Dec	Sealer	Lowe's	CC Receip	CONTRACTOR
38276	$53.46	Hardwood/Flooring	Felt	Home Dep	CC Receip	CONTRACTOR
38010	$138.84	Interior trim	Cedar	Home Dep	CC Receip	CONTRACTOR
38313	$5,020.10	Job Mgt & OverHd	Contractor/	Todd Seibe	Check Rec	CONTRACTOR
38311	$1,150.00	Driveway/Sidewalk	Driveway M	Dusty Garv	Check Rec	CONTRACTOR
38135	$36.28	Interior trim	Saw Blade	Home Dep	CC Receip	CONTRACTOR
38209	$15.03	Counter Top	Cabinet	Home Dep	CC Receip	CONTRACTOR
38206	$33.91	Framing/Porch/Dec	Screws	Central Tru	CC Receip	CONTRACTOR
38089	$132.30	Plumbing	Plumbing	Home Dep	CC Receip	CONTRACTOR
38464	$165.00	Paint	Painting M	Dennis Moi	Check Rec	CONTRACTOR
38444	$520.00	Interior trim	Trim Mat / I	Josh Calm	Check Rec	CONTRACTOR
38477	$345.00	Gutters	Gutters	Gutter Wor	Check Rec	CONTRACTOR
38407	$1,670.00	Cabinets	Cabinets	Welcom Ca	Check Rec	CONTRACTOR
38461	$2,000.00	Painting	Painting M	Larry Gadi	Check Rec	CONTRACTOR
38453	$510.00	Painting	Painting M	Home Depi	Receipt	CONTRACTOR
38447	$430.00	Interior trim	Trim Mat / I	Home Depi	Receipt	CONTRACTOR
	$283,011.83					

	$283,011.88	CONTRACTOR
	$185,175.00	SF AGREE SUM
Damages	$97,836.83	DIFFERENCE OF SF AGREE SUM & ACTUAL COSTS

P EXHIBIT 24
WITNESS
DATE: 5/3/2018
REPORTER: H. LANDRY

	Date	Amount	Purpose	What	Payee	Pd.By	Responsible	Delay/Other
2								
3	02/04-07/04	$104.10	Reproductions	House Drawings	Office Max	Receipt	CONTRACTOR	
4								
5	9/13/03	$1,324.92	Lighting	Light Fixtures	Lowe's	CC Receipt	CONTRACTOR	
6	11/30/03	$328.99	Interior Trim	Tile	Lowe's	CC Receipt	CONTRACTOR	
7	1/6/04	$4,620.00	Lot Prep	Lot Prep	B&B Enterprises	Check Receipt	CONTRACTOR	
8	1/28/04	$3,580.00	Lot Prep	Lot Prep	B&B Enterprises	Check Receipt	CONTRACTOR	
10	1/22/03	$100.00	Permits	Septic Permit	DHEC	Check Receipt	CONTRACTOR	
	10/14/05	$100.00	Hardwood/Flooring	Defect Carpet Replace			OWNER	
12	2/25/04	$292.47	LOAN COSTS	INTEREST	NCM	Check Receipt	SELLER/CONTRACTOR	xxx
13								
14	11/8/03	$1,827.32	Appliances	Appliances	Lowe's	CC Receipt	CONTRACTOR	
15	2/4/04	$1,035.23	Builders Risk	Ins-Builder's Risk	USAA	Receipt	CONTRACTOR	
16	2/9/04	$6,000.00	Job Mgt a/o OverHd	Contractor	John Kahler	Check Receipt	CONTRACTOR	
17	12/3-02/04	$1,875.00	LODGING	Rent	Jim Rodenkirk	Check Receipt	SELLER/CONTRACTOR	xxx
18	2/9/04	$400.00	Lot Prep	Excavation dirt	Bishop & Son's	CC Receipt	CONTRACTOR	
19	3/9/04	$291.67	LOAN COSTS	INTEREST	NCM	Check Receipt	SELLER/CONTRACTOR	xxx
20	3/11/04	$4.42	MECHANICS LIEN	Gilbert-Cert Mail	Post Office	Receipt	SELLER/CONTRACTOR	XXX
21	2/26/04	$221.21	Temp Power Pole	Service & Materials	Berkeley County Ele	cc & Receipt	CONTRACTOR	
22	3/19/04	$272.86	LOAN COSTS	INTEREST	NCM	Check Receipt	SELLER/CONTRACTOR	xxx
23	3/1/04	$23.41	STORAGE	Property Storage	Public Storage	CC Receipt	SELLER/CONTRACTOR	xxx
24	3/1/04	$381.00	LODGING	Rent	Intown Suites	Receipt	SELLER/CONTRACTOR	xxx
25	3/8/04	$735.00	LODGING	Rent	Regency Apartments	CC Receipt	SELLER/CONTRACTOR	xxx
	3/15/04	$15.00	Recordings	Notices			OWNER	
27	4/6/04	$600.00	LODGING	RENT	Regency Apartments	check Receipt	SELLER/CONTRACTOR	xxx
28	3/2/04	$71.15	Porta John	Porta Potty	Access Portable Toil	Check Receipt	CONTRACTOR	
29	4/23/04	$291.25	LOAN COSTS	INTEREST	NCM	Check Receipt	SELLER/CONTRACTOR	xxx
32	5/14/04	$4.42	MECHANICS LIEN	Gilbert-Cert Mail	Post Office	Receipt	SELLER/CONTRACTOR	XXX
33	5/21/04	$282.26	LOAN COSTS	INTEREST	NCM	Check Receipt	SELLER/CONTRACTOR	xxx
34	4/1//04	$141.24	Plumbing	Plumbing Mat	Home Depot	Receipt	CONTRACTOR	
35	4/11/04	$147.00	Plumbing	Plumbing Mat	Home Depot	Receipt	CONTRACTOR	
36	4/29/04	$600.00	LODGING	Rent	Regency Apartments	Check Receipt	SELLER/CONTRACTOR	xxx
37	4/5/04	$5.34	Paint	Paint	Home Depot	CC Receipt	CONTRACTOR	
38	3/15/04	$90.50	Porta John	Porta Potty	Access Portable Toil	Check Receipt	CONTRACTOR	
	4/26/04	$156.46	Plumbing	Plumbing Mat			OWNER	
	4/29/04	$12.90	MECHANICS LIEN	HCH Attorney			OWNER	
41	5/24/04	$12.10	MECHANICS LIEN	LIEN RELEASE	Berkeley County ROI	Check Receipt	SELLER/CONTRACTOR	XXX
42	5/24/04	$47.77	Fram/Porch/Deck	Framing/Lumber	Home Depot	CC Receipt	CONTRACTOR	
43	6/11/04	$647.09	MECHANICS LIEN	Surety Bonds	USAA/Western Suret	CC Receipt	SELLER/CONTRACTOR	XXX
	1/15/04	$137.01	Hardwood/Flooring	Flooring			OWNER	
45	5/10/04	$14.00	MECHANICS LIEN	LIEN NOTICE	Berkeley County ROI	Receipt	SELLER/CONTRACTOR	XXX
46	5/24/04	$75.00	STORAGE	Storage	Mini Warehouses	Receipt	SELLER/CONTRACTOR	XXX
47	6/10/04	$1,673.74	INSPECTION	Engineer Report	C. Schneider & Asso	Check Receipt	SELLER/CONTRACTOR	XXX
48	5/31/04	$600.00	LODGING	Rent	Regency Apartments	Check Receipt	SELLER/CONTRACTOR	XXX
49	5/24/04	$87.98	Footings	Rebar	Home Depot	CC Receipt	CONTRACTOR	
50	5/25/04	$1,474.72	Foundation/G.Slab	Block & Mortar	General Materials	CC Receipt	CONTRACTOR	
	3/29/04	$15.00	Admin	Coping			OWNER	
52	5/24/04	$166.06	Foundation/G.Slab	Sand	Palmetto Sand	Check Receipt	CONTRACTOR	
53	5/19/04	$10.00	MECHANICS LIEN	MECHANICS LIEN	US Legal Forms Inc	CC Receipt	SELLER/CONTRACTOR	XXX
54	5/30/04	$7,389.26	Fram/Porch/Deck	Framing Material	Home Depot	CC Receipt	CONTRACTOR	
55	5/31/04	$465.73	Plumbing	Plumbing Materials	Home Depot	Receipt	CONTRACTOR	
56	5/31/04	$165.15	Plumbing	Plumbing Materials	Home Depot	CC Receipt	CONTRACTOR	
57	5/30/04	$71.65	Porta John	Porta Potty	Access Portable Toil	Check Receipt	CONTRACTOR	
58	8/2/04	$1,086.29	Framing/Porch/Deck	Lumber	Builders 1st Source	CC Receipt	CONTRACTOR	
59	5/31/04	$636.00	Foundation/G.Slab	Sand	Palmetto Sand	Check Receipt	CONTRACTOR	

60	6/23/04	$291.67	LOAN COSTS	INTEREST	NCM	Check Receipt	SELLER/CONTRACTOR	xxx	
61	6/7/04	$859.16	STORAGE	Storage	A-1 Moving Sys	Receipt	SELLER/CONTRACTOR	xxx	
	6/5/04	$17.94	Framing/Porch/Deck	Lumber			OWNER		
63	6/3/04	$97.46	Framing/Porch/Deck	Poly Sheet	Home Depot	CC Receipt	CONTRACTOR		
64	6/2/04	$6.06	Foundation/G.Slab	Block Ties	Home Depot	CC Receipt	CONTRACTOR		
66	6/11/04	$348.09	Foundation/G.Slab	Foundation Materials	Home Depot	CC Receipt	CONTRACTOR		
67	6/5/04	$193.79	Foundation/G.Slab	Foundation Materials	Home Depot	CC Receipt	CONTRACTOR		
68	6/3/04	$251.75	Foundation/G.Slab	Concrete	Star Redimix	CC Receipt	CONTRACTOR		
69	7/1/04	$75.00	STORAGE	Storage	Mini Warehouses	Check Receipt	SELLER/CONTRACTOR	xxx	
70	6/2/04	$127.20	Foundation/G.Slab	Dirt	Palmetto Sand	Check Receipt	CONTRACTOR		
71	7/1/04	$600.00	LODGING	Rent	Regency Apartments	Check Receipt	SELLER/CONTRACTOR	xxx	
72	6/10/04	$1,550.00	Lot Prep	Excavation	Brad Hill	Check Receipt	CONTRACTOR		
73	6/15/04	$1,125.00	Foundation/G.Slab	Concrete Finish Labor	Tony Jefferson	Check Receipt	CONTRACTOR		
74	6/16/04	$3,000.00	Foundation/G.Slab	Foundation, Block, Pier	Randolph Cook	Check Receipt	CONTRACTOR		
75	6/23/04	$3,000.00	Framing/Porch/Deck	Framing Labor	Mike Cooper	Check Receipt	CONTRACTOR		
76	6/23/04	$500.00	Plumbing	Plumbing Labor	Jason Hannah	Check Receipt	CONTRACTOR		
77	6/24/04	$700.00	Foundation/G.Slab	Concrete Pumper	Statewide Pumping	Check Receipt	CONTRACTOR		
78	6/28/04	$5,000.00	Fram/Porch/Deck	Framing Labor	Mike Cooper	Check Receipt	CONTRACTOR		
79	6/21/04	$368.35	Fram/Porch/Deck	Lumber	Home Depot	Charge Acct	CONTRACTOR		
80	7/2/04	$387.73	Fram/Porch/Deck	Lumber	Home Depot	Charge Acct	CONTRACTOR		
81	6/30/04	$337.05	Fram/Porch/Deck	Lumber	Home Depot	Charge Acct	CONTRACTOR		
82	6/30/04	$401.94	Fram/Porch/Deck	Lumber	Home Depot	Charge Acct	CONTRACTOR		
83	6/30/04	$414.36	Fram/Porch/Deck	Lumber	Home Depot	Charge Acct	CONTRACTOR		
84	6/17/04	$316.83	Fram/Porch/Deck	Lumber	Home Depot	Charge Acct	CONTRACTOR		
85	6/11/04	$6.30	Reproductions	Repro of Plans	Inkpressions	CC Receipt	CONTRACTOR		
86	6/2/04	$12.60	Reproductions	Repro of Plans	Inkpressions	CC Receipt	CONTRACTOR		
87	6/8/04	$221.58	Foundation/G.Slab	Anchors	Lowe's	CC Receipt	CONTRACTOR		
88	6/3/04	$97.84	Foundation/G.Slab	Slab Anchors	Lowe's	CC Receipt	CONTRACTOR		
89	5/24/04	$383.72	Foundation/G.Slab	Rebar	Lowe's	CC Receipt	CONTRACTOR		
90	6/8/04	$30.32	Foundation/G.Slab	Rebar	Home Depot	CC Receipt	CONTRACTOR		
91	6/9/04	$14.61	Foundation/G.Slab	Anchor Straps	Home Depot	CC Receipt	CONTRACTOR		
92	6/10/04	$438.84	Foundation/G.Slab	Concrete	Star Redimix	CC Receipt	CONTRACTOR		
93	6/7/04	$2,226.00	Footings	Concrete	Star Redimix	CC Receipt	CONTRACTOR		
94	6/9/04	$3,600.00	Well	Well	Anderson Well	Check Receipt	CONTRACTOR		
	2/26/05	$1,202.00	SF Agree. Art 2	Shelving			OWNER		
96	6/1/04	$1,575.00	Footings	Footings Labor	Tony Jefferson	Check Receipt	CONTRACTOR		
97	6/11/04	$2,549.30	Foundation/G.Slab	Concrete	Star Redimix	CC Receipt	CONTRACTOR		
98	6/3/04	$2,063.85	Fram/Porch/Deck	Front Door	Home Depot	CC Receipt	CONTRACTOR		
	6/7/04	$332.88	SF Argee. Art 2	Hardware			OWNER		
100	6/11/04	$2,077.75	Fram/Porch/Deck	Lumber	84 Lumber	CC Receipt	CONTRACTOR		
101	6/11/04	$4,063.73	Fram/Porch/Deck	Lumber	Home Depot	CC Receipt	CONTRACTOR		
102	6/14/04	$260.00	Termite	Treatment	Palmetto Ext	Check Receipt	CONTRACTOR		
103	6/14/04	$71.65	Porta John	Porta Potty	Access Portable	Receipt	CONTRACTOR		
	5/31/04	$109.20	Foundation	Concrete Lad BGM			OWNER		
105	7/5/04	$187.62	Fram/Porch/Deck	Misc Framing Materials	Mike Cooper	Check Receipt	CONTRACTOR		
106	6/9/04	$7,643.00	Electrical	Electrical	Joe Easterlin	Check Receipt	CONTRACTOR		
107	8/2/04	$15.87	Fram/Porch/Deck	Lumber	Home Depot	CC Receipt	CONTRACTOR		
	7/16/04	$8.92	ADMIN	NCM			OWNER		
110	7/18/04	$50.03	Reproductions	Drawing copies	Office Max	CC Receipt	CONTRACTOR		
111	7/20/04	$18.90	Reproductions	Drawing copies	Inkpressions	CC Receipt	CONTRACTOR		
112	7/7/04	$1,567.93	Fram/Porch/Deck	Lumber	84 Lumber	CC Receipt	CONTRACTOR		
113	7/15/04	$54.27	Fram/Porch/Deck	Lumber	84 Lumber	CC Receipt	CONTRACTOR		
	2/5/05	$22.00	Admin	Photos			OWNER		
115	7/8/04	$522.94	Fram/Porch/Deck	Lumber	84 Lumber	CC Receipt	CONTRACTOR		
116	7/8/04	$12.15	Fram/Porch/Deck	Lumber	84 Lumber	CC Receipt	CONTRACTOR		
	9/17/04	$1,211.83	SF Agree. Art 2	Hardware			OWNER		
	7/23/04	$3.85	Admin	Copies			OWNER		

119	11/5/04	$556.00	Interior Doors	Shower Doors	Carolina Shelving	Check Receipt	CONTRACTOR		
120	7/24/04	$71.65	Porta John	Porta Potty	Access Portable	Receipt	CONTRACTOR		
121	7/24/04	$75.00	STORAGE	Storage	Mini Warehouses	Check Receipt	SELLER/CONTRACTOR		xxx
122	7/3/04	$600.00	LODGING	Rent	Regency Apartments	Check Receipt	SELLER/CONTRACTOR		xxx
123	7/20/04	$939.69	Fram/Porch/Deck	Lumber	84 Lumber	CC Receipt	CONTRACTOR		
124	7/15/04	$327.86	Fram/Porch/Deck	lumber	84 Lumber	CC Receipt	CONTRACTOR		
125	38384	25	LEGAL	Motion	Bill Scott	Ct. Record	SELLER/CONTRACTOR		XXX
126	7/22/04	$201.40	Fram/Porch/Deck	Tyvek	84 Lumber	CC Receipt	CONTRACTOR		
127	7/23/04	$48.78	Fram/Porch/Deck	Lumber	84 Lumber	CC Receipt	CONTRACTOR		
128	7/23/04	$166.39	Fram/Porch/Deck	Tyvek	84 Lumber	CC Receipt	CONTRACTOR		
129	8/28/04	$82.88	Fram/Porch/Deck	Wire & Lumber	Home Depot	CC Receipt	CONTRACTOR		
130	7/6/04	$113.42	Fram/Porch/Deck	Misc Framing Materials	Mike Cooper	Receipt	CONTRACTOR		
131	7/20/04	$152.16	Fram/Porch/Deck	Misc Framing Materials	Mike Cooper	Receipt	CONTRACTOR		
	7/29/04	$104.94	Fram/Porch/Deck	Misc Framing Materials			OWNER		
	7/27/04	$73.03	Fram/Porch/Deck	Misc Framing Materials			OWNER		
134	7/31/04	$1,012.26	Fram/Porch/Deck	Decking	84 Lumber	CC Receipt	CONTRACTOR		
135	7/27/04	$461.33	Fram/Porch/Deck	Lumber	84 Lumber	CC Receipt	CONTRACTOR		
136	7/24/04	$222.60	Fram/Porch/Deck	Windows	Home Depot	CC Receipt	CONTRACTOR		
137	7/24/04	$4,800.00	Roof	Labor & Materials	So Carolina Build	Check Receipt	CONTRACTOR		
138	7/28/04	$820.00	Roof	Labor & Materials	So Carolina Build	Check Receipt	CONTRACTOR		
139	7/24/04	$201.46	Fram/Porch/Deck	Tyvek	84 Lumber	Check Receipt	CONTRACTOR		
140	7/15/04	$327.86	Fram/Porch/Deck	Lumber	84 Lumber	CC Receipt	CONTRACTOR		
142	8/2/04	$46.38	Framing/Porch/Deck	Nails	Central True Value	Receipt	CONTRACTOR		
143	8/27/04	$105.99	Interior Trim	Saw	Harbor Freight	CC Receipt	CONTRACTOR		
144	7/26/04	$5,500.00	Fram/Porch/Deck	Framing Labor	Mike Cooper	Check Receipt	CONTRACTOR		
145	8/13/04	$3,000.00	Fram/Porch/Deck	Framing Labor	Mike Cooper	Check Receipt	CONTRACTOR		
146	8/27/04	$3,072.00	Fram/Porch/Deck	Framing Labor	Mike Cooper	Check Receipt	CONTRACTOR		
147	7/12/04	$5,000.00	Fram/Porch/Deck	Framing Labor	Mike Cooper	Draw Schedule	CONTRACTOR		
148	7/7/04	$5,000.00	Fram/Porch/Deck	Framing Labor	Mike Cooper	Check Receipt	CONTRACTOR		
150	8/22/04	$1,075.00	Fram/Porch/Deck	Porch labor	Bubba D Ricapinte	Check Receipt	CONTRACTOR		
151	8/15/04	$651.76	STORAGE	Misc Framing Materials	A-1 Moving Sys	Check Receipt	SELLER/CONTRACTOR		XXX
152	8/2/04	$1,350.00	Fram/Porch/Deck	Porch labor	Lucius R. Bustamant	Check Receipt	CONTRACTOR		
153	38509	8000	LEGAL	Attorney Fee	Chellis & Frampton	check Receipt	SELLER/CONTRACTOR		XXX
154	8/16/04	$12,500.00	Fram/Porch/Deck	Frame Package	Boozer Lumber	Check Receipt	CONTRACTOR		
155	8/4/04	$12,940.00	Fram/Porch/Deck	Frame Package	Boozer Lumber	CC Rec/PAY	CONTRACTOR		
156	8/11/04	$719.42	Counter Top	Vanity & Shower	McCann's	Check Receipt	CONTRACTOR		
157	8/13/04	$333.77	Fram/Porch/Deck	Misc Framing Materials	Mike Cooper	Check Receipt	CONTRACTOR		
158	10/2/04	$3,250.10	Interior doors	Interior Doors	Home Depot	CC Receipt	CONTRACTOR		
159	8/12/04	$5,000.00	Job Mgt a/o OverHd	Contractor	Todd Seibel	Check Receipt	CONTRACTOR		
160	8/27/04	$50.88	Interior Trim	Nails	Air Fasteners	CC Receipt	CONTRACTOR		
161	7/23/04	$282.26	LOAN COSTS	INTEREST	NCM	Check Receipt	SELLER/CONTRACTOR		XXX
162	8/26/04	$75.00	STORAGE	Storage	Mini Warehouses	Check Receipt	SELLER/CONTRACTOR		XXX
163	8/29/04	$600.00	LODGING	Rent	Regency Apartments	Check Receipt	SELLER/CONTRACTOR		XXX
164	8/27/04	$109.88	Fram/Porch/Deck	Lumber	Home Depot	CC Receipt	CONTRACTOR		
165	8/1/04	$860.33	Fram/Porch/Deck	Lumber/BALSTR	Home Depot	CC Receipt	CONTRACTOR		
166	8/16/04	$41.45	Fram/Porch/Deck	Lumber	Home Depot	CC Receipt	CONTRACTOR		
167	8/27/04	$93.21	Fram/Porch/Deck	Lumber	Home Depot	CC Receipt	CONTRACTOR		
168	8/3/04	$423.21	Fram/Porch/Deck	Lumber	Home Depot	CC Receipt	CONTRACTOR		
169	8/18/04	$55.02	Fram/Porch/Deck	Lumber/BALSTR	Home Depot	CC Receipt	CONTRACTOR		
170	8/22/04	$57.57	Fram/Porch/Deck	Lumber	Home Depot	CC Receipt	CONTRACTOR		
171	8/20/04	$9.21	Fram/Porch/Deck	Lumber	Home Depot	CC Receipt	CONTRACTOR		
172	8/8/04	$220.44	Fram/Porch/Deck	Lumber	Home Depot	CC Receipt	CONTRACTOR		
173	8/20/05	$70.36	Fram/Porch/Deck	Lumber	Home Depot	CC Receipt	CONTRACTOR		
174	8/1/04	$77.81	Fram/Porch/Deck	Nails & flashing	Central True Value	CC Receipt	CONTRACTOR		
	8/29/04	$37.07	Fram/Porch/Deck	Spkr Wire			OWNER		
176	8/1/04	$247.13	Fram/Porch/Deck	Lumber	Home Depot	CC Receipt	CONTRACTOR		
177	8/9/04	$45.58	Fram/Porch/Deck	Nails	Air Fasteners	CC Receipt	CONTRACTOR		

178	8/4/04	$45.58	Fram/Porch/Deck	Nails	Air Fasteners	CC Receipt	CONTRACTOR			
179	8/5/04	$8.46	Fram/Porch/Deck	Hangers	Builders 1st Source	CC Receipt	CONTRACTOR			
180	8/4/04	$96.69	Fram/Porch/Deck	Hangers	Builders 1st Source	CC Receipt	CONTRACTOR			
181	8/4/04	$334.07	Fram/Porch/Deck	Lumber	84 Lumber	CC Receipt	CONTRACTOR			
182	8/2/04	$215.79	Fram/Porch/Deck	Lumber	84 Lumber	CC Receipt	CONTRACTOR			
183	8/2/04	-$70.60	Fram/Porch/Deck	Lumber	84 Lumber	CC Receipt	CONTRACTOR			
184	7/16/04	$650.88	STORAGE	Storage	A-1 Moving Systems	Check Receipt	SELLER/CONTRACTOR			XXX
185	11/1/04	$650.88	STORAGE	Storage	A-1 Moving Systems	Check Receipt	SELLER/CONTRACTOR			XXX
186	9/6/04	$108.75	Porta John	Porta Potty	Access Portable Toil	Check Receipt	CONTRACTOR			
187	9/6/04	$250.00	INSPECTION	Engineer Report	Sanford Engineering	Check Receipt	SELLER/CONTRACTOR			XXX
188	8/18/04	$7,401.00	Siding	Siding	Doug Curry	Check Receipt	CONTRACTOR			
189	9/16/04	$2,550.00	Insulation	Insulation	Cohen's Drywall	Check Receipt	CONTRACTOR			
190	9/1/04	$5,400.00	Plumbing	Plumbing Labor	Mark Massenburg Pl	Check Receipt	CONTRACTOR			
191	8/7/04	$2,689.27	Plumbing	Fixtures	Home Depot	CC Receipt	CONTRACTOR			
192	9/22/04	$190.80	Hardwood/Flooring	Tile	Home Depot	CC Receipt	CONTRACTOR			
194	9/27/04	$1,500.00	Paint	Painting	Dennis Monk	Check Receipt	CONTRACTOR			
195	9/6/4/4	$874.50	Fireplace	Fireplace	Bailey Specialties	Check Receipt	CONTRACTOR			
197	9/19/04	$5,000.00	Job Mgt & OverHd	Contractor	Todd Seibel	Check Receipt	CONTRACTOR			
198	9/27/04	$1,544.00	Garage Doors	Garage Doors	Acme Doors	Check Receipt	CONTRACTOR			
199	9/1/04	$4,707.00	HVAC	HVAC	Lonzie & Son	Check Receipt	CONTRACTOR			
200	9/6/04	$554.81	Fram/Porch/Deck	Boots/Window Wrap	Todd Seibel	Check Receipt	CONTRACTOR			
201	9/6/04	$650.88	STORAGE	Storage	A-1 Moving Systems	Check Receipt	SELLER/CONTRACTOR			XXX
202	9/22/04	$8,668.34	Cabinets	Cabinets	Welcom Cabinets	Check Receipt	CONTRACTOR			
203	9/16/04	$3,690.65	Sheetrock	Drywall	Todd Seibel	Check Receipt	CONTRACTOR			
	8/31/04	$75.72	Dumpster	Container Rental			OWNER			
205	9/16/04	$7,272.64	Sheetrock	Drywall Installation	Floyd Haynes	Check Receipt	CONTRACTOR			
206	9/27/04	$148.30	Porta John	Porta Potty	Access Portable	Check Receipt	CONTRACTOR			
	9/3/04	$199.71	Fram/Porch/Deck	Window Sealer			OWNER			
208	9/6/04	$248.28	Insulation	Materials	Lowe's	CC Receipt	CONTRACTOR			
209	9/12/04	$40.26	Interior trim	Interior trim	Home Depot	CC Receipt	CONTRACTOR			
210	8/9/04	$312.98	Lighting	Fixtures	Home Depot	CC Receipt	CONTRACTOR			
211	9/11/04	$33.57	Interior trim	Trim	Home Depot	CC Receipt	CONTRACTOR			
212	9/24/04	$357.82	Hardwood/Flooring	Wonderboard	Home Depot	CC Receipt	CONTRACTOR			
213	9/16/04	$263.94	Cabinets	Vanity	Home Depot	CC Receipt	CONTRACTOR			
214	9/26/04	$25.23	Interior trim	Cedar	Home Depot	CC Receipt	CONTRACTOR			
215	9/11/04	$29.73	Paint	Paint Materials	Home Depot	CC Receipt	CONTRACTOR			
	9/18/04	$18.25	Interior trim	Interior trim			OWNER			
217	9/26/04	$90.52	Hardwood/Flooring	Tile & Cedar	Home Depot	CC Receipt	CONTRACTOR			
218	9/5/04	$152.00	Sheetrock	Drywall	Home Depot	CC Receipt	CONTRACTOR			
219	9/18/04	$133.81	Fram/Porch/Deck	Lumber & Casing	Home Depot	CC Receipt	CONTRACTOR			
220	9/17/04	$12.64	Fram/Porch/Deck	Lumber	Home Depot	CC Receipt	CONTRACTOR			
221	9/16/04	$153.87	Interior doors	Doors	Home Depot	CC Receipt	CONTRACTOR			
	9/19/04	$8.01	Hardwood/Flooring	Tile			OWNER			
223	9/27/04	$2,206.46	Siding	Siding Mat			CONTRACTOR			
	10/14/04	$48.70	SF Agreement, Art 2	Hardware			OWNER			
	11/30/04	$6,000.00	SF Agreement, Art 2	Driveway			OWNER			
226	38257	150	LEGAL	County Ct Filing Fee	Pederson & Scott	Check Receipt	SELLER/CONTRACTOR			XXX
	9/18/04	$64.87	Interior doors	Door			OWNER			
228	9/13/04	$206.44	Fram/Porch/Deck	Misc Framing Materials	84 Lumber	CC Receipt	CONTRACTOR			
229	9/27/04	$6,940.00	Hardwood/Flooring	Floor Material	Wilson's Carpet	Receipt	CONTRACTOR			
230	9/15/04	$372.26	Dumpster	Container Rental	Carolina Waste	Check Receipt	CONTRACTOR			
231	9/23/04	$285.00	Electrical	Berkeley Electric	Berkeley Elec	Check Receipt	CONTRACTOR			
232	10/15/04	$150.50	Interior trim	Handrail	Home Depot	CC Receipt	CONTRACTOR			
233	10/6/04	$94.01	Lighting	Trim Mat	Lowe's	CC Receipt	CONTRACTOR			
234	10/12/04	$9.54	Interior trim	Cedar	Home Depot	CC Receipt	CONTRACTOR			
235	10/9/04	$219.05	Interior trim	Attic Door/Posts	Home Depot	CC Receipt	CONTRACTOR			
236	10/15/04	$88.15	Interior trim	Baseboard	Home Depot	CC Receipt	CONTRACTOR			

237	10/19/04	$7.34	Interior trim	Screws	Home Depot	CC Receipt	CONTRACTOR				
238	10/21/04	$28.74	Interior trim	Bulbs & Fire caulk	Home Depot	CC Receipt	CONTRACTOR				
239	10/22/04	$72.66	Interior trim	Cedar	Home Depot	CC Receipt	CONTRACTOR				
	10/22/04	$5.28	Interior trim	Caulk			OWNER				
	10/22/04	$39.19	Interior trim	Duraplex			OWNER				
242	10/11/04	$85.23	Interior trim	Cedar/Oak Trim	Home Depot	CC Receipt	CONTRACTOR				
243	10/24/04	$120.56	Interior trim	Cedar	Home Depot	CC Receipt	CONTRACTOR				
244	10/30/04	$14.25	Interior trim	Brackets & Paint	Lowe's	CC Receipt	CONTRACTOR				
245	10/30/04	$98.54	Interior trim	Oak	Home Depot	CC Receipt	CONTRACTOR				
246	10/27/04	-$58.30	Interior trim	Misc Return	Home Depot	CC Receipt	CONTRACTOR				
247	10/13/04	$71.91	Interior trim	Oak Trim	Lowe's	CC Receipt	CONTRACTOR				
248	10/7/04	$57.83	Interior trim	Bulbs	Home Depot	CC Receipt	CONTRACTOR				
	10/8/04	$135.09	SF Agree. Art 2	Hardware			OWNER				
250	10/12/04	$142.97	Interior trim	Cedar & Paint Mat	Home Depot	CC Receipt	CONTRACTOR				
251	10/22/04	$62.31	Interior trim	Cedar	Home Depot	CC Receipt	CONTRACTOR				
252	10/15/04	$35.83	Paint	Stain	Lowe's	CC Receipt	CONTRACTOR				
253	10/1/04	$54.96	Interior trim	Blades & Bits	Home Depot	CC Receipt	CONTRACTOR				
254	10/25/04	$198.91	Interior trim	Cedar Baseboards	Home Depot	CC Receipt	CONTRACTOR				
255	9/17/04	$204.12	Framing/Porch/Deck	Casing & Lumber	Home Depot	CC Receipt	CONTRACTOR				
256	10/8/04	$668.94	Interior Trim	Fixture/Red Oak	Home Depot	CC Receipt	CONTRACTOR				
257	10/2/04	$203.80	Interior doors	Door & Misc	Home Depot	CC Receipt	CONTRACTOR				
	10/11/04	$141.56	SF Agree. Art 2	Hardware			OWNER				
259	10/5/04	$122.96	Framing/Porch/Deck	Flashing	Lowe's	CC Receipt	CONTRACTOR				
260	10/18/04	$156.88	Plumbing	Fixtures	Home Depot	CC Receipt	CONTRACTOR				
261	10/29/04	$56.92	Interior trim	Cedar	Home Depot	CC Receipt	CONTRACTOR				
262	10/9/04	-$17.99	Interior trim	Misc Credit	Home Depot	CC Receipt	CONTRACTOR				
263	10/8/04	$118.30	Plumbing	Fixture	Home Depot	CC Receipt	CONTRACTOR				
	10/7/04	$67.84	SF Agree. Art 2	Hardware			OWNER				
	10/4/04	$15.19	SF Agree. Art 2	Hardware			OWNER				
	10/4/04	$449.97	Interior trim	Misc			OWNER				
267	10/17/04	$96.73	Interior trim	Cedar	Home Depot	CC Receipt	CONTRACTOR				
	10/20/04	$51.72	Plumbing	Plumb Mat &/O Lab			OWNER				
269	10/3/04	$33.48	Counter Top	Kit Counter Mat	Home Depot	CC Receipt	CONTRACTOR				
270	10/18/04	$30.57	Interior trim	Toilet seats	WalMart	CC Receipt	CONTRACTOR				
271	10/2/04	$51.51	Paint	Materials	Home Depot	CC Receipt	CONTRACTOR				
272	10/15/04	$26.34	Interior trim	Brackets	Home Depot	CC Receipt	CONTRACTOR				
273	10/12/04	$104.94	Interior trim	Attic Ladder	Home Depot	CC Receipt	CONTRACTOR				
274	10/30/04	$187.46	Interior trim	Cedar	Home Depot	CC Receipt	CONTRACTOR				
275	10/5/04	$120.96	Lighting	Fixtures	Home Depot	CC Receipt	CONTRACTOR				
	10/27/04	$6.85	Interior Trim	Pulls			OWNER				
277	7/23/04	$1,436.25	Permits	Permits	Berkeley Co Permitti	Check Receipt	CONTRACTOR				
	7/23/04	$10.00	ADMIN	Bldg Co Recording			OWNER				
279	12/13/04	$350.00	SURVEY	Closing	Ashley Engineering	Check Receipt	SELLER/CONTRACTOR	XXX			
	7/16/04	$4.42	ADMIN	Cert Mail - J.Kahler			OWNER				
281	10/5/04	$1,400.00	Septic	Drain field	Tolman Salisbury	Check Receipt	CONTRACTOR				
282	10/5/04	$660.00	Driveway/Sidewalks	Material / Labor	Tolman Salisbury	Check Receipt	CONTRACTOR				
283	10/10/04	$330.00	Driveway/Sidewalks	Material / Labor	Tolman Salisbury	Check Receipt	CONTRACTOR				
284	10/15/04	$985.00	Siding	Hardiplank	Todd Selbel	Check Receipt	CONTRACTOR				
285	10/18/04	$5,000.00	Job Mgt & OverHd	Contractor	Todd Selbel	Check Receipt	CONTRACTOR				
286	10/10/04	$4,894.00	Siding	Materials / Labor	Raul Martinez	Check Receipt	CONTRACTOR				
287	10/21/04	$3,138.40	HVAC	HVAC	Lonzie & Son	Check Receipt	CONTRACTOR				
288	10/21/04	$3,560.00	Hardwood/Flooring	Floors, Fireplace,Count	Low Country Floorin	Check Receipt	CONTRACTOR				
289	10/21/04	$4,306.75	Driveway/Sidewalks	Concrete and Labor	Palmetto Concrete S	Check Receipt	CONTRACTOR				
290	10/21/04	$2,104.25	Plumbing	Shower & Vanity	Quality Marble	Check Receipt	CONTRACTOR				
291	11/1/04	$2,479.59	Interior trim	Stairs Lab & Mat	Todd Selbel	Check Receipt	CONTRACTOR				
292	10/21/04	$522.50	Septic	Survey	Trico Engineering	Check Receipt	CONTRACTOR				
293	10/5/04	$7,000.00	Septic	Septic System	Knights	Check Receipt	CONTRACTOR				
294	10/14/04	$2,480.14	Hardwood/Flooring	Floor Mat / Lab	Wilson's Carpet	CC & Receipt	CONTRACTOR				
295	10/19/04	$300.00	Lot Prep	Excavation dirt	Tolman Salisbury	Check Receipt	CONTRACTOR				

296	9/15/04	$440.87	Paint	Paint	Lord & Evans	CC Receipt	CONTRACTOR			
297	10/9/04	$292.16	Paint	Paint	Lord & Evans	CC Receipt	CONTRACTOR			
298	11/3/04	$3,950.00	Plumbing	Plumbing Labor	Mark Massenburg Pl	Check Receipt	CONTRACTOR			
	11/3/04	$556.32	SF Agree. Art 2	Shelving			OWNER			
300	10/31/04	$330.96	Dumpster	Container Rental	Carolina Waste	Check Receipt	CONTRACTOR			
301	11/10/04	$4,012.00	Electrical	Electrical	Joe Easterlin	Check Receipt	CONTRACTOR			
302	10/19/04	$46.54	Interior trim	Trim	Central True Value	CC Receipt	CONTRACTOR			
303	10/30/04	$154.98	Fireplace	Mantle	Berlin G. Meyers	Check Receipt	CONTRACTOR			
304	9/30/04	$214.99	Siding	Siding Lab / Mat	Hanson	Check Receipt	CONTRACTOR			
305	10/1/04	$173.97	Siding	Siding Lab / Mat	Hanson	Check Receipt	CONTRACTOR			
306	9/28/04	$75.00	STORAGE	Storage	Mini Warehouses	Check Receipt	SELLER/CONTRACTOR			XXX
307	1/9/05	$200.00	SURVEY	Closing	Ashley Engineering	Check Receipt	SELLER/CONTRACTOR			XXX
308	12/20/04	$48.12	Septic	Drain Pump	Coastline Appliance	Check Receipt	CONTRACTOR			
309	10/2/04	$400.00	Paint	Painting	Dennis Monk	Check Receipt	CONTRACTOR			
310	11/5/05	$4,753.59	LOAN COST	Refinance w/USAA	USAA	HUD	SELLER/CONTRACTOR			XXX
311	1/24/04	$860.38	Cabinets	Utility RM	Home Depot	CC Receipt	CONTRACTOR			
312	11/4/04	$31.77	Framing/Porch/Deck	Sealer	Lowe's	CC Receipt	CONTRACTOR			
313	10/16/04	$53.46	Hardwood/Flooring	Felt	Home Depot	CC Receipt	CONTRACTOR			
314	11/2/04	$747.35	LOAN COST	interest	NCM	NCM History	SELLER/CONTRACTOR			XXX
315	12/10/04	$461.78	LOAN COST	Extra Interest w/pay	NCM	NCM History	SELLER/CONTRACTOR			XXX
316	1/24/04	$138.84	Interior trim	Cedar	Home Depot	CC Receipt	CONTRACTOR			
	12/17/04	$70.15	ADMIN	Admin Supplies			OWNER			
318	11/22/04	$5,020.10	Job Mgt & OverHd	Contractor/materials	Todd Seibel	Check Receipt	CONTRACTOR			
319	11/20/04	$1,150.00	Driveway/Sidewalks	Driveway Mat & Lab	Dusty Garvis	Check Receipt	CONTRACTOR			
320	5/28/04	$36.28	Interior trim	Saw Blade	Home Depot	CC Receipt	CONTRACTOR			
321	10/3/04	$600.00	LODGING	Rent	Regency Apartments	Check Receipt	SELLER/CONTRACTOR			XXX
	9/19/04	$8.01	MISCELLANEOUS	TILE			OWNER			
	3/30/04	$4.42	ADMIN	Certified Mail			OWNER			
	3/30/04	$4.65	MECHANICS LIEN	Cert - Knights			OWNER			
	1/7/05	$102.75	WINDOWS	Covering			OWNER			
	1/9/05	$87.35	WINDOWS	Covering			OWNER			
	3/6/04	$107.55	WINDOWS	Covering			OWNER			
	2/17/04	$79.59	WINDOWS	Covering			OWNER			
	2/18/04	$61.10	WINDOWS	Covering			OWNER			
	3/3/04	$131.68	WINDOWS	Covering			OWNER			
	3/7/04	$51.45	RENTAL MISC	Linens			OWNER			
	3/7/04	$18.98	RENTAL MISC	Coffee Pot			OWNER			
	3/7/04	$12.00	RENTAL MISC	Dishes			OWNER			
	5/27/04	$49.20	ADMIN	Office Supplies			OWNER			
	2/6/04	$56.42	ADMIN	Interior Design			OWNER			
	8/6/04	$12.26	Framing/Porch/Deck	Misc Construction Items			OWNER			
	8/13/04	$2.11	Framing/Porch/Deck	Misc Construction Items			OWNER			
338	8/10/04	$15.03	Counter Top	Cabinet	Home Depot	CC Receipt	CONTRACTOR			
339	8/7/04	$33.91	Framing/Porch/Deck	Screws	Central True Value	CC Receipt	CONTRACTOR			
	1/20/05	$157.36	SF Agree. Art 2	Hardware			OWNER			
	1/23/05	$123.72	SF Agree. Art 2	Hardware			OWNER			
	9/24/04	$4.42	ADMIN	Certified Mail			OWNER			
	11/2/04	$37.69	Cabinets	Pulls			OWNER			
	11/2/04	$37.69	Cabinets	Pulls			OWNER			
	8/27/04	$4.42	ADMIN	Cert Mail - NCM			OWNER			
345	4/2/04	$4.88	MECHANICS LIEN	Cert Mail - HCH Attor	Post Office	CC Receipt	SELLER/CONTRACTOR			XXX
346	5/14/04	$4.42	MECHANICS LIEN	Cert Mail - HCH Attor	Post Office	CC Receipt	SELLER/CONTRACTOR			XXX
347	6/3/04	$4.42	MECHANICS LIEN	Cert Mail - HCH Attor	Post Office	CC Receipt	SELLER/CONTRACTOR			XXX
348	6/18/04	$6.49	MECHANICS LIEN	Cert Mail - HCH Attor	Post Office	CC Receipt	SELLER/CONTRACTOR			XXX
	9/13/04	$148.39	SF Agree. Art 2	Hardware			OWNER			
	9/27/04	$682.11	Appliances	Appliances - Kitchen			OWNER			
	10/8/04	$126.60	Lighting	Light Fixtures			OWNER			
352	4/12/04	$132.30	Plumbing	Plumbing	Home Depot	CC Receipt	CONTRACTOR			
	4/2/04	$4.65	ADMIN	Certified Mail			OWNER			

	9/10/04	$4.42	ADMIN	Certified Mail			OWNER		
	12/12/03	$5.34	ADMIN	Certified Mail			OWNER		
	2/13/04	$4.42	ADMIN	Certified Mail			OWNER		
	3/16/04	$4.30	ADMIN	Certified Mail			OWNER		
	3/16/04	$29.97	ADMIN	Misc			OWNER		
	2/5/05	$22.59	ADMIN	Photos					
	10/28/05	$350.00	SF Agree, Art 2	Excavation Dirt			OWNER		
							OWNER		
364	4/22/05	$165.00	Paint	Painting Mat & Lab	Dennis Monk	Check Receipt	CONTRACTOR		
365	4/2/05	$520.00	Interior trim	Trim Mat / Lab	Josh Calmack	Check Receipt	CONTRACTOR		
366	5/5/05	$345.00	Gutters	Gutters	Gutter Works	Check Receipt	CONTRACTOR		
367	2/24/05	$1,670.00	Cabinets	Cabinets	Welcom Cabinets	Check Receipt	CONTRACTOR		
368	4/19/05	$2,000.00	Painting	Painting Mat & Lab	Larry Gadist	Check Receipt	CONTRACTOR		
369	4/11/05	$510.00	Painting	Painting Mat / Lab	Home Depot	Receipt	CONTRACTOR		
370	4/5/05	$430.00	Interior trim	Trim Mat / Lab	Home Depot	Receipt	CONTRACTOR		
371	11/2/05	$3,000.00	Job Mgt & OverHd	Structure Demolish	Arthur Joiner	Receipt	SELLER/CONTRACTOR	XXX	
	5/20/05	$9,313.72	SF, Art 2	Landscaping			OWNER		
	6/17/04	$1,120.00	SF, Art 2	Landscaping			OWNER		
	7/2/05	$1,908.00	SF, Art 2	Landscaping			OWNER		
377	39059	5000	LEGAL	Attorney Fee	Joe Ginn	Contract-Ct Rec	ELLER/CONTRACTOR	XXX	
378	38653	378.39	LEGAL	Legal Training Books	USAA	CK receipt	ELLER/CONTRACTOR	XXX	
379	42646	270.65	LEGAL	Copying	ProLegal	CC Receipt	ELLER/CONTRACTOR	XXX	
380	39314	1000	LEGAL	Attorney Fee	Simons & Keaveny	CHeck Receipt	ELLER/CONTRACTOR	XXX	
381	39175	10.42	LEGAL	Certified Mail			OWNER		
383	4/15/05	$225.24	REFUND ESCROW	NCM	Price	Loan History	SELLER/CONTRACTOR	XXX	
384	42795	218.75	LEGAL	Loss of Transcript	TCR	T.Ward Inv	ELLER/CONTRACTOR	XXX	
385	39873	5000	LEGAL	Retainer(1,150&1855)	T.Ward	Check Receipt	ELLER/CONTRACTOR	XXX	
386	39671	500	LEGAL	Attorney Fee	Oneal & Phepps	Check Receipt	ELLER/CONTRACTOR	XXX	
387	38218	350	LEGAL	Attorney Fee	NCM	Loan History	ELLER/CONTRACTOR	XXX	
388	39671	150	LEGAL	Depo Transcript	Marrie Carrin Ass	Check Receipt	ELLER/CONTRACTOR	XXX	
389	3/2009-04/201	6500	LEGAL	Costs	T.Ward	Statements	ELLER/CONTRACTOR	XXX	
390	39554	75	LEGAL	Attorney Fee	George Bishop	Check Receipt	ELLER/CONTRACTOR	XXX	
392	2004-2009	$4,349.48	LOAN COST	Interest/Lost Inv.	TSP LOAN - $35k	Check Receipt	SELLER/CONTRACTOR	XXX	
395	11/21/11	$111.15	LEGAL	Copying	Serve One	Check Receipt	SELLER/CONTRACTOR	XXX	
396	/2007-12/200	$1,572.90	LEGAL	$74.90 @ mo x 21	Westlaw	Check Receipt	SELLER/CONTRACTOR	XXX	
		$368,037.00		$26,525.65	OWNER ACCEPTED COSTS/NO RECEIPTS REQUIRED				
				$58,949.97	DELAY OR OTHER				
				$97,386.38	DIFFERENCE OF SF AGREE SUM & ACTUAL COSTS				
				$185,175.00	SF AGREEMENT STIPULATED SUM				
				$368,037.00					
	7/27/04	$73.03	Fram/Porch/Deck	Misc Framing Materials			OWNER		
	4/3/07	$10.42	LEGAL	Chellis/Frampton			OWNER		
	5/20/05	$9,313.72	SF, Art 2	Landscaping			OWNER		
	6/17/04	$1,120.00	SF, Art 2	Landscaping			OWNER		
	7/2/05	$1,908.00	SF, Art 2	Landscaping			OWNER		
	2/5/05	$22.59	ADMIN	Photos			OWNER		
	10/28/05	$350.00	SF Agree, Art 2	Excavation Dirt			OWNER		

	9/13/04	$148.39	SF Agree, Art 2	Hardware			OWNER				
	9/27/04	$682.11	Appliances	Appliances - Kitchen			OWNER				
	10/8/04	$126.60	Lighting	Light Fixtures			OWNER				
	4/12/04	$132.30	Plumbing	Plumbing			OWNER				
	4/2/04	$4.65	ADMIN	Certified Mail			OWNER				
	9/10/04	$4.42	ADMIN	Certified Mail			OWNER				
	12/12/03	$5.34	ADMIN	Certified Mail			OWNER				
	2/13/04	$4.42	ADMIN	Certified Mail			OWNER				
	3/16/04	$4.30	ADMIN	Certified Mail			OWNER				
	3/16/04	$29.97	ADMIN	Misc			OWNER				
	1/20/05	$157.36	SF Agree, Art 2	Hardware			OWNER				
	1/23/05	$123.72	SF Agree, Art 2	Hardware			OWNER				
	9/24/04	$4.42	ADMIN	Certified Mail			OWNER				
	11/2/04	$37.69	Cabinets	Pulls			OWNER				
	11/2/04	$37.69	Cabinets	Pulls			OWNER				
	8/27/04	$4.42	ADMIN	Cert Mail - NCM			OWNER				
	1/7/05	$102.75	WINDOWS	Covering			OWNER				
	1/9/05	$87.35	WINDOWS	Covering			OWNER				
	3/6/04	$107.55	WINDOWS	Covering			OWNER				
	2/17/04	$79.59	WINDOWS	Covering			OWNER				
	2/18/04	$61.10	WINDOWS	Covering			OWNER				
	3/3/04	$131.68	WINDOWS	Covering			OWNER				
	3/7/04	$51.45	RENTAL MISC	Linens			OWNER				
	3/7/04	$18.98	RENTAL MISC	Coffee Pot			OWNER				
	3/7/04	$12.00	RENTAL MISC	Dishes			OWNER				
	5/27/04	$49.20	ADMIN	Office Supplies			OWNER				
	2/6/04	$56.42	ADMIN	Interior Design			OWNER				
	8/6/04	$12.26	Framing/Porch/Deck	Misc Construction Items			OWNER				
	8/13/04	$2.11	Framing/Porch/Deck	Misc Construction Items			OWNER				
	9/19/04	$8.01	MISCELLANEOUS	TILE			OWNER				
	3/30/04	$4.42	ADMIN	Certified Mail			OWNER				
	12/17/04	$70.15	ADMIN	Admin Supplies			OWNER				
	11/3/04	$556.32	SF Agree, Art 2	Shelving			OWNER				
	7/16/04	$4.42	ADMIN	Cert Mail - J.Kahler			OWNER				
	7/23/04	$10.00	ADMIN	Bldg Co Recording			OWNER				
	7/29/04	$104.94	Fram/Porch/Deck	Misc Framing Materials			OWNER				
	10/27/04	$6.85	Interior Trim	Pulls			OWNER				
	10/20/04	$51.72	Plumbing	Plumb Mat'l &/O Lab			OWNER				
	10/7/04	$67.84	SF Agree, Art 2	Hardware			OWNER				
	10/4/04	$15.19	SF Agree, Art 2	Hardware			OWNER				
	10/4/04	$449.97	Interior trim	Misc			OWNER				
	10/11/04	$141.56	SF Agree, Art 2	Hardware			OWNER				
	10/8/04	$135.09	SF Agree, Art 2	Hardware			OWNER				
	10/22/04	$5.28	Interior trim	Caulk			OWNER				
	10/22/04	$39.19	Interior trim	Duraplex			OWNER				
	9/18/04	$64.87	Interior doors	Door			OWNER				
	10/14/04	$48.70	SF Agreement, Art 2	Hardware			OWNER				
	11/30/04	$6,000.00	SF Agreement, Art 2	Driveway			OWNER				
	9/19/04	$8.01	Hardwood/Flooring	Tile			OWNER				
	9/18/04	$18.25	Interior trim	Interior trim			OWNER				
	9/3/04	$199.71	Fram/Porch/Deck	Window Sealer			OWNER				
	8/31/04	$75.72	Dumpster	Container Rental			OWNER				
	8/29/04	$37.07	Fram/Porch/Deck	Spkr Wire			OWNER				
	4/29/04	$12.90	MECHANICS LIEN	HCH Attorney			OWNER				
	5/31/04	$109.20	Foundation	Concrete Lad-BGM			OWNER				
	9/17/04	$1,211.83	SF Agree, Art 2	Hardware			OWNER				
	7/23/04	$3.85	Admin	Copies			OWNER				
	2/5/05	$22.00	Admin	Photos			OWNER				
	7/16/04	$8.92	ADMIN	NCM			OWNER				

	6/7/04	$332.88	SF Argee. Art 2	Hardware			OWNER			
	2/26/05	$1,202.00	SF Agree. Art 2	Shelving			OWNER			
	7/26/04	$265.58	Fram/Porch/Deck	Misc Framing Materials			OWNER			
	6/5/04	$17.94	Framing/Porch/Deck	Lumber			OWNER			
	3/29/04	$15.00	Admin	Coping			OWNER			
	1/15/04	$137.01	Hardwood/Flooring	Flooring			OWNER			
	3/15/04	$15.00	Recordings	Notices			OWNER			
	10/14/05	$100.00	Hardwood/Flooring	Defect Carpet Replace			OWNER			
		$26,525.65								
371	11/2/05	$3,000.00	Job Mgt & OverHd	Structure Demolish	Arthur Joiner	Receipt	SELLER/CONTRACTOR	XXX		
46	5/24/04	$75.00	STORAGE	Storage	Mini Wharehouses	Receipt	SELLER/CONTRACTOR	XXX		
47	6/10/04	$1,673.74	INSPECTION	Engineer Report	C. Schneider & Asso	Check Receipt	SELLER/CONTRACTOR	XXX		
187	9/6/04	$250.00	INSPECTION	Engineer Report	Sanford Engineering	Check Receipt	SELLER/CONTRACTOR	XXX		
306	9/28/04	$75.00	STORAGE	Storage	Mini Warehouses	Check Receipt	SELLER/CONTRACTOR	XXX		
201	9/6/04	$650.88	STORAGE	Storage	A-1 Moving Systems	Check Receipt	SELLER/CONTRACTOR	XXX		
184	7/16/04	$650.88	STORAGE	Storage	A-1 Moving Systems	Check Receipt	SELLER/CONTRACTOR	XXX		
185	11/1/04	$650.88	STORAGE	Storage	A-1 Moving Systems	Check Receipt	SELLER/CONTRACTOR	XXX		
162	8/26/04	$75.00	STORAGE	Storage	Mini Warehouses	Check Receipt	SELLER/CONTRACTOR	XXX		
151	8/15/04	$651.76	STORAGE	Misc Framing Materials	A-1 Moving Sys	Check Receipt	SELLER/CONTRACTOR	XXX		
121	7/24/04	$75.00	STORAGE	Storage	Mini Warehouses	Check Receipt	SELLER/CONTRACTOR	XXX		
69	7/1/04	$75.00	STORAGE	Storage	Mini Warehouses	Check Receipt	SELLER/CONTRACTOR	XXX		
61	6/7/04	$859.16	STORAGE	Storage	A-1 Moving Sys	Receipt	SELLER/CONTRACTOR	XXX		
226	9/27/04	$150.00	LEGAL	County Ct Filing Fee	Pederson & Scott	Check Receipt	SELLER/CONTRACTOR	XXX		
395	11/21/11	$111.15	LEGAL	Copying	Serve One	Check Receipt	SELLER/CONTRACTOR	XXX		
396	/2007-12/200	$1,572.90	LEGAL	$74.90 @ mo x 21	Westlaw Subscript	Check Receipt	SELLER/CONTRACTOR	XXX	*	
388	8/11/08	$150.00	LEGAL	Depo Transcript	Marrie Carrin Ass	Check Receipt	SELLER/CONTRACTOR	XXX		
389	3/2009-04/201	$7,000.00	LEGAL-ESTIMATED	Costs	T.Ward	Pending State	SELLER/CONTRACTOR	XXX		
390	4/16/08	$75.00	LEGAL	Attorney Fee	George Bishop	Check Receipt	SELLER/CONTRACTOR	XXX		
384	3/1/17	$218.75	LEGAL	Loss of Transcript	TCR	T.Ward Inv.	SELLER/CONTRACTOR	XXX		
385	3/1/09	$5,000.00	LEGAL	Retainer (1150&1855)	T.Ward	Check Receipt	SELLER/CONTRACTOR	XXX		
386	8/11/08	$500.00	LEGAL	Attorney Fee	Oneal & Phepps	Check Receipt	SELLER/CONTRACTOR	XXX		
226	9/27/04	$150.00	LEGAL	County Ct Filing Fee	Pederson & Scott	Check Receipt	SELLER/CONTRACTOR	XXX		
377	12/8/06	$5,000.00	LEGAL	Attorney Fee	Joe Ginn	Contract-Ct Rec	SELLER/CONTRACTOR	XXX		
378	10/25/05	$378.39	LEGAL	Legal Training Books	USAA	CC Receipt	SELLER/CONTRACTOR	XXX		
379	10/3/16	$270.65	LEGAL	Copying	Pro Legal	Ck Receipt	SELLER/CONTRACTOR	XXX		
380	8/20/07	$1,000.00	LEGAL	Attorney Fee	Simons & Keaveny	CHeck Receipt	SELLER/CONTRACTOR	XXX	*	
153	6/6/05	$8,000.00	LEGAL	Attorney Fee	Chellis & Frampton	check Receipt	SELLER/CONTRACTOR	XXX		
125	2/1/05	$25.00	LEGAL	Motion	Bill Scott	Ct Record	SELLER/CONTRACTOR	XXX		
20	3/11/04	$4.42	MECHANICS LIEN	Gilbert-Cert Mail	Post Office	Receipt	SELLER/CONTRACTOR	XXX	*	
231	3/1/04	$23.41	STORAGE	Property Storage	Public Storage	CC Receipt	SELLER/CONTRACTOR	XXX		
43	6/11/04	$647.09	MECHANICS LIEN	Surety Bond	USAA/Western Suret	CC Receipt	SELLER/CONTRACTOR	XXX		
40	4/29/04	$12.90	MECHANICS LIEN	HCH Attorney	Post Office	CC Receipt	SELLER/CONTRACTOR	XXX		
41	5/24/04	$12.10	MECHANICS LIEN	LIEN RELEASE	Berkeley County RO	Check Receipt	SELLER/CONTRACTOR	XXX		
323	5/14/04	$4.42	MECHANICS LIEN	Gilbert-Cert Mail	Post Office	Receipt	SELLER/CONTRACTOR	XXX		
53	5/19/04	$10.00	MECHANICS LIEN	MECHANICS LIEN	US Legal Forms Inc	CC Receipt	SELLER/CONTRACTOR	XXX	*	
45	5/10/04	$14.00	MECHANICS LIEN	LIEN NOTICE	Berkeley County RO	Receipt	SELLER/CONTRACTOR	XXX		
345	4/2//04	$4.88	MECHANICS LIEN	Cert Mail - HCH Attor	Post Office	CC Receipt	SELLER/CONTRACTOR	XXX		
346	5/14/04	$4.42	MECHANICS LIEN	Cert Mail - HCH Attor	Post Office	CC Receipt	SELLER/CONTRACTOR	XXX		
347	6/3/04	$4.42	MECHANICS LIEN	Cert Mail - HCH Attor	Post Office	CC Receipt	SELLER/CONTRACTOR	XXX		
348	6/18/04	$6.49	MECHANICS LIEN	Cert Mail - HCH Attor	Post Office	CC Receipt	SELLER/CONTRACTOR	XXX		
345	4/2//04	$4.88	MECHANICS LIEN	Cert Mail - HCH Attor	Post Office	CC Receipt	SELLER/CONTRACTOR	XXX		
279	12/13/04	$350.00	SURVEY	Closing	Ashley Engineering	Check Receipt	SELLER/CONTRACTOR	XXX		
392	2004-2009	$4,349.48	LOAN COST	INTEREST/Lost Inv	TSP LOAN - $35k	Check Receipt	SELLER/CONTRACTOR	XXX		
383	4/15/05	$225.24	REFUND ESCROW	NCM	Price	Loan History	SELLER/CONTRACTOR	XXX		

321	10/3/04	$600.00	LODGING	Rent	Regency Apartments	Check Receipt	SELLER/CONTRACTOR	XXX		
314	11/2/04	$747.35	LOAN COST	INTEREST	NCM	NCM History	SELLER/CONTRACTOR	XXX		
315	12/10/04	$461.78	LOAN COST	Extra Interest w/pay	NCM	NCM History	SELLER/CONTRACTOR	XXX		
310	1/5/05	$4,753.59	LOAN COST	Refinance w/USAA	USAA	HUD	SELLER/CONTRACTOR	XXX		
307	1/9/05	$200.00	SURVEY	Closing	Ashley Engineering	Check Receipt	SELLER/CONTRACTOR	XXX		
163	8/29/04	$600.00	LODGING	Rent	Regency Apartments	Check Receipt	SELLER/CONTRACTOR	XXX		
161	7/23/04	$282.26	LOAN COSTS	INTEREST	NCM	Check Receipt	SELLER/CONTRACTOR	XXX		
###	7/3/04	$600.00	LODGING	Rent	Regency Apartments	Check Receipt	SELLER/CONTRACTOR	XXX		
60	6/23/04	$291.67	LOAN COSTS	INTEREST	NCM	Check Receipt	SELLER/CONTRACTOR	XXX		
71	7/1/04	$600.00	LODGING	Rent	Regency Apartments	Check Receipt	SELLER/CONTRACTOR	XXX		
48	5/31/04	$600.00	LODGING	Rent	Regency Apartments	Check Receipt	SELLER/CONTRACTOR	XXX		
36	4/29/04	$600.00	LODGING	Rent	Regency Apartments	Check Receipt	SELLER/CONTRACTOR	XXX		
33	5/21/04	$282.26	LOAN COSTS	INTEREST	NCM	Check Receipt	SELLER/CONTRACTOR	XXX		
29	4/23/04	$291.25	LOAN COSTS	INTEREST	NCM	Check Receipt	SELLER/CONTRACTOR	XXX		
27	4/6/04	$600.00	LODGING	RENT	Regency Apartments	check Receipt	SELLER/CONTRACTOR	XXX		
24	3/1/04	$381.00	LODGING	Rent	Intown Suites	Receipt	SELLER/CONTRACTOR	XXX		
25	3/8/04	$735.00	LODGING	Rent	Regency Apartments	CC Receipt	SELLER/CONTRACTOR	XXX		
22	3/19/04	$272.86	LOAN COSTS	INTEREST	NCM	Check Receipt	SELLER/CONTRACTOR	XXX		
19	3/9/04	$291.67	LOAN COSTS	INTEREST	NCM	Check Receipt	SELLER/CONTRACTOR	XXX		
17	12/3-02/04	$1,875.00	LODGING	Rent	Jim Rodenkirk	Check Receipt	SELLER/CONTRACTOR	XXX		
12	2/25/04	$292.47	LOAN COSTS	INTEREST	NCM	Check Receipt	SELLER/CONTRACTOR	XXX		

000982

$58,949.97		
$31,524.52	total legal	
$27,425.45	Total delay	

ACTUAL COSTS/DAMAGES FROM CLOSING 11/25/03:	$156,336.35	$97,386.38	ACTUAL EXTRA CONSTRUCTION $		
		$58,949.97	DELAY OR OTHER		
$368,037.00	TOTAL COSTS	$26,525.65	OWNER ACCEPTED COSTS		
		$185,175.00	SF AGREE SUM		
$31,524.52	DELAY OR OTHER				
-$26,525.65	OWNER ACCEPTED COSTS	$368,037.00	TOTAL COSTS		
$309,986.83	ACTUAL CONSTRUCTION $				
-$185,175.00	SF AGREE SUM	DOES NOT CONSIDER:	(1) OUR OWN LABOR TO SAVE $		
$97,386.38	ACTUAL EXTRA CONSTRUCTION $		(2) LOSS OF OTHER EARNINGS INVESTMENT		
			(3) 14 YEARS IN LITIGATION		
			(4) FUTURE REAL COST IN EH NEIGHBOR ROAD REPAIRS		
			(5) TRIAL COSTS		

LAND APPRAISAL:	$82,530.00	NOTE: DOES NOT ACCOUNT FOR VALUE LOSS, WITH NO LEGAL EH ACCESS--NO SCDOT PERMIT
$145,410	REPRESENTED VALUE, DEC 2003	
-62,880	ACTUAL VALUE, DEC 2003	
$82,530		

Regulatory Division - Charleston District-Corps of Engineers 69-A Hagood Avenue Charleston, South Carolina 29403

REQUEST FOR WETLANDS DETERMINATION

Date: 20 Sep 05

County: BERKELEY

Total Acreage of Tract: 7.86

Project Name (if applicable): EAGLE HARBOR

Property Owner (name, address, phone):
RONALD E. PRICE & DIANA R.
1104 SADDLEHORN Rd.
SUMMERVILLE, SC 29483
(843) 688-6045

Agent/Developer/Engineer (name, address, phone):

EXHIBIT 25
WITNESS
DATE: 5/3/2018
REPORTER: H. LANDRY

Status of Project (check one):
- ☑ On-going site work for development purposes
- ☐ Development in planning stages
- ☐ No specific development plans at this time

Project Type - Indicate the proposed use of the land in question or, if no specific work is planned at present, indicate the current zoning or land use at the site. (check one):
- ☑ Residential
- ☐ Industrial
- ☐ Silviculture
- ☐ Commercial
- ☑ Agriculture
- ☐ Aquaculture
- ☐ Mixed Use (Residential + Commercial)
- ☐ Public Works
- ☐ Other:

Information Required to Accompany Request - Check the items submitted - forward as much information as is available. At a minimum, the first two items must be forwarded:
- ☐ Accurate Location Map (from County Map, USGS Quad Sheet, etc.)
- ☑ Survey Plat or Tax Map of the Property in Question
- ☐ Soil Survey Sheet (from USDA-NRCS) or Aerial Photo (from County Assessor's Office or other source). Property boundaries should be show on the soil survey / photo.
- ☐ Topographic Survey
- ☐ Conceptual Site Plan for the Overall Development

Endangered Species Evaluation:
Has the site been evaluated for the presence of federally protected (endangered, threatened or proposed) species and/or any proposed or designated critical habitat for such species? YES (NO)

If Yes, has this evaluation been coordinated with the US Fish and Wildlife Service (FWS)? YES NO

If coordination has occurred, please provide the FWS Log number and enclose a copy of the report:
FWS Log Number: _____ Copy of Report enclosed? YES NO

If the evaluation has not been coordinated with the US FWS, enclose a copy of your report of findings.

IMPORTANT NOTE: Legible printed name and signature required. The person signing this form must be the present property owner or have the specific authority of the property owner to authorize Corps of Engineers employees or their agents to enter onto the property for on-site investigations if such is deemed necessary.

Do not sign this form unless you are the owner, or have the specific authority of the property owner.

The signature of the owner or authorized agent on this form constitutes prior consent to disclose these records to other federal, state or local governmental agencies and the public at large.

PRINTED NAME of person signing this form, below: Ronald E. Price

Signature of Property Owner or Authorized Agent: [signature]

Copies of this form may be obtained from the Charleston District web site at: http://www.sac.usace.army.mil/permits/form_JDRequest.pdf

DEPARTMENT OF THE ARMY
CHARLESTON DISTRICT, CORPS OF ENGINEERS
69-A Hagood Avenue
CHARLESTON, SOUTH CAROLINA 29403-5107

REPLY TO
ATTENTION OF:

October 19, 2005

EXHIBIT 26
WITNESS
DATE: 5/3/2018
REPORTER: H. LANDRY

Regulatory Division

Mr. Ronald Price
1104 Saddlehorn Road
Summerville, South Carolina 29483

Dear Mr. Price:

A recent inspection by a member of my staff revealed that fill material had been placed in wetlands adjacent to Sandy Run within the Eagle Harbor Subdivision in Berkeley County, South Carolina. The specific areas of concern to this office at this time are shown on the enclosed sketch dated October 19, 2005. This work has been performed in waters of the United States (which includes wetlands), and is thus subject to Department of the Army regulatory authority. This is to inform you of the current permit provisions of the Clean Water Act as they relate to the placement of fill material in wetlands. In particular, your attention is called to Section 404 of this Act (33 USC 1344) which authorizes the Secretary of the Army, acting through the Chief of Engineers, to issue permits for the discharge of dredged or fill material into all waters of the United States, which includes all wetland areas. Section 301(a) of this Act makes it unlawful to perform such activities without the requisite permit and Section 309 provides for fines of up to $32,500 per day for each violation. At this juncture, this office is continuing to gather information relative to the Eagle Harbor Subdivision. If you have any information you feel is pertinent in this case, please take this opportunity to provide this office with that information.

This is also to inform you that based on a review of aerial photography and soil survey information, it appears that there may be wetlands on your property within the Eagle Harbor Subdivision. These potential wetland areas are shown on the referenced sketch. This office should be contacted prior to performing any work in or around these approximated wetlands or other waters of the United States. In order for a more accurate determination to be provided, these areas should be delineated on-site, surveyed and platted. There may be other wetland areas in addition to those shown on the above referenced sketch.

In future correspondence concerning this matter, please refer to SAC 60-2005-2200-2. If you have any questions regarding this matter, please contact Ms. Elizabeth Jackson at (843) 329-8044 or toll free at 1-866-329-8187.

Respectfully,

Tina B. Hadden
Chief, Regulatory Division

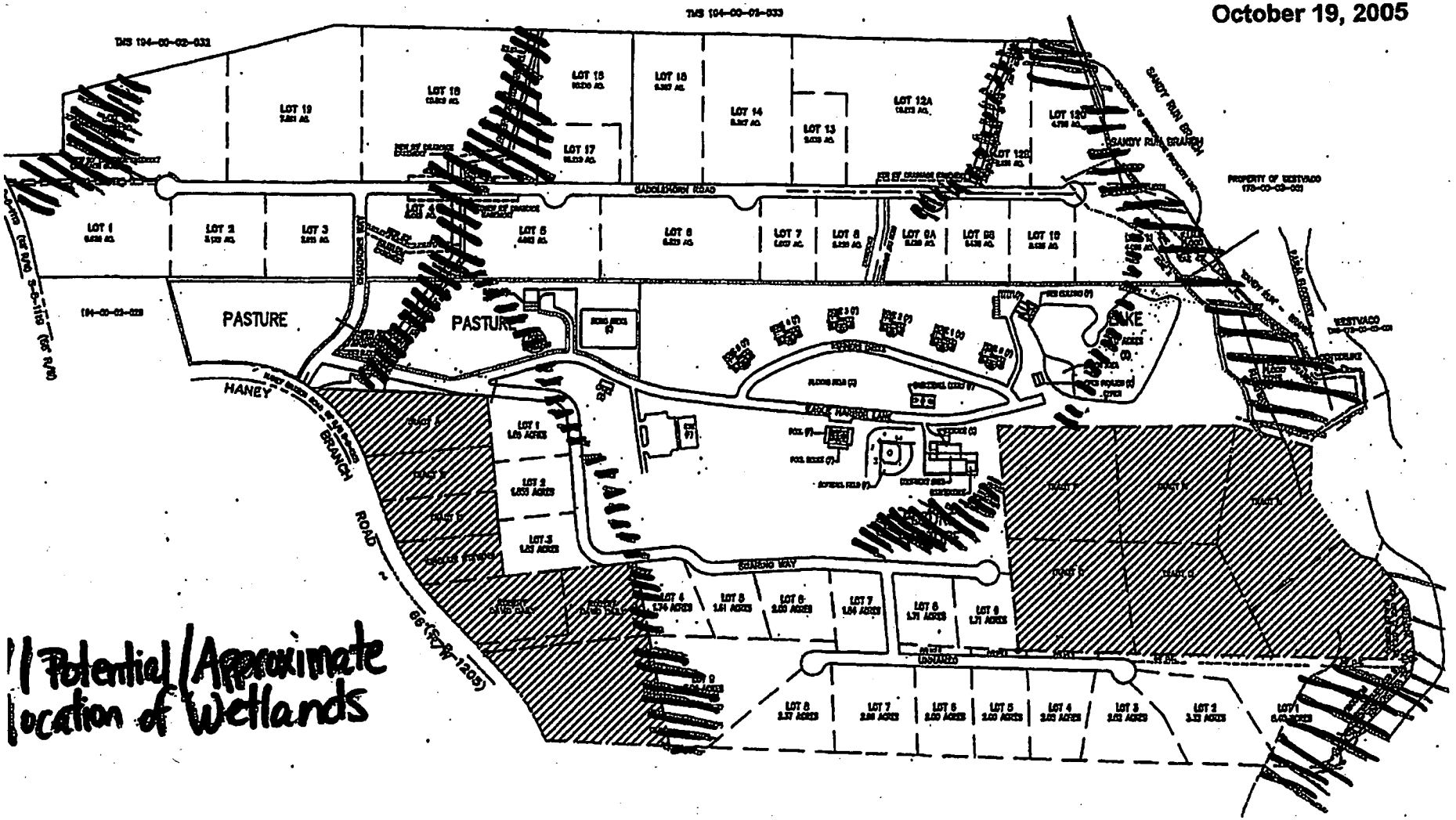
Eval: 3 NOV
Called on Ltr Status
14 Nov

Enclosure

Copy Furnished:

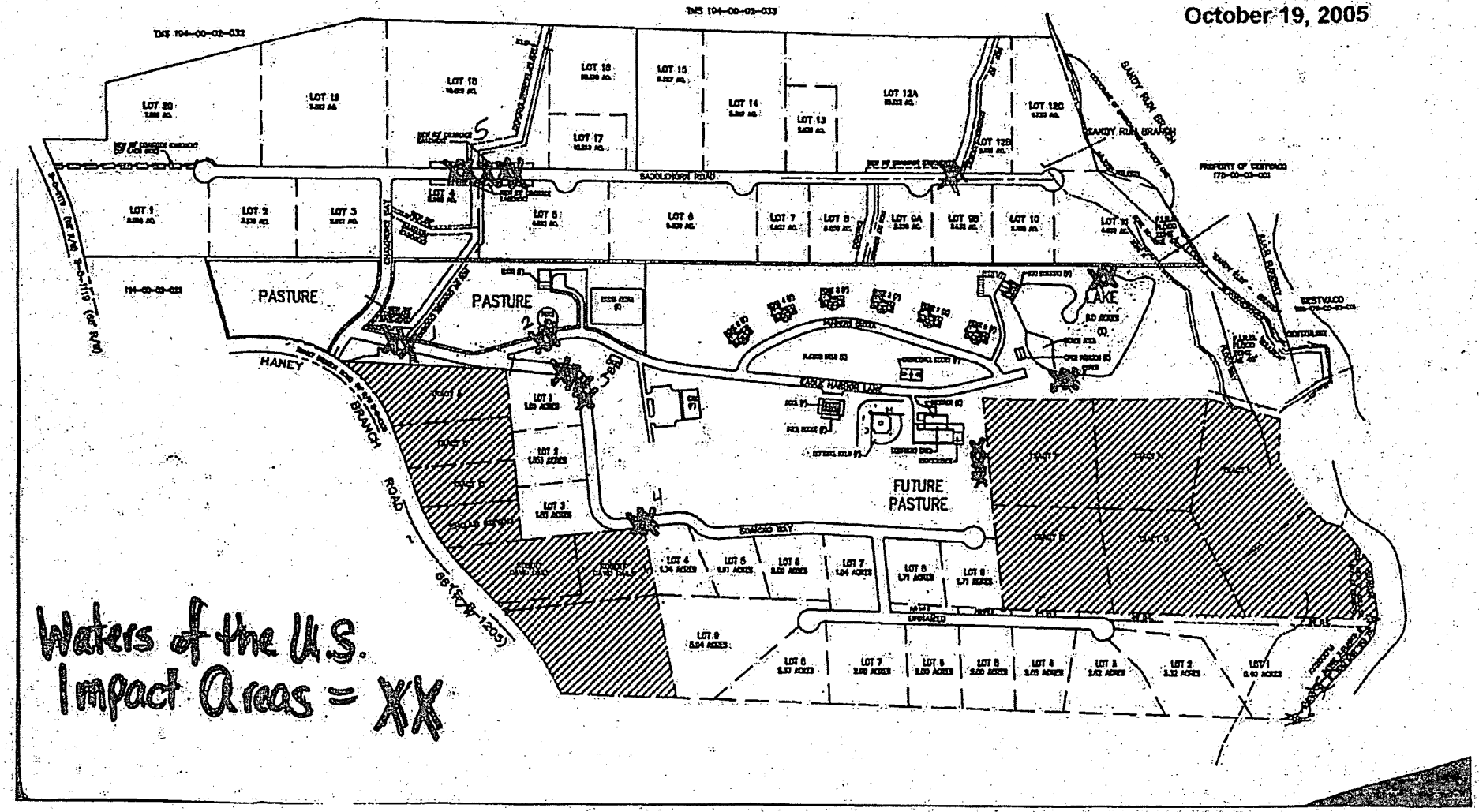
S.C. Department of Health
and Environmental Control
Office of Ocean and Coastal
Resource Management
1362 McMillan Avenue, Suite 400
Charleston, South Carolina 29405

Eagle Harbor Subdivision
60-2005-2200-2
October 19, 2005



98600

Eagle Harbor Subdivision
60-2005-2200-2
October 19, 2005



00987

DEPARTMENT OF THE ARMY
CHARLESTON DISTRICT, CORPS OF ENGINEERS
69A Hagood Avenue
CHARLESTON, SOUTH CAROLINA 29403-5107

REPLY TO
ATTENTION OF

November 7, 2005

EXHIBIT 97
WITNESS
DATE: 5/3/2018
REPORTER: H. LANDRY

Regulatory Division

Ronald and Diana Price
1104 Saddlehorn Road
Summerville, South Carolina 29483

Re: SAC 87-2005-2039-2
Berkeley County

Dear Mr. and Mrs. Price:

This is in response to your letter of September 20, 2005, requesting a wetland determination for a 7.86 acre tract located at the terminus of Saddlehorn Road, in Berkeley County, South Carolina. The project area is depicted on the survey plat you submitted which was prepared by Ashley Engineering & Surveying, Inc., dated October 20, 2004, and entitled "CLOSING SURVEY FOR DON PRICE & DIANA PRICE CITY OF GOOSE CREEK BERKELEY COUNTY, SOUTH CAROLINA."

I have depicted the approximate boundaries of wetlands and other waters of the United States on a copy of the plat referenced above. The property in question contains approximately 2 acres of federally defined freshwater wetlands or other waters. However, none of these aquatic resources are considered to be subject to the jurisdiction of this office due to a recent decision by the U.S. Supreme Court. The location and configuration of these areas, as well as their status relative to jurisdiction, are reflected on the plat referenced above.

It should be clearly noted that the decision of the U.S. Supreme Court to exclude certain waters and wetlands from federal jurisdiction under the Clean Water Act has no effect on any state or local government restrictions or requirements concerning aquatic resources, including wetlands. You are strongly cautioned to ascertain whether such restrictions or requirements exist for the area in question before undertaking any activity which might destroy or otherwise impact these wetland resources.

Based on an on-site inspection and a review of aerial photography and soil survey information, it has been determined that the boundaries shown on the referenced plat are a reasonable approximation of the location and boundaries of the wetlands or other waters found on this site. However, you are cautioned that this delineation is approximate, subject to change, and should be used for planning purposes only. In order for a more accurate determination to be provided, these areas should be surveyed and platted. Upon receipt of such a plat, this office can then issue a letter verifying the accuracy of the actual boundaries. Please note that this office does not require that these non-jurisdictional areas be surveyed. However, if the landowner voluntarily wishes to obtain a more accurate determination or needs to perform this level of mapping due to the requirements of state or local governmental entities, we will provide a review and verification of this mapping upon request.

Please be advised that this determination is valid for five (5) years from the date of this letter unless new information warrants revision of the delineation before the expiration date. All actions concerning this determination must be complete within this time frame, or an additional delineation must be conducted. Further, be advised that this **preliminary** jurisdictional determination is **not** an appealable action under the Corps of Engineers administrative appeal procedures defined at 33 CFR 331.

In future correspondence concerning this matter, please refer to SAC 87-2005-2039-2. You may still need state or local assent. Prior to performing any work, you should contact the South Carolina Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management. A copy of this letter is being forwarded to them for their information.

If you have any questions concerning this matter, please contact me at 843-329-8044 or toll free at 1-866-329-8187.

Respectfully,

Elizabeth Jackson
Biologist

Enclosure:
Basis for Jurisdiction
Customer Service Survey

Copy Furnished:

South Carolina Department of Health
and Environmental Control
Office of Ocean and Coastal
Resource Management
1362 McMillan Avenue, Suite 400
Charleston, South Carolina 29405

JURISDICTIONAL DETERMINATION Revised 8/13/04
U.S. Army Corps of Engineers

DISTRICT OFFICE: SAC.87-2005-2039-2
FILE NUMBER:

PROJECT LOCATION INFORMATION:
State: South
County: Berkeley
Center coordinates of site (latitude/longitude): 33.11380 / 80.16511
Approximate size of area (parcel) reviewed, including uplands: 7.8 acres.
Name of nearest waterway: Sandy Run
Name of watershed: W2

JURISDICTIONAL DETERMINATION
Completed: Desktop determination ☐ Date:
Site visit(s) ☒ Date(s): 11-3-05

Jurisdictional Determination (JD):

☒ Preliminary JD - Based on available information, ☐ *there appear to be* (or) ☒ *there appear to be no* "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

☐ Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331).
Check all that apply:

☐ *There are* "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

☐ *There are* "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

☐ *There are "isolated, non-navigable, intra-state* waters or wetlands" within the reviewed area.
☐ Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:
A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":
☐ The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":
☐ (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
☐ (2) The presence of interstate waters including interstate wetlands[1].
☐ (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
☐ (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
☐ (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
☐ (iii) which are or could be used for industrial purposes by industries in interstate commerce.
☐ (4) Impoundments of waters otherwise defined as waters of the US.
☐ (5) The presence of a tributary to a water identified in (1) – (4) above.
☐ (6) The presence of territorial seas.
☐ (7) The presence of wetlands adjacent[2] to other waters of the US, except for those wetlands adjacent to other wetlands.

CERTIFICATION BY COUNSEL

I, the undersigned counsel, do hereby certify that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Respectfully submitted this 16th day of June 2019.

Paul B. Ferrara, III
S.C. Bar No. 70511
8887 Old University Blvd, Ste. 200
North Charleston, SC 29406
(843) 569-5511 / (843) 569-5411 fax
paul@ferraralawfirm.net
Attorney for Appellant