

COURT OF COMMON PLEAS OF DELAWARE COUNTY

- - - - -
 MOLLY DRAYER,)
)
 Plaintiff,)
)
 vs.) Case No.
) 21 CV H 03 0093
 SUNBURY REAL ESTATE HOLDINGS,)
 LLC, et al.,)
 Defendants.)
 - - - - -

12:15 p.m.
 Thursday, June 2, 2022
 119 Granville Street
 Sunbury, Ohio 43215

DEPOSITION OF MICHAEL TALIERCIO

- - - - -
 Jackie Olexa White
 Registered Merit Reporter
 - - - - -

SPECTRUM REPORTING, LLC
 400 South Fifth Street
 Columbus, OH 43215
 (614)444-1000

A P P E A R A N C E S

REPRESENTING THE PLAINTIFF:

BRIAN K. DUNCAN, Esq.

BKD Legal LLC

119 East Granville Street

Sunbury, Ohio 43074

bduncan@bkdlegal.com

REPRESENTING THE DEFENDANTS:

MATTHEW S. TEETOR, Esq.

Teetor, Westfall

200 East Campus View Blvd., Suite 200

Columbus, Ohio 43235

mteetor@teetorlaw.com

ALSO PRESENT: MOLLY DRAYER

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Thursday Morning Session

June 2, 2022

12:15 p.m.

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STIPULATIONS

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It is stipulated by and between counsel for the respective parties that the deposition of MICHAEL TALIERCIO, a defendant herein, called by the plaintiff under the statute, may be taken at this time and reduced to writing in stenotypy by the Notary, whose notes may then after be transcribed out of the presence of the witness; that proof of the official character and qualification of the Notary is waived; that the examination, reading and signature of the said MICHAEL TALIERCIO to the transcript of his deposition are not waived by counsel and the witness.

- - - - -

1 MICHAEL TALIERCIO

2 being first duly sworn, as hereinafter certified,
3 testifies and says as follows:

4 CROSS-EXAMINATION

5 BY MR. DUNCAN:

6 Q. Could you please state your name for the
7 record?

8 A. Michael Taliercio.

9 Q. Do you prefer to go by Mike?

10 A. I do.

11 Q. Mike, you were in here for your counsel's
12 brief intro on the depo process. I'm going to ask
13 you questions. If you know the answer, answer them.
14 If you don't know, that's fine. If you don't recall,
15 that's fine, just tell me. But if it's something
16 that you can give me information after the fact,
17 we'll work with your counsel and get that.

18 A. Great.

19 Q. Any time you need a break, you need more
20 coffee, anything, let us know, get up, and we'll deal
21 with it.

22 Mike, have you ever been deposed before?

23 A. Yes.

24 Q. And when was that?

1 A. If I recall, several years ago. Maybe
2 eight. Seven or eight.

3 Q. What type of case was that that you were
4 deposited in?

5 A. It was a commercial.

6 Q. Were you involved as the plaintiff or the
7 defendant on that case?

8 A. I was the defendant.

9 Q. Was it you personally or one of your
10 companies?

11 A. My company.

12 Q. Mike, are you married?

13 A. No.

14 Q. Do you have any children?

15 A. No.

16 Q. Who resides on the property at 157 South
17 Vernon Street?

18 A. Presently, I do.

19 Q. By yourself?

20 A. Yes.

21 Q. And that property is owned under Sunbury
22 Real Estate Holdings, LLC, is that correct?

23 A. Correct.

24 Q. Are you the sole member of that company?

1 A. No.

2 Q. Who are the members of that company?

3 A. My father, John D. Taliercio is the other
4 member.

5 Q. What is the ownership structure, meaning
6 is it 50/50 or was it percentage interest?

7 A. 50/50.

8 Q. Okay. What about 157 South Vernon Street,
9 LLC, that is an entity that you were a member of,
10 correct?

11 A. Yes, that was the original LLC that
12 purchased the property that owned the property. And
13 it was changed to Sunbury Real Estate Holdings during
14 the lawsuit with the Village.

15 Q. And were you and your father both members
16 of 157 South Vernon Street?

17 A. Yes.

18 Q. Okay. And you mentioned that the
19 ownership structure changed hands. You facilitated
20 that through a quitclaim deed from 157 South Vernon
21 to Sunbury Real Estate Holdings, correct?

22 A. Correct.

23 Q. 157 South Vernon Street was the defendant
24 in a lawsuit Case Number 18 CV 2018, Delaware County.

1 The complaint was filed by the Village of Sunbury.

2 Are you familiar with that case?

3 A. Oh, yes, very.

4 Q. In that case, 157 South Vernon Street was
5 named as the primary defendant, correct?

6 A. Yes.

7 Q. Administrator was also named as a
8 defendant in that case, correct?

9 A. Along with, I think, seven other
10 neighbors.

11 Q. That case reflects that it's closed. What
12 happened in that case? What was the outcome, I guess
13 is the better question?

14 A. The judge threw out the Village's claims
15 of adverse possession and prescriptive easement. The
16 acknowledgment of David Brehm slandering the title
17 was put -- was involved with that. And they insisted
18 that the entire future economic development and
19 success of the Village Square was contingent upon
20 traffic coming across my property.

21 So we reached a settlement agreement back
22 in December -- it will be two years ago this
23 December, to which they have done nothing to honor
24 the terms of that agreement.

1 Q. What were the terms of the settlement
2 agreement?

3 A. That they --

4 MR. TEETOR: Before you state that, I'm
5 going to object to the relevance of this to this
6 particular lawsuit, but you can go ahead and answer.

7 THE WITNESS: I'm sorry, rephrase or
8 repeat.

9 Q. What were the terms of the settlement
10 agreement?

11 A. Not being 100 percent with everything, but
12 the basics was they'll give me compensation. They
13 will -- I will give up a portion of my property.
14 They will expand another portion of my property to
15 put in a proper road without a blind spot that comes
16 around the corner of the existing building at 157
17 South Vernon Street.

18 Q. You talk about giving up a portion of the
19 property. How does this settlement -- how does it
20 correlate with the -- with the street, I guess, for
21 lack of a better term, that is Vernon Street?

22 A. Basically, what we agreed upon was I would
23 give up roughly, I think, .15 acres to which they
24 would take the 8 feet I own in South Columbus Street,

1 bring it towards or through where South Vernon Street
2 is. And then move the drive surface away from the
3 corner of the building, 10 to 15 feet, put in a
4 proper corner, a safe corner, in which case a portion
5 of my property there would expand, and I would end up
6 losing, I believe, around .11 acres, .15, somewhere
7 in there of the existing total land mass I have
8 between the two parcels.

9 MR. DUNCAN: If you could go to what was
10 marked as Exhibit G. It's the photos.

11 MR. TEETOR: Just so I don't keep
12 interrupting, I just want to say for the record, it's
13 an ongoing objection as far as --

14 MR. DUNCAN: Fair enough.

15 THE WITNESS: Okay. I'm on G.

16 Q. First question, did you take these photos?

17 A. I did.

18 Q. When did you take these photos?

19 A. About a week, week and a half ago, no more
20 than two.

21 Q. Can you give the exact date to your
22 counsel for me, just provide it later on, please?

23 A. All right.

24 Q. I think the second photo will probably be

1 best for what I'm going to ask. So you mentioned
2 that with the settlement agreement with the Village,
3 giving up a .15-acre. The road that is depicted
4 here, how does that settlement agreement tie into
5 this? Is a portion of this Vernon Street being taken
6 by the Village -- strike that. Is a portion of this
7 being given up in favor of the Village per your
8 settlement agreement?

9 A. If they would actually be decent people
10 about it, technically speaking, if they fulfill the
11 terms of the settlement agreement, this would become
12 city property.

13 Q. The entire property?

14 A. Well, from this angle it would veer a
15 little bit more to the right. So it would go right
16 past probably the edge of the road. Would go right
17 through the speed limit sign. And then it would take
18 a slight curve to the left. And where the existing
19 asphalt surface sits on the left-hand side as you're
20 coming around the corner here, so as you're heading
21 east, it would move about 10:00 or 15 feet away from
22 the corner of the existing building.

23 Q. So per your settlement agreement, this
24 entire road will be given or dedicated to the City of

1 Sunbury?

2 A. Correct. Would be if they fulfill the
3 terms of the settlement agreement. However, it is
4 important to point out that they refuse to specify a
5 date for that work to be completed or within a time
6 frame.

7 Q. Is there any agreement of who would
8 maintain this road as you're working towards a
9 resolution?

10 A. No, I don't believe that was discussed
11 with them. Although, after the settlement, they
12 continued to plow. And because the settlement was in
13 place, I allowed it to happen.

14 Q. Okay. And you said the settlement
15 occurred when?

16 A. December of '20, I believe. I think it
17 will be two years this December.

18 Q. Okay. All right. I want to talk a little
19 bit about your history with Molly. Do you recall
20 when you and Molly met?

21 A. Yeah, shortly after I purchased the
22 building in December of '15.

23 Q. Okay. How were you introduced to Molly?

24 A. She was out walking her dogs, I think, or

1 just in the yard. And she was very friendly. She
2 waved, we chatted. She asked what business we would
3 be running out of there. I told her. And I also
4 told her it was the hope of ours that we could
5 redevelop this into something that may have a higher
6 and better use.

7 Q. Briefly back to Exhibit G. Do you believe
8 as of today that this is owned -- this road is owned
9 by the Village of Sunbury or the City of Sunbury?

10 A. No, it's owned by me.

11 Q. Why is that?

12 A. They haven't fulfilled the terms of the
13 settlement agreement.

14 Q. Did you execute any documentation such as
15 a deed or anything in their favor?

16 A. No.

17 Q. When is that supposed to happen?

18 A. We don't know. They won't answer our
19 questions.

20 Q. Are you frustrated with the situation?

21 A. Well, considering the situation, I would
22 imagine, you know, when you purchase a property, you
23 don't expect the Village attorney to slander it in a
24 premeditated way in an attempt to steal the property

1 or illegally abscond it. You think the City would be
2 looking out for the interests of its community. But
3 what I've learned through this experience is that the
4 Village has been illegally obtaining property from
5 people in the last three or four decades.

6 Q. So you filed counterclaims to the
7 complaint that was filed, correct?

8 A. Um-hum.

9 Q. You have three counterclaims that you
10 filed that were trespass, quiet title, and
11 declaratory judgment, is that correct?

12 A. Yes.

13 Q. Okay. The second count, the quiet title,
14 is it your understanding that that has been resolved
15 based on the ruling of the court --

16 MR. TEETOR: Objection.

17 Q. -- in your favor?

18 MR. TEETOR: The question calls for a
19 legal conclusion. You can answer if you know.

20 A. It has not been quieted since the Village
21 continues to put off, as I said, fulfilling the terms
22 of the settlement agreement.

23 Q. Let me take a step back. I'm talking
24 about the complaint that was filed by -- so Molly

1 filed a complaint against you in March 8th of 2021,
2 correct?

3 A. (Witness nodding.)

4 Q. You filed an answer to that complaint
5 through your attorney, correct?

6 A. Yes.

7 Q. In that answer, you asserted counterclaims
8 against the complaint that Molly filed?

9 A. Yes.

10 Q. Okay. So my question is: With respect to
11 your quiet title counterclaim, do you believe that
12 that's been resolved based on the decision of the
13 court for your counsel's motion?

14 MR. TEETOR: I'll just restate my
15 objection. Go ahead.

16 A. And this is regarding Molly's lawsuit
17 against me?

18 Q. Yes.

19 A. No, I don't believe it has.

20 Q. You don't believe that your quiet title
21 claim has been resolved?

22 A. I don't believe like I have a quiet title.
23 I have two lawsuits on the same parcel both from
24 parties that knew that they did not have ownership or

1 at least were given the documentation that there was
2 an easement in place. And even the Village map as
3 provided to the County of Delaware in January of
4 2018, just prior to their filing in August of 2018,
5 shows that their property line ends between 157 South
6 Vernon Street and Duncan Oil.

7 Q. Okay. So let's take a step back. So
8 Molly filed her complaint in March 8th of 2021,
9 correct?

10 A. Correct.

11 Q. Prior to that, Molly had filed another
12 complaint seeking the same relief two years ago?

13 A. I think immediately or near the filing of
14 the lawsuit from the Village, within the time frame
15 probably within a few months, I would guess.

16 Q. Okay. And you and Molly had entered into
17 a tolling agreement on that case so that you could
18 resolve the issues with the Village of Sunbury, is
19 that correct?

20 A. That's what I was told, Mark Kessler who
21 was my attorney with the Village.

22 Q. How were you made aware of the complaint,
23 the refile complaint that was filed March 8th, 2021?

24 A. How was I made aware of it?

1 Q. Of the filing.

2 A. We had been texting back and forth about a
3 purchase price or a purchase offer. And I was
4 sitting at my desk, and I got a little blip that came
5 up on my screen that said an email had come in from
6 Delaware County courts. I went, what's this about.
7 I opened it up. And I called you immediately
8 afterwards. You did not pick up.

9 I left you a message that I just finished
10 up with a lawsuit from the Village where they had
11 lost. And I was unable to do with my property what I
12 had wanted to do because of that. And if you were
13 going to file a lawsuit against me, that this would
14 not be the same situation in this case. And that if
15 I was going to be infringed upon, then Molly would
16 not be able to enjoy the property that she had
17 trespassed on with the placement of the fence.

18 Q. So in the spirit of her not being able to
19 enjoy the property is that why you're not maintaining
20 the property at this point?

21 A. Mostly because, honestly, when she texted
22 to me that she feared for her life, which I have no
23 idea why she did, I just thought it would be better
24 to stay as far away from her as possible.

1 So when I did spray the total vegetation
2 killer, for me that was just like, okay, let's just
3 kill the weeds, and I don't have to come over here
4 and mow the lawn. But to which I would like to state
5 that when I first purchased the property, she was out
6 there mowing the lawn one day. And I did say to her,
7 you don't have to do it any more, I'll do it.

8 And she said that she enjoys it and it was
9 part of what she likes to do. But, you know, it
10 didn't bother me that she mowed the lawn. You know,
11 that's fine with me, always has been. But she was
12 enjoying it, I was paying for it, I didn't have
13 access to it. And I did state previously that I
14 purchased the property to, hopefully, redevelop it
15 one day.

16 Q. Why are you not mowing it now?

17 A. Because it's in the middle of the lawsuit.

18 Q. The claims that Molly had for adverse
19 possession trying to take that area were found in
20 your favor, correct?

21 A. Correct.

22 Q. Molly has no rights to that property,
23 correct?

24 A. Correct.

1 Q. Molly can't go on to that property without
2 your permission, correct?

3 A. Well, she does have an easement presently.

4 Q. The property that she sought to adversely
5 possess, the side where the grass is grown?

6 A. Correct.

7 Q. Who do you expect to maintain that
8 property?

9 A. I'll maintain it when I see fit. It's my
10 property.

11 Q. Wouldn't you agree that neighbors have a
12 duty to one another to maintain the respective
13 properties to help the other neighbors?

14 A. Sure. They also have a responsibility to
15 respect property lines.

16 Q. You tore down the fence that Molly had on
17 your property --

18 A. (Witness nods head.)

19 Q. -- the day the lawsuit was filed, correct?

20 A. Yes.

21 Q. Did you ever remove the debris?

22 A. Some of it, not all of it. At that point,
23 I was told just to keep my distance from her.

24 Q. It's your property, correct?

1 A. Correct.

2 Q. The court found that?

3 A. Correct.

4 Q. Is that debris still there?

5 A. Some of it.

6 Q. The grass is still overgrown?

7 A. It's mostly weeds now.

8 Q. When do you anticipate cleaning it up?

9 A. When I see fit.

10 Q. Do you agree that a Village or the City of
11 Sunbury would have a right to compel you to maintain
12 that property?

13 A. It's funny you asked. I asked them to
14 send a letter. They refused.

15 Q. Sounds like they are not doing much for
16 you either way?

17 A. Well, they are crooked.

18 Q. So is it just out of spite, for lack of a
19 better term, that you won't maintain that property?

20 MR. TEETOR: Objection.

21 A. I would be happy to maintain that property
22 when I see fit.

23 Q. When do you anticipate you'll see fit to
24 fix your property?

1 A. Well, I think when I have a quiet title,
2 when everything is settled with her, when everything
3 is settled with the Village, I'll probably start
4 taking better care of that area.

5 Q. She has nothing to do with the Village's
6 claims, isn't that correct?

7 A. I don't know.

8 Q. Has she filed anything -- that lawsuit has
9 been resolved, correct?

10 A. Supposedly.

11 Q. Was Molly a party to the settlement
12 agreement?

13 A. Not that I am aware of.

14 Q. It was between you and the Village,
15 correct?

16 A. Correct.

17 Q. I'm using Village and city interchangeably
18 because, obviously, just made the switch.

19 A. That's fine.

20 Q. Molly had nothing to do with the
21 settlement between you and the city, correct?

22 A. Correct.

23 Q. Why would the dealings with the city have
24 any impact on whether or not you maintain the

1 property that's in question here?

2 A. Well, in this case it really doesn't make
3 a difference. But in this case, between Molly and I,
4 it does.

5 Q. You've already prevailed upon Molly's
6 claims against you for adverse possession, correct?

7 A. As I understand.

8 Q. The only claim that remains for Molly is
9 mirrored with the claim that you have with respect to
10 this easement, correct?

11 A. Yes.

12 Q. All of Molly's claims have been disposed
13 of?

14 A. Yes.

15 Q. The property is yours?

16 A. The property is mine.

17 Q. Do you believe you have a duty to maintain
18 that property?

19 A. Of course.

20 Q. But you don't want to?

21 A. Oh, no, I will. I'm happy to do it.

22 Q. When you feel like it?

23 A. When I feel like it. And, as far as I
24 understand, that she no longer fears for her life.

1 Because no threat was ever made. I've never raised
2 my voice to her. I never said anything offensive.
3 I've never made an offensive gesture ever.

4 Q. If I sent an email to your attorney
5 stating that Molly doesn't fear for her safety, would
6 you maintain that property?

7 A. Likely the first thing I would like to do
8 is take the fence down.

9 Q. Okay.

10 A. Or the remainder of the fence.

11 Q. Okay. Throughout your counterclaims there
12 have been various communications between your
13 attorney and I. And you've asserted that you have
14 been -- that you have damages against Molly?

15 A. I do.

16 Q. What are your damages? How much do you
17 believe your damages are?

18 A. Well, the extent of at the very least my
19 attorney's fees.

20 Q. Why do you believe that?

21 A. Well, I offered to sell it to her, not
22 only the green space, but the easement area going
23 across the asphalt surface of which she's responsible
24 to maintain, but she hasn't. She refused to do that.

1 She had a fence on the property that
2 extended on to my property. She has admitted she has
3 Dobermans -- German Shepherds, sorry. I have a
4 background in leasing and real estate. I know that
5 if someone were to be on that property and be
6 attacked, and it was on my portion of the property,
7 that I could be held liable. And putting forth a
8 lease agreement specifying the terms of possible
9 incidents that I would be able to defend myself in
10 advance with an acknowledgment of an agreement.

11 Forthwith, I was the one paying the
12 property taxes on that property the entire time, and
13 prior to me it was Cellar Lumber. The easement
14 agreement was entered into in 2006, with the previous
15 owners, the Bakers, acknowledging that that property
16 did not belong to them, but acknowledged that it
17 belonged to Cellar Lumber.

18 When Molly purchased the property in 2011,
19 that information was presented to her. She read it
20 clearly. She's literate. And she signed and agreed
21 to it. She immediately, immediately, within months,
22 I would imagine, put up a fence on to it, basically,
23 disregarding it in its entirety.

24 And then moving forward, when I sent her

1 the certified letter asking her, hey, here is a copy
2 of the easement agreement, this is what you're
3 responsible for, please send me three estimates.
4 Back then, before Covid, I figured she would send me
5 three estimates. I could undercut all of them, and I
6 would bring myself and my crew out there and maintain
7 the property for her on her behalf to get the lowest
8 price possible for her. But she never provided any
9 of the estimates.

10 I believe at that point is when she
11 basically admitted today she kind of went straight to
12 a legal mindset and contacted representation. And
13 that was also when I sent the lease agreement.

14 Q. You don't have a written agreement with
15 Molly, correct?

16 A. The only written agreement we have is the
17 easement.

18 Q. No written agreement that would require
19 her to pay attorney's fees to you on a default,
20 correct?

21 A. No, except she sued me after I tried
22 working with her on multiple occasions and different
23 types of arrangements.

24 Q. To be fair, the Village sued both of you,

1 correct?

2 A. The Village sued me and named anybody who
3 would have to cross my property to get to their
4 property, which doesn't really make sense for
5 Tom Hatfield, because he doesn't have to cross my
6 property at all to get to his property.

7 Q. Who all has to cross your property to get
8 to their property?

9 A. Only Molly, Bill Atkins' tenants and the
10 future owner of Miss Shull's home.

11 Q. Who was the second?

12 A. Bill Atkins' tenants, because it's a
13 duplex. He rents it out.

14 Q. Are there easement agreements in place
15 with those other two individuals?

16 A. No.

17 Q. But you allow their access across?

18 A. Without question.

19 Q. Okay. Let's turn to the easement
20 agreement, itself. It's labeled as Exhibit A.

21 To be clear, this easement agreement is
22 the only agreement that you're aware of for any of
23 the adjacent property owners of --

24 A. This is the only easement agreement that

1 is filed. Everything else is implied.

2 Q. Okay. Anything else in writing that is
3 not filed?

4 A. No, not that I am aware of.

5 Q. Does Molly use this easement area on a
6 daily basis, to your knowledge?

7 A. I would imagine on occasion. She doesn't
8 need to, but it's up to her which direction she
9 turns.

10 Q. Do you see her vehicle parked in the
11 driveway --

12 A. Yes.

13 Q. -- often?

14 A. Yes.

15 Q. She puts her trash in the easement area,
16 correct?

17 A. No, she puts her trash in the green space.

18 Q. Okay. What is your understanding of the
19 easement area?

20 A. Turn to the last page of Exhibit A,
21 easement area is defined by the hashed out parallel
22 diagonal lines.

23 Q. I'm assuming by this drawing that the
24 rectangle is Molly's property?

1 A. Yes, the 40-foot wide by however deep that
2 is is Molly's property.

3 Q. What is your understanding of the space
4 between the hashed lines and Molly's property, that
5 white open space?

6 A. That's my property.

7 MR. TEETOR: Brian, if I might interject.
8 So it's clear, do you want to mark anything here?

9 MR. DUNCAN: That's okay.

10 Q. That area, the white space, are you aware
11 of what the total acreage is?

12 A. I think when we were discussing her
13 purchasing it, when I did my Google earth images on
14 it, it comes out between .13 and .15. And I believe
15 in adding it to her lot, it would double or more than
16 double or approximately double the size of the
17 acreage for that area.

18 Q. So I asked you what your understanding was
19 with respect to the easement. And you told me what
20 you believe he's easement area is in Exhibit C -- or
21 I'm sorry, yeah, Exhibit C. What are your
22 requirements under the easement?

23 MR. TEETOR: Just to be clear, Brian, I
24 think it's Exhibit A, but it's labeled Exhibit C to

1 Exhibit A.

2 MR. DUNCAN: Fair enough.

3 MR. TEETOR: Thanks.

4 A. Repeat the question, please. What are my
5 obligations per the easement?

6 Q. Yes.

7 A. Well, Cellar Lumber had received
8 supposedly good and valuable consideration. And they
9 acknowledge that the easement stays in effect as long
10 as the grantee maintains and repairs the said
11 improvements and keep them in good repair.

12 The one thing that I have brought up, the
13 last line which was not addressed previously, the
14 easement for access shall terminate if and when the
15 easement area is no longer used for vehicular or
16 pedestrian access purposes.

17 Q. Correct.

18 A. To me that sounds like if I decide I want
19 to shut that road and close it off, this easement
20 ends.

21 Q. To me it sounds like as long as Molly or
22 the other -- her property is using that easement area
23 for pedestrian or vehicular purposes, then the
24 easement cannot -- it stays in place.

1 A. That is contingent on it being maintained
2 and in good repair.

3 Q. Where do you see that?

4 A. Directly above the last line.

5 Q. Read it to me. Tell me where it says that
6 that last sentence is qualified by her requirement to
7 maintain the area.

8 A. (Reading) Grantee is solely responsible
9 for repair and maintenance of said improvements and
10 shall keep said improvements in good repair.

11 Q. Okay. Does it say if they are not in good
12 repair then the easement ceases to exist?

13 MR. TEETOR: I'll object to the extent
14 that this line of questioning is asking for a legal
15 conclusion, and I'll make that a continuing objection
16 so I don't interrupt the flow anymore.

17 Q. Does it say that?

18 A. Repeat.

19 Q. Does it say that if the grantee fails to
20 maintain, then the easement is no longer in effect?

21 A. It doesn't not say it.

22 Q. Okay. But it doesn't say it?

23 A. It doesn't not say it.

24 Q. The next sentence specifically lays out

1 two reasons why the agreement would not stay in
2 effect, correct?

3 A. Correct.

4 Q. And that's if she no longer used it for
5 vehicular or pedestrian access purposes?

6 A. Okay.

7 Q. You testified or you stated before that
8 she continuously uses this easement, correct?

9 A. As far as I know, everybody.

10 Q. You see her vehicle there?

11 A. I see her vehicle parked in her driveway.
12 I don't see her coming and going all the time.

13 Q. Would you agree that a vehicle sitting in
14 the driveway is vehicular purposes?

15 A. On the asphalt portion of the easement,
16 no. On the gravel portion of the easement,
17 certainly.

18 Q. Does it distinguish between the asphalt
19 and the gravel portion anywhere in this easement?

20 A. No, it does not specify. It just shows
21 you the area on the last page of Exhibit A.

22 Q. Okay.

23 A. So that would mean the entire area needs
24 to be maintained and in good repair.

1 Q. There's nothing that states that the
2 entire area has to be used for vehicular or
3 pedestrian purposes, correct? It just says the
4 easement for access shall terminate if and when the
5 easement area is no longer used for vehicular or
6 pedestrian access purposes? So is she -- in your
7 opinion, does Molly use this easement for vehicular
8 or pedestrian access purposes?

9 A. Yes.

10 Q. So why would it terminate?

11 A. Because it's not in good repair.

12 Q. Okay. So the sentence above states:
13 Grantee is solely responsible for the repair and
14 maintenance of said improvements and shall keep said
15 improvements in good repair, correct?

16 A. Correct.

17 Q. Is the word improvements defined in this
18 easement?

19 A. It would be implied.

20 Q. You didn't draft this easement, correct?

21 A. I did not draft this easement.

22 Q. Molly had nothing to do with this
23 easement, correct?

24 A. Agreed.

1 Q. Likely an attorney that drafted this, you
2 know, when neither one of the two of you were there.
3 My question is: Is the word improvements defined in
4 this easement?

5 A. No, it is not defined in this easement
6 except it is referred to or referenced when you look
7 at paved drive being used to South Vernon Street,
8 paved implying that there's asphalt there.

9 Q. But there's nowhere even in that Exhibit C
10 of that Exhibit A, the word improvement is not in
11 there, correct?

12 A. The word improvement in the easement
13 language refers to the drawing of Exhibit C of
14 Exhibit A.

15 Q. That's your understanding, correct?

16 A. That would be most people's understanding.

17 Q. You didn't draft this, though?

18 A. I did not.

19 Q. Would you agree this could have been
20 drafted better if it defined what improvements were?

21 A. Certainly.

22 Q. When you think of the word improvement,
23 what's to improve mean?

24 A. To alter into a permanent or

1 semi-permanent structure.

2 Q. Okay. So, I mean, this could be construed
3 to mean that you got an existing structure that's
4 already there, which is the drive, and the road.
5 Arguably, you could say if there's any improvements
6 to it, then she'd have the right or the obligation to
7 repair those; isn't that a reasonable assumption that
8 it could mean not what was there at the time, but
9 improvements to what was there at the time?

10 MR. TEETOR: Continuing objection, asking
11 for legal conclusion.

12 A. That question really doesn't make very
13 much sense because prior to what was asphalt there,
14 was gravel. So the area was improved with the
15 asphalt.

16 Q. When?

17 A. Probably some time in the late '80s, early
18 '90s, according to Tom Cramp, who is the current
19 president of Cellar Lumber.

20 Q. Again, it was improved prior to this
21 easement going in to place, correct?

22 A. Yes.

23 Q. Okay. So what improvements to that area
24 were undertaken after this easement was in place?

1 A. Probably repaved.

2 Q. Probably?

3 A. According to the Village, it was repaved.

4 Q. Who repaved it?

5 A. I wasn't here.

6 Q. Okay.

7 A. However, it could be evidenced from the
8 existing damage -- and I don't know if you've
9 provided this, but if you go to Exhibit G, it is not
10 in here, but there is an image showing multiple
11 lifts. A lift in the asphalt business -- because i
12 have had an asphalt company for the last 15 years --
13 is when you see variations of an installation of
14 asphalt on top of asphalt.

15 If you go down to the very bottom of the
16 intersection, you can see off to the right at least
17 three lifts, which means it had been paved at least
18 three different times.

19 Q. You reference Exhibit G. You don't even
20 own that any more, correct? Or let me rephrase that.
21 You gave up your rights to Vernon Street to the
22 Village, right?

23 A. I agreed to for compensation, which has
24 not been fulfilled. This property still belongs to

1 me.

2 Now, that being said, should I sell that
3 to the Village, your easement will become null and
4 void.

5 Q. That is not accurate. So your claim on
6 declaratory -- for your declaratory judgment against
7 Molly, is it foundation on she needs to make repairs
8 to South Vernon Street, is that your belief, that she
9 needs to repair the potholes on Vernon Street?

10 A. Yes.

11 Q. Why?

12 A. Because it's not in good repair.

13 Q. You gave up your rights to South Vernon
14 Street?

15 A. I did not.

16 Q. You testified that you signed a settlement
17 agreement?

18 A. It's not fulfilled.

19 Q. Did you sign an agreement stating that
20 that property becomes the property of the Village or
21 the City of Sunbury?

22 A. Upon the conclusion of the settlement
23 agreement.

24 Q. But you signed the agreement, correct?

1 A. I did.

2 Q. I'm going to turn to Exhibit F. You took
3 that picture, correct?

4 A. I did not.

5 Q. My apologies. You're familiar with this
6 picture, correct?

7 A. As of earlier today.

8 Q. Okay. Is it your understanding that is
9 Molly's car in the picture?

10 A. I believe so.

11 Q. And that car is parked in the easement
12 area, correct?

13 A. That car is parked on her property as far
14 as I know.

15 Q. It's not parked in a driveway?

16 A. I don't know -- I don't think that's her
17 driveway. Her driveway would be offset a little
18 further back than that.

19 You can see on the aerial image from
20 Exhibit B, you could even see where her car is. So
21 where it's parked there, it's on my property, and so
22 that would be parked on the easement area. But in
23 the picture she took, she's parked on her property.

24 Q. But in this Exhibit F, her vehicle is

1 parked in the easement area, correct?

2 A. No.

3 Q. You testified before that you have seen
4 Molly's vehicle parked in the easement area recently,
5 correct?

6 A. She's been pretty good about not parking
7 in the easement area lately.

8 Q. But you have seen her parked there?

9 A. Recently, no.

10 Q. When was the last time you've seen her
11 parked there?

12 A. Maybe three months ago, two months ago.
13 She does have other cars parked there, but I
14 understand she's got guests.

15 Q. So she has -- either Molly or her guests
16 are making use of that easement area, correct, by
17 parking their vehicles there?

18 A. Yeah.

19 Q. Okay. Continuously?

20 A. As needed.

21 Q. Okay. Just to tie up a loose end. Your
22 counterclaims, we talked about your damages, and you
23 discussed your attorney's fees. Are there any other
24 damages that you believe you're entitled to?

1 A. My time. And then also, you know, she's
2 mentioned previously that the weeds are defamation.
3 Defamation usually means that language is being used.

4 When I came home one day, the day around
5 when the Black Lives Matter sign was put on her
6 temporary fence, she had, I don't know, 20, 30 people
7 with signs in her yard --

8 MS. DRAYER: I never had a Black Lives
9 Matter sign.

10 A. -- picketing me or demonstrating against
11 me. I do have someone who was with me that saw it
12 happen.

13 I'm not sure what she necessarily told
14 those people to get them all there, but they all had
15 signs. And I was quite shocked when I came home and
16 saw all these people there. But, you know, if they
17 had known or had seen the property line or the GIS,
18 whatever it is, maybe they wouldn't have gone.

19 But if you're talking about outwardly
20 going out and trying to defame somebody, I would say
21 that's probably a better example of that than just
22 letting weeds grow.

23 Q. Fair enough. So you tore the fence down
24 the day the complaint was filed, correct?

1 A. Yeah.

2 Q. Okay. Prior to that, for the duration of
3 your ownership of the property, Molly had maintained
4 that area in question, correct?

5 A. I let her, yes.

6 Q. She cut the grass?

7 A. Yes.

8 Q. Bettered your property?

9 A. Bettered it?

10 Q. Maintained it? Better choice of words.

11 A. I don't know.

12 Q. Did you have any issue with how Molly was
13 cutting the grass on your property?

14 A. No.

15 Q. Okay.

16 A. I wouldn't say she bettered it.

17 Q. Fair enough.

18 A. Okay.

19 Q. Maintained it in a good condition?

20 A. Is it a good condition?

21 Q. Maintained it -- prior to you tearing the
22 fence down, did she maintain your property in a good
23 condition?

24 A. That portion of it.

1 Q. Yes.

2 A. The non-easement area.

3 Q. Yes? Is your answer yes?

4 A. Yes.

5 Q. It wasn't until after you tore the fence
6 down that Molly stopped maintaining that area,
7 correct?

8 A. Yes.

9 Q. Okay. It would be fair to assume that any
10 damages that you have related to the portion of the
11 property in question were your own doing and not that
12 of Molly's?

13 A. I don't consider it as damaged. I've been
14 in real estate for quite some time. If I need to
15 clean that up, it might take me a day.

16 Q. So you don't consider your property as
17 damaged?

18 A. Only damage from Molly's trespass.

19 Q. But you just said that she maintained the
20 property at your leisure?

21 A. Yes.

22 Q. You permitted it to happen?

23 A. I permitted it to happen until the
24 negotiations broke down. I've given her multiple

1 opportunities and multiple venues in order to either
2 purchase that property or use it legally under a
3 legal agreement. She refused all those
4 opportunities.

5 Q. Once you tore the fence down, she has not
6 trespassed on your property since, correct?

7 A. Not on that portion of it, no.

8 Q. Okay.

9 A. Or anywhere else I'm aware of.

10 Q. Prior to you tearing the fence down, you
11 acquiesced to her maintaining your property?

12 A. At my leisure, correct.

13 Q. How is there a trespass?

14 A. The construction of the fence.

15 Q. You allowed it to be there for five years,
16 correct?

17 A. As an owner, I can decide what to do with
18 my property and when. So I did allow it to be there
19 for five -- well, not less than that. It had come up
20 in discussion previously. And that's when we had
21 discussed her purchasing the property from me.

22 MR. DUNCAN: Your attorney filed your
23 answer and counterclaims on May 27, 2021, is that --
24 can we stipulate to that, Counselor?

1 MR. TEETOR: Sure.

2 Q. At the time your counterclaim was filed,
3 Molly was no longer trespassing on your property
4 because you had tore the fence down, is that correct?

5 A. The remnants of the fence were still
6 there.

7 Q. Do you not agree that once you exercised
8 control, dominion over the fence and tore it down, it
9 became yours?

10 A. I would certainly like to say that, but
11 what I've learned through all this is any time you
12 have something that's involved in litigation, I've
13 heard it repeatedly, don't do anything more to it,
14 and even in our discussion that we had immediately
15 following my destruction of the fence, you even said
16 that to me, let's just leave it the way it is, and
17 we'll go forward from here.

18 Q. You exercised control over the fence by
19 tearing it down, correct?

20 A. Oh, yeah. I actually controlled the
21 property. The fence, hmm.

22 Q. So, once again, you allowed Molly for the
23 first five years plus that you had the property to
24 cut the grass and maintain that area, correct?

1 A. Yes.

2 Q. You permitted the fence to be on it?

3 A. Yes.

4 Q. You said at your leisure?

5 A. Yes.

6 Q. Okay. You tear the fence down the day I
7 filed the complaint, correct?

8 A. Yes.

9 Q. You exercised control over that fence the
10 day you filed the complaint by tearing it down?

11 A. The day you filed the complaint.

12 Q. The day I filed the complaint, correct?

13 A. Yes.

14 Q. The day you filed the counterclaims 20
15 some days later, Molly was no longer trespassing on
16 your property, was she?

17 A. Oh, no, she continued to trespass.

18 Q. How?

19 A. Trash, cars.

20 Q. In the easement area, correct?

21 A. Yes. Actually, no, the trash was not in
22 the easement area. The trash is in the green space.

23 Q. When was that picture -- turning you to
24 Exhibit I, when did you put that sign up?

1 A. Probably last June or July.

2 Q. After you filed the counterclaim, correct?

3 A. Yes. Multiple pictures have been supplied
4 to my attorney regarding the amount of trash that was
5 dumped there. I have pictures that were sent to my
6 attorney showing in some instances, not that it was
7 Molly's, four feet high, 10, 15 wide by 10, 15,
8 20 feet deep of debris or waste or old furniture or
9 bags of clothes or mattresses.

10 Q. That tree that's in the picture in
11 Exhibit I, do you see that tree?

12 A. Yes.

13 Q. Where is your garage situated from that?

14 A. My garage?

15 Q. Or where is the garage situated from that
16 tree?

17 A. Well, if you refer to Exhibit B, you can
18 kind of see. So probably if you were to go in the
19 center, it looks kind of vague, I would say there's a
20 good 40 feet, maybe, from the trunk of that tree to
21 the nearest corner of her garage.

22 Q. Can you mark that on Exhibit B where
23 you're referencing, please.

24 A. (Witness complying with request.) I would

1 say it's about here near the stump, and this is about
2 40 feet.

3 MR. TEETOR: So the record is clear, Mike
4 has put a little circle where the stump of the tree
5 appears to be in Exhibit B.

6 THE WITNESS: Approximately.

7 MR. TEETOR: And then drawn a line from
8 there to the garage and indicated 40 feet.

9 Q. Do me a favor, overlap that Exhibit B with
10 Exhibit C to Exhibit A. So if you go to Exhibit A,
11 I'm sorry, which is the easement.

12 Based on where you just put the tree,
13 based on where the trash is, isn't it safe to assume
14 that that trash is within the easement area as
15 defined in Exhibit C?

16 A. No.

17 Q. Why?

18 A. Because it's not.

19 Q. Do you have a scale on that?

20 A. You're asking me to judge this based on
21 the drawings and images provided to me?

22 Q. Yes.

23 A. And so based on that, my answer is no.

24 Q. Okay. Is there any sort of scale that

1 tells us how long or how far that easement stretches
2 across?

3 A. If we had a ruler, we could figure it out
4 based on the 40-foot line at the front of Molly's
5 property adjacent to the Columbus Street and the
6 image of Exhibit C of Exhibit A.

7 Q. Wouldn't you agree that it's not an exact
8 science of how this easement area was laid out with
9 the diagonal marks?

10 A. The diagonal marks? Oh, no. At the time
11 I don't believe they had -- well, I guess they did.
12 This was not -- this drawing was not scientifically
13 put together, to answer your question.

14 Q. So you as the owner of this property, you
15 can't even tell us for sure what that easement area
16 is because it's not scientific by what you just said;
17 we don't know exactly what that easement area is?

18 A. I can't tell you what it is based on the
19 language contained in the easement agreement.

20 Q. What does the language tell us?

21 A. Paved drive being used on South Vernon
22 Street, but auditor's records show ownership in
23 Cellar Lumber stating that it's mine.

24 Q. So what if she went out and threw all her

1 trash in the middle of Vernon Street, she'd be using
2 the Vernon Street easement. Is that a better option?
3 Is that what you want her to do?

4 A. That's not trafficked or pedestrian.

5 MR. TEETOR: Brian, I'm going to object.
6 The easement is specified on Page 1 of the Easement.
7 The document speaks for itself. If we're --

8 MR. DUNCAN: No, the document doesn't
9 speak for itself. It's up for interpretation as to
10 what that is.

11 Q. Do you believe that the Vernon Street in
12 Exhibit C of Exhibit A, that easement area that's
13 defined as Vernon Street, do you believe that that's
14 scaled perfectly with how wide Vernon Street actually
15 is?

16 A. No.

17 MR. TEETOR: And I'll continue my
18 objection, because the easement specifies the
19 easement is "over the existing paved drive presently
20 used." So the document does speak for itself. We
21 can talk about Exhibit C, but the document speaks for
22 itself.

23 Q. Not when it goes up after -- what about
24 the other portion that goes off of Vernon Street up

1 to the garage, how wide is that easement area?

2 A. If we were to go to scale based on this
3 drawing, I would say it's about 30 feet.

4 Q. Okay. It's wider than the garage,
5 correct?

6 A. Yeah, according to the garage, it looks
7 like the garage is only eight and a half feet wide,
8 but that's probably too narrow.

9 Q. It says 18.

10 A. Oh, there is a one there. Okay. So just
11 shy of 19 feet.

12 MR. TEETOR: I'll continue the objection,
13 because, again, the easement specifies, "And the
14 existing stone drive leading therefrom."

15 Q. The easement doesn't specify what the
16 improvement area is though, correct, what the
17 improvements are?

18 A. Well, you have pavement and stone, those
19 are the improvements.

20 Q. Where does it say that in the easement?

21 A. It says paved right here, paved drive, and
22 it says stone drive right here.

23 Q. Does it say that that equals improvements?
24 Is there any definition -- we talked about it -- is

1 there any definition for improvement?

2 A. I suppose we could get out a dictionary
3 and define that.

4 Q. Would you feel comfortable if the shoe
5 were on the other foot, you're in Molly's position,
6 Molly is in yours, would you feel comfortable in
7 patching potholes in a street that's, you know, used
8 by multiple people?

9 A. If it's my legal obligation.

10 Q. Where is it her legal obligation?

11 A. Where it says it here in the easement, to
12 maintain it in good repair.

13 Q. It says to maintain improvements?

14 A. Okay. Well, the improvements are failing.

15 Q. Have there been any improvements to what
16 was in place when this easement went into effect?
17 When the easement went into effect, that road, South
18 Vernon, was already paved, correct?

19 A. Yes.

20 Q. Okay. Has it ever been proved after that?

21 A. Proved that --

22 Q. Improved?

23 A. That is the improvement.

24 Q. That is the improvement?

1 A. Yes.

2 Q. Okay. All right. Let's go on to your
3 declaratory judgment count. What do you want the
4 court to do about the easement? What are you asking
5 the court to do?

6 A. I don't believe we're asking the court to
7 do anything regarding the easement. We're asking
8 Molly to honor the easement.

9 So I suppose we could be asking the court
10 to either enforce the easement or negate the easement
11 if she refuses, you know, to follow the terms of the
12 easement agreement.

13 Q. The terms of the easement say that when
14 the easement area is no longer used for vehicular or
15 pedestrian access purposes, it shall terminate.

16 You've testified that Molly still uses
17 this for vehicular and pedestrian purposes, correct?

18 A. Perhaps, yes.

19 MR. TEETOR: Object.

20 A. But it also states it needs to be
21 maintained. So there's a contingency and a
22 relationship between the two.

23 Q. There's not a contingency. Is there
24 anywhere in here that says -- is there anywhere in

1 that document that says that last sentence is
2 contingent on the prior sentence? Does it say it?

3 A. No.

4 Q. Okay. You didn't draft it, correct?

5 A. No.

6 Q. I didn't draft it, correct?

7 A. No.

8 Q. Your attorney didn't draft it, correct?

9 A. No.

10 Q. It's not there. Isn't it fair that there
11 is not a specific contingency on improvements as it
12 relates to the last sentence?

13 A. I suppose if I agree with that, everybody
14 else with an implied easement is in deep trouble.

15 Q. What is an implied easement?

16 A. What is an implied easement? I said the
17 same thing.

18 Q. Answer the question.

19 A. And implied easement is that it is of
20 necessity based on the fact that there's no other
21 alternative.

22 Q. We're not -- what is the implied easement?
23 What does an implied easement have to do with this
24 case?

1 A. Both neighbors to the north of Molly have
2 implied easements across the property, across my
3 property to gain access to their garages.

4 Q. They are making use of that easement,
5 correct?

6 A. Yes.

7 Q. You don't have that in writing, correct?

8 A. This is the only easement in writing with
9 any of my neighbors except for Duncan Oil.

10 Q. Okay. Briefly, just to run through these
11 exhibits, Exhibit C, the lease agreement. That was
12 never signed, right --

13 A. No.

14 Q. -- by Molly, correct?

15 Was it true that that Exhibit C, that
16 lease agreement, it was attached to a letter that you
17 sent Molly March 20th that I attached as Exhibit B to
18 my complaint?

19 A. Yes.

20 Q. Okay. Did you draft that lease agreement?

21 A. I did, with a little help from CCIM's and
22 an attorney.

23 Q. A little help from my friends?

24 A. Yep.

1 MR. DUNCAN: Okay. I have one more
2 exhibit for you. I'll mark this as J. We're going
3 to use joint exhibits.

4 (Exhibit J was marked for identification.)

5 Q. This document is identified as Exhibit J.
6 This is your responses to my discovery requests, is
7 that correct?

8 A. As far as I can tell.

9 MR. DUNCAN: Okay. I printed these on
10 both sides. Sorry about that.

11 Page 3, Request for Admissions. So I'm
12 going to count Page 1 as the front, Page 2 as the
13 back.

14 MR. TEETOR: The pages are labeled, too.

15 MR. DUNCAN: That helped, too. I wrote
16 over it, so I didn't see the number.

17 Q. So Question 2: Admit that there is an
18 access driveway easement for the benefit of
19 plaintiff. And you wrote you admit subject to
20 certain expressed conditions and limitations,
21 correct?

22 A. Yes.

23 Q. Were those the limitations that you
24 referenced when we were talking about the easement --

1 A. Yes.

2 Q. -- Exhibit A?

3 Question 4, did you install a speed bump
4 on South Vernon Street?

5 A. I installed a speed bump on my property.

6 Q. On South Vernon Street?

7 A. Yes, commonly referred to as South Vernon
8 Street.

9 Q. Is that speed bump still there?

10 A. Yes.

11 Q. Would you consider that an improvement to
12 the easement area?

13 A. The speed bump is not in the easement
14 area.

15 Q. It's on South Vernon, correct?

16 A. That is not the easement area, though.

17 Q. Where is it?

18 A. It's about 100, 120 feet away from the
19 easement area.

20 Q. Towards? Give me a landmark.

21 A. Going east.

22 Q. All right. Go to Page 5, the
23 interrogatories. We'll go through the same exercise
24 that your counsel went through with Molly about

1 potential witnesses.

2 Fred Milligan, what would Fred Milligan
3 seek to offer?

4 A. He's the attorney of Cellar Lumber who
5 drafted the easement.

6 Q. Have you or your counsel spoke with
7 Fred Milligan?

8 A. Not recently.

9 Q. But you have spoke to him?

10 A. Yeah.

11 Q. When?

12 A. Last summer some time. A year ago, give
13 or take a little bit.

14 Q. Okay. John B. Miller, what did John B.
15 Miller lend to this?

16 A. He, I think, was vice president of Cellar
17 Lumber at the time the easement was executed.

18 Q. I don't know what I did to my exhibits, I
19 have them all out of order. Sorry.

20 And John is the individual who signed the
21 easement agreement for Cellar Lumber, correct, in
22 Exhibit A?

23 A. Yes.

24 Q. Have you spoken with John about this?

1 A. I've not spoken with John in quite some
2 time. Tom Cramp took over for him at some point.

3 Q. Okay. Allen Rothermel, the Village
4 administrator, what do you believe that Allen would
5 have to offer with respect to either -- I'm sorry --
6 with respect to either -- so all these questions,
7 whether it's the complaint that Molly filed or your
8 counterclaims?

9 A. I don't know. I have spoken with Allen a
10 few times.

11 Q. My laugh was not like a snarky laugh.
12 It's just Village administrator, it's like what the
13 hell.

14 A. You know, when I was installing the speed
15 bump he showed up, because Tom Hatfield and his wife
16 were out there taking pictures. And he showed up and
17 he said I was installing a speed bump on city
18 property. And then I was like: This doesn't belong
19 to the Village. I have all the paperwork that says
20 it doesn't belong to the Village. He immediately ran
21 over to Brehm and had a cease and desist order drawn
22 up with basically a falsified legal document saying
23 that it was property owned by the village.

24 Q. Okay.

1 A. And which we found out through their
2 lawsuit against me that their claims were inaccurate.

3 Q. Do you have copies of those falsified
4 documents that you referred to?

5 A. Yes, in the other lawsuit with the
6 Village.

7 MR. DUNCAN: If you haven't provided
8 those, do you mind providing those?

9 We can talk off-line on that, just
10 anything you have on that.

11 Q. Okay. Tom Hatfield, former mayor, what
12 would Tom lend to this?

13 A. Probably not very much. You know, he was
14 the one who notified Rothermel to come over, because
15 they were out there taking picture or video while we
16 were doing the work. And I suppose as the mayor, and
17 having lived in his house since 2002, he would have
18 personal firsthand knowledge that Cellar Lumber
19 operated there until they closed in 2012. Tom
20 Hatfield lived in his house since 2002. He had
21 personal firsthand knowledge that there was not 21
22 years there for adverse possession or prescriptive
23 easement. Yet he and the remainder of the Village
24 council or the compliment of the Village Council,

1 probably under the guidance of David Brehm, after he
2 had slandered the title to make it look like they may
3 have claims under adverse possession and prescriptive
4 easement, he would know for a fact having lived there
5 since 2002, that there was no way there was 21 years
6 for exclusive and notorious use.

7 Q. When you talk about slandering the
8 title -- let me take a step back. Anything else on
9 Tom Hatfield?

10 A. (Witness shakes head.)

11 Q. Okay. I'll move on to Dave Brehm.
12 Previously, you mentioned before about the slandering
13 title that Dave had allegedly facilitated. What's
14 the foundation of that?

15 A. The title agent of Chase Title Services,
16 Marshall McCormick. When all this started, I called
17 him to discuss it. And he had said Brehm had
18 insisted that he add language to the title to make it
19 sound like the Village had claims to the property.

20 Q. Do you have documentation regarding that?

21 A. Everything is in the other lawsuit.

22 MR. DUNCAN: Okay. Can you provide that
23 as well, Counselor?

24 Q. Arnie Workman, anything more so than what

1 Molly had discussed about Workman's relationship with
2 her?

3 A. You know, Arnie is a good dude. He
4 doesn't want to be associated with this. He had
5 mentioned to me that he had mentioned to her, hey,
6 this goes over your property line. And I said, well,
7 did you inquire as to a permit. And at the time, the
8 Village did not require permits for fences.

9 Q. Okay.

10 A. And, I mean, there's more to be said about
11 that. But there was no permit required at the time.
12 Unfortunately, that's another inadequacy of the
13 Village council of Sunbury. However, now, you do
14 have to get a permit for a fence.

15 Q. Lastly, Steve Fox, surveyor.

16 A. Yeah, he was a surveyor hired that was
17 referenced in the text messages to Molly. And that
18 was just to basically reaffirm the survey that I had
19 from my purchase documents when I closed on the
20 property.

21 Q. Okay.

22 A. And what we discovered from that is that
23 with the technology of GPS, there were some
24 variations. So when I installed the speed bump, the

1 drawings that were provided in my closing documents
2 showed me owning the property all the way across the
3 drive surface. But with GPS, it ended up only being
4 about four feet into that area. So, though, that was
5 not filed and green stamped, but I do have a copy of
6 it. Oh, by the way, Steve has since retired.

7 Q. Who was Steve with?

8 A. Fox Surveying.

9 Q. Fox Surveying.

10 A. I did speak with the current owners of
11 that right now and let them know what was going on.

12 Q. All right. Just a side question on this.
13 From the time you purchased the property till now who
14 plowed Vernon Street?

15 A. I plowed a portion of it, but since the
16 settlement agreement was reached, they've plowed it.
17 But we really haven't had a need to plow it. We
18 really haven't had that much snow, so it really
19 hasn't been an issue. But when we did need it, the
20 city sent their truck over.

21 Q. When you said you would plow it, how far,
22 for lack of a better term, how far down the road?
23 What would be the area that you would plow?

24 A. I would only need to do directly in front

1 of my gate on the south side because it either didn't
2 need it or the Village took care of it.

3 Q. Okay. So they were maintaining that?

4 A. Yes, after the agreement was made.

5 MR. DUNCAN: Okay. I don't have anything
6 further. We're comfortable with where we sit. The
7 exhibits that we introduced, there might have been
8 one or two that were not used from the first, but if
9 we could just jointly put them in as A through J,
10 appreciate that.

11 MR. TEETOR: No objection.

12 He'll read.

13 (Signature not waived.)

14 - - -

15 DEPOSITION CONCLUDED AT 1:30 P.M.

16 - - -

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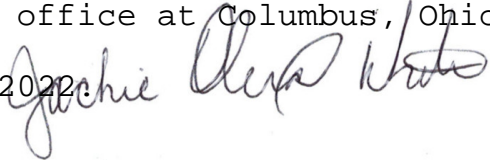
24

1 CERTIFICATE

2 State of Ohio :
3 SS:
County of Franklin:

4 I, Jackie Olexa White, Notary Public in
5 and for the State of Ohio, duly commissioned and
6 qualified, certify that the within named MICHAEL
7 TALIERCIO was by me duly sworn to testify to the
8 whole truth in the cause aforesaid; that the
9 testimony was taken down by me in stenotypy in the
10 presence of said witness, afterwards transcribed upon
11 a computer; that the foregoing is a true and correct
12 transcript of the testimony given by said witness
13 taken at the time and place in the foregoing caption
14 specified.

15 I certify that I am not a relative,
16 employee, or attorney of any of the parties hereto,
17 or of any attorney or counsel employed by the
18 parties, or financially interested in the action.

19 IN WITNESS WHEREOF, I have set my hand and
20 affixed my seal of office at Columbus, Ohio, on this
21 10th day of June, 2022. 

22 _____
23 JACKIE OLEXA WHITE, Notary Public
24 in and for the State of Ohio
and RPR-CM.

My Commission expires January 21, 2024.

1-Misspelling 2-Word Omitted 3-Wrong Word
4-Clarification 5-Other (Please explain)

[illegible]

Date _____ Signature _____

•

Date_____Signature_____

Realtime - Videoconferencing - Trial Presentation - Video
Spectrum Reporting LLC | 614-444-1000

COURT OF COMMON PLEAS OF DELAWARE COUNTY, OHIO

Molly K. Drayer	:	
	:	
Plaintiff(s),	:	
	:	
v.	:	Case No. 21 CV H 03 0093
	:	Judge James P. Schuck
Sunbury Real Estate Holdings, LLC, et	:	
al.	:	
	:	
Defendant(s),	:	

**STATEMENT PURSUANT TO RULE 30(E) OF THE OHIO RULES OF CIVIL PROCEDURE
REGARDING WITNESS REVIEW OF THE DEPOSITION**

1. I am an employee of Spectrum Reporting LLC ("Spectrum"). I am the record custodian for all documents related to the facts stated herein.
2. The purpose of this statement is to comply with Rule 30(E) of the Ohio Rules of Civil Procedure.
3. On 06/02/2022, a reporter from Spectrum appeared at the deposition of Mike Taliercio in the above-referenced action. At the end of the deposition, the deponent and/or the parties did not waive the right to review and sign the deposition transcript.
4. The deponent was notified directly or through counsel of the time allowed for reviewing the transcript and the procedure for doing so via a letter dated 06/10/2022.
5. The time allowed for review of the transcript has expired, and the deponent has not signed the transcript.



Spectrum Reporting LLC
400 South Fifth Street, Ste. 201
Columbus, Ohio 43215
800-635-9071 or 614-444-1000
www.spectrumreporting.com

ref: 305402

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Witness Errata and Signature Sheet

Spectrum Reporting LLC
400 South Fifth Street, Ste. 201
Columbus, OH 43215
Phone: 614-444-1000
Email: info@spectrumreporting.com

Correction or Change Reason Code
 1 - Misspelling 2 - Word Omitted
 3 - Wrong Word 4 - Clarification
 5 - Other Correction (Please explain)


Sheet 1 of 1

Sheet 1 of 1[illegible]

I, Mike Talliercio, have read the entire transcript of my deposition taken on 06/02/2022 in this matter, or the same has been read to me. I request that the changes noted on my errata sheet (s) be entered into the record for the reasons indicated.

Date _____ Signature _____

The witness has failed to sign his/her deposition within the time allowed.

Date 08/29/2022 Signature 

EASEMENT For Pedestrian and Vehicular Access

This Easement is granted by Cellar Lumber Company, an Ohio Corporation (hereinafter the "Grantor"), to Judy C. Baker (hereinafter the "Grantee"), presently residing at 170 South Columbus Street, Sunbury, Ohio 43074.

RECITALS

Grantor is the owner in fee simple of the following real property:

Being in the State of Ohio, County of Delaware and Village of Sunbury:

See Exhibit A, attached hereto.

Prior Instrument Reference: Deed Volume 333, Page 563, Recorder's Office, Delaware County, Ohio.

Grantee is the owner in fee simple of the following real property:

Being in the State of Ohio, County of Delaware and Village of Sunbury:

See Exhibit B, attached hereto.

Prior Instrument Reference: Official Records Volume 310, Page 2016, Recorder's Office, Delaware County, Ohio.

EASEMENT

For good and valuable consideration, the receipt of which is hereby acknowledged, Grantor does hereby grant, bargain, sell, convey and release to the said Grantee and her successors and assigns, forever, a perpetual non-exclusive easement for access for vehicular and pedestrian purposes over the existing paved drive presently used as, and commonly known as, South Vernon Street, and the existing stone drive leading therefrom to the existing garage located in the northeast corner of Grantee's property, as depicted on Exhibit C, attached hereto. Grantee is solely responsible for the repair and maintenance of said improvements, and shall keep said improvements in good repair. The easement for access shall terminate if and when the easement area is no longer used for vehicular or pedestrian access purposes.

EXECUTED this 10th day of February, 2006.

CELLAR LUMBER COMPANY,
an Ohio corporation

By John B. Miller, President

STATE OF OHIO
COUNTY OF DELAWARE SS:

On this 10th day of February, 2006, before me, a Notary Public, personally appeared John B. Miller, President of Cellar Lumber Company, an Ohio corporation, on behalf of the corporation, who acknowledged that he did sign the foregoing instrument, and that the same is his free and voluntary act and deed.

Mary A. Bell
NOTARY PUBLIC

This instrument prepared by:
William D. Fergus Jr.,
Attorney at Law
103 North Union Street, Suite A
Delaware, Ohio 43015
(740) 383-1324

Mary A. Bell
Notary Public, State of Ohio
My Commission Expires June 17, 2007
The Grantor Has Complied With
Section 319.202 Of The R.C.
DATE 2-16-06 Transfer Tax Paid
OR TRANSFER NO
Delaware County Auditor By

EXHIBIT

A

2006000564
Filed for Record in
DELAWARE COUNTY, OHIO
ANDREW D BRENNER
02-16-2006 At 03:13 PM
EASEMENT
32.00
OR Book 688 Page 1129 - 1133
SCOTT MILLER-BOX



EXHIBIT A

ALL THAT PARCEL of land situate in the Village of Sunbury, County of Delaware and State of Ohio, being part of Lot No. 10, Section 4, Township 4, Range 17, bounded and described according to a plan of survey made by Evans, Mechwart, Hamblison & Tilton, Inc., Consulting Engineers and Surveyors, dated December 1, 1966, as follows, viz:

BEGINNING at a point where the Southeasterly line of the parcel of land acquired by The Cellar Lumber Company as recorded in Deed Record Volume 152 at Page 257, in the Office for the Recording of Deeds, in and for said County of Delaware, meets the Westerly line of Vernon Street (45 feet wide) distant 100 feet Northwestwardly at right angles from the center line of the main track of railroad of The Connecting Railway Company known as the Akron Branch;

EXTENDING from said beginning point the following five courses and distances, the first two thereof being by remaining land of said Railway Company: (1) S. 1° 47' W., along the prolongation of said Westerly line of Vernon Street, 31.19 feet to an iron pin distant 60 feet Northwestwardly at right angles from said center line of main track; (2) S. 53° 10' W., parallel with said center line of main track, passing through an iron pin at 48.71 feet from the end of the course being described, 586.95 feet to the center line of Columbus Street; (3) N. 10° 31' E., along said center line of Columbus Street, 327.52 feet to the Southerly line of land now or formerly of R. M. Watts; (4) S. 86° 30' E., being partly by said last mentioned land and partly by said land of The Cellar Lumber Company, passing through iron pins at 38.42 feet and 210.83 feet from the beginning of the course being described, 293.31 feet to a corner of said land of The Cellar Lumber Company, distant 100 feet Northwestwardly at right angles from said center line of main track; and (5) N. 53° 10' E., parallel with said center line of main track, being by said last mentioned land, 147.95 feet to the place of beginning

CONTAINING 1.426 acres, ±.

Save and except the following tracts:

EXCEPTION NUMBER ONE:

Situated in the State of Ohio, County of Delaware, Village of Sunbury, being a part of Lot No. 10, Section 4, Township 4, Range 17, and being part of that tract of land as conveyed to Callar Lumber Co., by deed of record in Deed Book 333, page 561, all references being to records of the Recorder's Office, Delaware County, Ohio, and being more particularly bounded and described as follows:

Beginning at a point in the centerline of Columbus Street, said point being located North 10° 31' 00" East, a distance of 32.90 feet, from a point where the centerline of said Columbus Street intersects the northerly right-of-way line of the Pennsylvania Railroad; thence North 80° 31' 00" East, continuing with the centerline of said Columbus Street, a distance of 231.78 feet to a point; thence South 83° 37' 00" East (passing an iron pin at 33.09 feet), a distance of 254.16 feet to a p.k. nail; thence South 53° 42' 02" West (passing an iron pin at 322.19 feet), a distance of 370.42 feet to the place of beginning, containing 0.733 acre of land, more or less. Subject, however, to all legal rights-of-way and/or easements of previous record.

EXCEPTION NUMBER TWO:

Situated in the Village of Sunbury, County of Delaware, State of Ohio, located in Farm Lot 10, Section 4, Township 4, Range 17, United States Military Lands, being a 0.145 Acre Tract of land out of an original 1.426 Acre Tract conveyed to The Cellar Lumber Company in Deed Book 333, Page 561, and being more particularly described as follows:

Commencing for reference, at the intersection of the centerlines of Columbus Street (60' in width) and Leus Avenue (50' in width);

Thence North $12^{\circ}47'37''$ East, along the centerline of said Columbus Street, (passing over a railroad spike found at 36.90 feet) for a total distance of 174.19 feet to a railroad spike found at the northwesterly corner of a 0.753 Acre Tract of land conveyed to Preservation Parks of Delaware County as recorded in Official Record Volume 83, Page 1283 being the southwesterly corner of said original 1.426 Acre Tract and also being the TRUE PLACE OF BEGINNING of the herein described tract;

Thence North $12^{\circ}47'37''$ East, along said centerline of Columbus Street, a distance of 32.00 feet to a railroad spike set at a corner of a 19.039 Acre Tract conveyed to Plantinum Industries Corporation, LTD. as recorded in Deed Book 597, Page 661;

Thence North $55^{\circ}58'08''$ East, along a southerly line of said 19.039 Acre Tract (passing an iron pin set at 43.79 feet) for a total distance of 302.85 feet to an iron pin set;

Thence South $14^{\circ}14'53''$ East, (through said original 1.426 Acre Tract) for a distance of 20.11 feet to an iron pin found at the northwesterly corner of a 0.608 Acre Tract conveyed to Cellar Lumber Company as recorded in Deed Book 529, Page 463, also being the northeast corner of said 0.753 Acre Tract;

Thence South $55^{\circ}26'06''$ West, (passing an iron pin found at 270.65 feet) for a total distance of 319.39 feet to the TRUE PLACE OF BEGINNING.

Containing 0.145 acres of land more or less.

EXHIBIT B

Situated in the Village of Sunbury, County of Delaware and State of Ohio:

Being in Range 17, Township 4, Section 4, and middle part of Farm Lot 10, beginning on the north line of the Pennsylvania R.R. Station Grounds 12 feet west of a stone on post at the intersection of a lot division line; thence run North $88-1/1$ W. on said north line 172.325 feet to the east line of South Columbus Street in said Village; thence North on said east line 40 feet; thence East parallel with the south line hereof 172.325 feet; thence South 40 feet to the place of beginning.

Parcel No. 41741116056000

Street Address: 170 S. Columbus Street, Sunbury, Ohio 43074

EXHIBIT C

GRANTOR: SCOTT B. & KAREN M. BAKER
 GRantee: _____
 ADDRESS: 170 S. COLUMBUS ST.
 AT BOOK: _____ PAGE: _____
 DATE: 1" = 30'

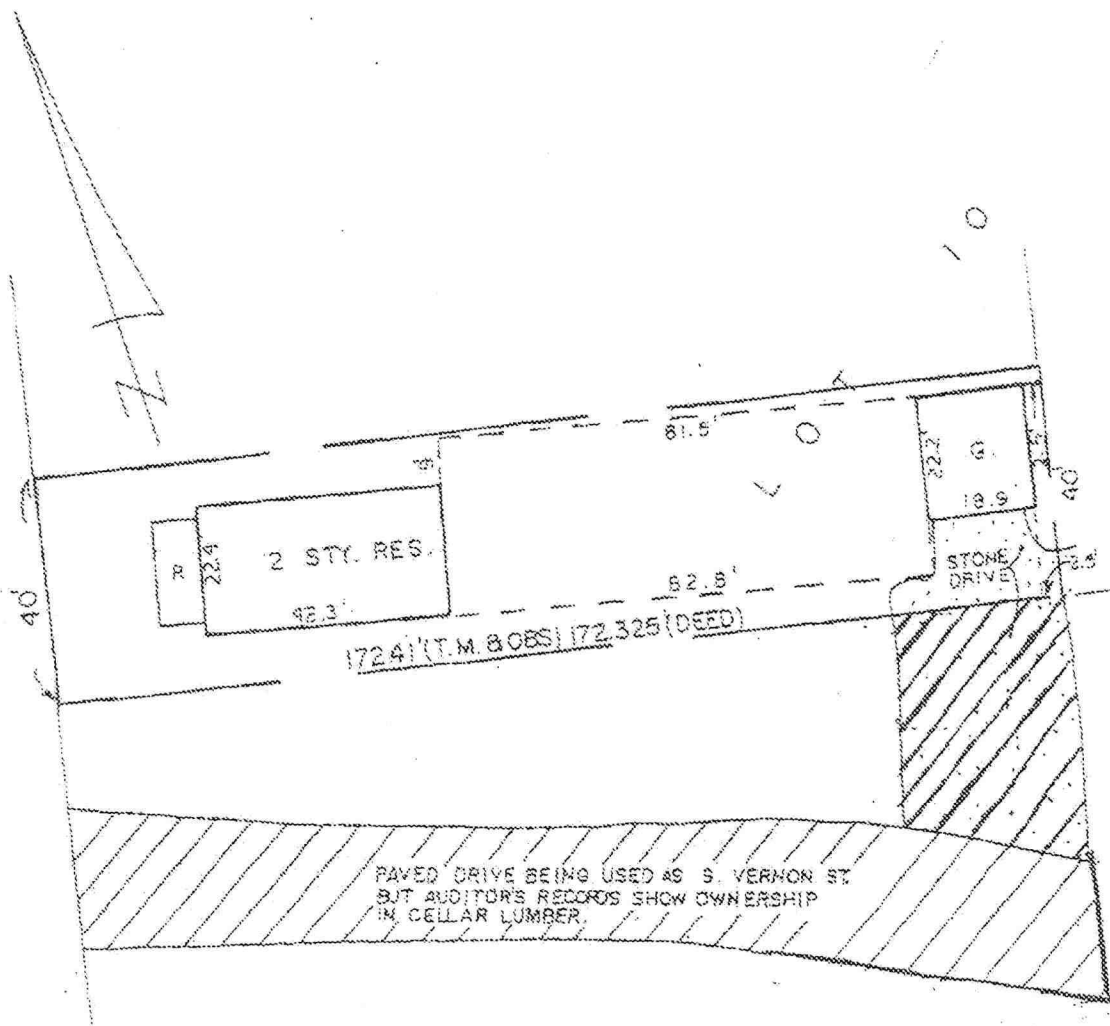


ALLOTMENT: PT. FARM LOT 10
 CITY OR VILLAGE: SUNBURY
 COUNTY: DELAWARE
 TOWNSHIP: 4 RANGE: 17 1/4(S)
 SECTION: 4 QTR: _____
 GREAT LOT: _____



EASEMENT AREA

COLUMBUS ST. - 60'



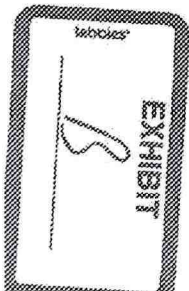
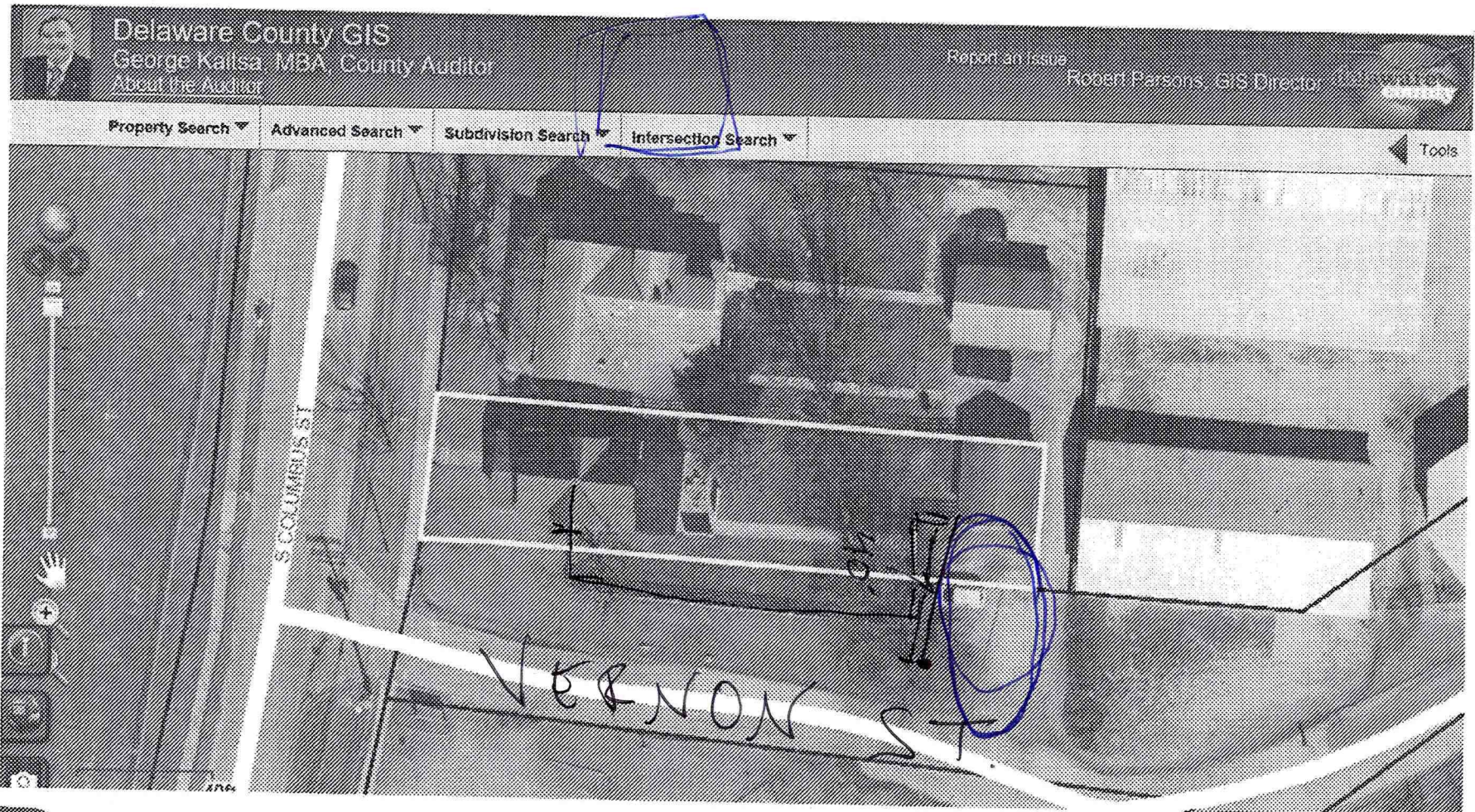


EXHIBIT B

Item C

Lease Agreement



This lease (hereinafter referred to as the Lease) is made this _____ day of _____, 2019 by and between Sunbury Real Estate Holdings, LLC (hereinafter referred to jointly and severally as the Landlord) and Molly K Drayer Kibler, her successors and or assigns (hereinafter referred to jointly and severally as the Tenant). The covenants and conditions stated in the Lease shall bind both the Landlord and the Tenant, jointly and severally.

I. PREMISES LEASED. The Landlord, in consideration of the rent to be paid, and covenants and agreements to be performed by the Tenant does hereby lease the following described premises located at: 157 S. Vernon St., Sunbury, OH 43074 in its western most portion of green space, that sits north of the driveway that connects to S. Columbus Street and south of the parcel owned by Tenant commonly known as 170 S. Columbus St., Sunbury, OH 43074; approximately .13 acres (see attached map – Item B)

(hereinafter referred to as the Premises). The Premises shall include the following personal property owned by the Landlord:

(none, if nothing inserted).

I.a. USE OF PREMISES. Premises must be for personal use of owner of 170 S. Columbus Street, Sunbury, OH 43074 and remain in an undeveloped condition. No buildings or structures are permitted to be constructed or installed on the premises without the written authorization of the Landlord. Drawings and/or plans may be requested by Landlord if Tenant should want to place or install any permanent or semi-permanent structures on the premises. No chemicals or other hazardous materials are permitted on the premises. Tenant accepts cost to remediate land if discovery of any hazardous materials should ever be discovered.

EXCEPTION(S): If this Lease should be executed on or before June 30, 2019 the fence currently installed on the premises may remain. However, if the Lease is not executed the Tenant must remove the fence at his or her own expense before July 31, 2019 or face actions from Landlord to remove the portion of the fence that encroaches on the premises.

II. LEASE TERM. The Tenant agrees to occupy said Premises for an original term commencing at NOON on the last day of June, 2019, and ending at NOON on the last day of December, 2023. The Lease shall automatically renew on a month to month basis unless notice is given as stated in paragraph VII.

III. RENT. The Tenant agrees to pay as rent for the Premises the total sum of \$3,000.00 at the rate of \$250.00 per month, plus a pro-rated amount should the term of the Lease commence on any date other than the first day of the month, without demand, (check one) _____ at the on-site manager's office or X at the designated agent at 157 S. Vernon St., Sunbury, OH 43074.

Unless another Lease is executed prior to the last day of December 2023, commencing January 1, 2024, the rent shall increase 5% for the following 12 months (\$262.50) and will continue to increase by 5% on January 1st of the following years until the premises is either vacated or the need for the Lease is otherwise nullified or obsolete.

Rent is due on or before the first day of each month (the due date), or it may be paid quarterly in advance.

RENT UNPAID 7 DAYS AFTER THE DUE DATE IS DELINQUENT AND WILL AUTHORIZE ALL REMEDIES IN THE LEASE. If all rent is not received on or before the 8th day of the month, the Tenant agrees to pay an initial late charge of \$50.00 plus a late charge of \$50.00 after 15 days, if rent remains unpaid. All funds received shall be applied to: dishonored check charges; late charges; damage charges; delinquent rent; and current rent, in that order.

If payment is made by check that is returned, the Tenant agrees to pay a charge of \$50.00 in addition to the initial and daily late charges, if applicable.

The Landlord may, at any time, require that all rent and other sums be paid in either certified or cashier's check, money order, or one monthly check rather than multiple checks. Cash shall not be accepted without the Landlord's prior written consent, which consent shall not be unreasonably withheld. If cash payment should ever be made, Landlord will provide one (1) hand written receipt to Tenant for his/her records. Tenant is responsible for keeping their own records of payments. Maintenance of such receipt(s) is not the responsibility of the Landlord and no other receipts for past payments will be issued if original is lost or destroyed.

The Landlord agrees further that acceptance and/or refusal by the Landlord of the rent payment after the due date shall in no manner constitute a waiver of the Landlord's rights in the event of the Tenant's failure to make rental payments as herein prescribed and agreed, nor shall it be considered as a change in the date upon which the Tenant is to pay said rent. Failure to demand the rent when due shall not constitute a waiver by the Landlord, and the necessity of demand for the rent by the Landlord when the rent is overdue, is hereby waived.

The Landlord agrees to notify the Tenant, in writing, at least thirty (30) days prior to the expiration of the Lease, or any renewal thereof, of any increase in the rent charged for occupancy of the Premises.

IV. OCCUPANCY. The Tenant agrees that only those persons listed below shall occupy the Premises:

Name Date of Birth Name Date of Birth

Any/All legal residents of 170 S. Columbus St., Sunbury OH, 43074

No person shall be released from the covenants of the Lease without first obtaining the written agreement of the other tenants and/or cosigners set forth herein and written approval of changes

from the Landlord. If such changes are agreed upon, all parties herein agree to make the necessary changes to the Lease before changes are valid.

The Tenant agrees that the Premises are to be occupied for residential purposes only. The Premises shall not be used or allowed to be used for any unlawful purpose, or for any purpose deemed hazardous by the Landlord because of fire or any other risk or in any other manner which would disturb the peaceful, quiet enjoyment of any other occupant of the apartment community of which the Premises are a part. The Landlord reserves the right of eviction for the illegal manufacture, distribution, use or other illegal activities in connection with controlled substances. A criminal conviction shall not be necessary before the Landlord can institute an eviction action. Tenant accepts all legal, financial and other responsibilities of any damages, injuries, or losses that occur on the premises. Tenant agrees to release and hold harmless the Landlord of any such claims that should occur on the premises; and further, accepts full and sole responsibility for settling any such claims.

V. SECURITY DEPOSIT. The tenant agrees to deposit with the Landlord the sum of \$0.00 as security for his or her faithful performance under the Lease and by law. The Tenant agrees the deposit is not an advance payment of rent and does not relieve the obligation to pay rent including rent for the last month of occupancy. The Landlord, at the expiration of the Lease or hold-over tenancy, may apply the security deposit for past due rent, fees, utilities, and/or for the cost of repairing damages beyond reasonable wear and tear to the Premises caused by the Tenant, his/her guests, family or invitees. Also, abandonment or vacating of the Premises by the Tenant before the end of the term shall result in the Landlord deducting damages he has incurred from the security deposit. The Landlord shall attempt to mitigate any damages as a result of abandonment. Each of the aforementioned tenants shall be jointly and severally responsible for all losses incurred by the Landlord occasioned by the tenancy.

The Tenant agrees to provide the Landlord, in writing, a forwarding address upon vacating the Premises. The Landlord agrees to return to the Tenant the security deposit, or whatever part has not been applied in payment of any tenant obligations under the Lease, within thirty (30) days after the expiration or any renewal of the Lease and delivery of possession of the Premises to the Landlord, whichever is last to occur. Any deductions from the security deposit shall be itemized and identified in writing by the Landlord during this same time period. This provision does not waive rights of the Landlord to seek damages in excess of the security deposit. The Tenant agrees to reimburse the Landlord for any rent, fees, utilities due and/or damages exceeding the security deposit.

~~VI. KEYS. The Tenant will be provided (insert number) _____ apartment key(s), _____ mailbox key(s), and _____ other key(s) for _____. These keys may not be duplicated. There will be a \$_____ re-keying charge for any of these keys not being returned upon vacating.~~

VII. MOVE OUT NOTICE AND RENEWAL. Unless another Lease is signed by the parties hereto or unless written notice of termination is given by one party to the other at least thirty (30) days before expiration of the Lease, the Lease shall be automatically renewed on a month to month basis. At least thirty (30) days prior to the due date, written notice of intent to move out, vacate or sell 170 S. Columbus St., Sunbury OH 43074 must be given to the Landlord or the Landlord's

agent. If the property at 170 S. Columbus St., Sunbury OH 43074 should be sold, inherited or gifted to another party, this Lease shall remain in effect until a new Lease with the new owner of 170 S. Columbus St. is executed. ~~The Tenant's move-out notice must terminate the Lease (check one): ☐ on the last day of the month following the next rental due date, or ☐ on the exact day designated in the move-out notice but no sooner than thirty (30) days prior to due date and after the notice. (If neither is checked, the second option above shall control). Verbal notice is not sufficient. It is the responsibility of the Tenant to inform any potential buyers of 170 S. Columbus St. of this Lease. Tenant accepts full responsibility, financial, legal or otherwise, for disclosure of this Lease during any real estate transaction. Sale of aforementioned property does not nullify this Lease unless it is on a month-to-month basis when the sale occurs.~~

VIII. UTILITIES. ~~The Landlord shall pay for (if checked): ☐ electricity, ☐ gas, ☐ water, ☐ sewage and storm water, ☐ trash disposal, ☐ cable TV, ☐ master TV antenna. The Tenant agrees to pay for all other utilities, related deposits and charges on the Tenant's utility bills. The Tenant shall not allow utilities, other than cable TV, to be disconnected by any means (including non-payment of bill) until the end of the Lease term or renewal period. If the apartment is submetered, the Landlord shall attach an addendum to the Lease in compliance with any necessary public authority. The Tenant agrees to reimburse the Landlord for any utility bills paid by the Landlord during the Tenant's responsibility to the Lease. Utilities shall be used only for normal household purposes and not wasted. Tenant is responsible for all costs associated with any utilities or maintenance of utilities that run along or through the premises.~~

IX. PETS. ~~There shall be no dogs, cats, or pets of any kind permitted in, on, or about the Premises, or adjoining common areas (even temporarily), unless a written addendum with the Landlord consent is added to the Lease which provides otherwise. If a pet has been in the apartment at any time during the tenant's term of occupancy (with or without the Landlord's consent), a charge may be made for defleaing, deodorizing, and/or shampooing, and/or other damages occasioned by the pet.~~

X. INSURANCE. Tenant will be responsible for insuring all the Tenant's personal property within the Premises. Therefore, it is strongly recommended that the Tenant add an addendum to his/her Home Owner's Insurance Policy that covers the premises and any occurrences that may occur on it. ~~purchase a Renter's Insurance policy, and the Tenant hereby relieves the Landlord of all risk that can be insured thereunder.~~

XI. USE AND ASSIGNMENT/SUBLETTING. The Tenant agrees that the Premises shall be used only as a personal residential yard dwelling unit and for no other purpose; nor shall Premises or any part thereof be sublet or assigned, ~~nor shall the number or name of occupants be increased or changed,~~ without written consent of the Landlord.

XII. TENANT'S DUTIES: The Tenant shall:

A. Keep the Premises that he/she occupies and uses safe and sanitary;

B. Dispose of all rubbish, garbage, and other waste in a clean, safe and sanitary manner approved by the landlord;

~~C. Keep all plumbing fixtures in the premises or used by the Tenant as clean as their condition permits;~~

~~D. Use and operate all electrical and plumbing fixtures properly;~~

E. Comply with the requirements on Tenants by all applicable state and local housing, health and safety codes;

F. Personally refrain, and forbid any other person who is on the Premises with his/her permission, from intentionally or negligently destroying, defacing, damaging, or removing any fixture, appliance or, other part of the Premises;

~~G. Maintain in good working order and condition any range, refrigerator, washer, dryer, dishwasher, or other appliances supplied by the landlord;~~

~~H. Promptly notify the landlord of the need for repairs;~~

I. Conduct him/herself and require other persons on Premises with his consent to conduct themselves in a manner that will not disturb his neighbors' "peaceful enjoyment" of the Premises;

J. Not unreasonably withhold consent for the Landlord or his/her agents to enter the Premises;

K. Conduct himself, and require persons in his household and persons on the Premises with his consent to conduct themselves, in connection with the Premises so as not to violate the prohibitions contained in Chapters 2925, and 3719, of the Revised Code, or in municipal ordinances that are substantially similar to any section in either of those chapters, which relate to controlled substances;

~~L. Tenant shall regularly test all smoke detectors, supply electric current thereto (Battery or electric current if required by lease), and notify Landlord of any mechanical failure, need for repair, or replacement.~~

M. Maintain the yard as any other residential yard, including, but not limited to cutting the grass, raking leaves, removing trash or other debris.

N. Since no structures are on the premises, allow reasonable access of premises to Landlord 8 am to 9 pm 7 days a week, if needed.

~~XIII. LANDLORD'S DUTIES: The Landlord shall:~~

~~A. Comply with the requirements of all applicable building, housing, health and safety codes that materially affect health and safety;~~

~~B. Make all repairs and do whatever is reasonably necessary to put and keep the Premises in a fit and habitable condition;~~

~~C. Keep all common areas of the Premises in a safe and sanitary condition;~~

~~D. Maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating and air conditioning fixtures and appliances, and elevators, supplied, or required to be supplied by the Landlord;~~

~~E. When he/she is a party to any rental agreements that cover four or more dwelling units in the same structure, provide and maintain appropriate receptacles for the removal of ashes, garbage, rubbish and other waste incidental to the occupancy of the dwelling unit and arrange for their removal;~~

~~F. Supply running water, reasonable amounts of hot water and reasonable amounts of heat at all times, except where the building that includes the Premises is not required by law to be equipped for that purpose, or the Premises is so constructed that the heat or the hot water is generated by an installation within the exclusive control of the tenant and supplied by a direct utility connection;~~

~~G. Except in the case of emergency, or if it is impractical to do so, give the Tenant at least twenty-four (24) hours notice of his intent to enter and enter only at reasonable times;~~

~~H. Not abuse the right of access as described in this Lease;~~

~~I. Landlord shall furnish and repair smoke detectors as required by law.~~

XIV. CONDITIONS OF PREMISES and ALTERATIONS. The Tenant accepts the Premises AS IS, except for conditions materially affecting health or safety of ordinary persons, and except as otherwise indicated on the inventory and condition form described below, the Landlord makes no implied warranties. ~~The Landlord shall provide an inventory and condition form to the Tenant on or before move in. Within seven (7) days after move in, the Tenant shall note all defects or damages on the form and return it to the Landlord's agent; otherwise the Premises shall be presumed to be in clean, safe and good working condition. The Tenant shall use customary diligence in care of the premises of the apartment and common areas. Whenever damage is caused by the Tenants, the Tenant's guests, or occupants due to carelessness, misuse, neglect, or failure to notify the Landlord of any need for repairs, the Tenant agrees to pay (1) the cost of all repairs and do so within thirty (30) days after receipt of the Landlord's demand for the repair charges; and (2) rent for the period the unit is damaged whether or not the unit is habitable. The Tenant may not perform any repairs, painting, wallpapering, carpeting, electrical changes, or other alterations to the Landlord's property except as authorized by the Landlord in writing. No holes or stickers are allowed inside or outside the apartment; however, a reasonable number of small nail holes for picture hanging are permitted. No water furniture, antennae, additional phone or TV cable outlets, alarm systems, or lock changes, additions, or rekeying shall be permitted except by the Landlord's prior written consent. The Tenant shall not disable, disconnect, alter or remove the Landlord's property, including security devices, alarm systems, smoke detectors, appliances, furniture, screens. When the Tenant moves in, the Landlord shall furnish light bulbs for fixtures furnished by the Landlord; thereafter, light bulbs of the same wattage shall be replaced at the Tenant's expense. When moving out, the Tenant shall surrender the Premises in the same condition as when received, reasonable wear excepted.~~

XV. WHEN THE LANDLORD MAY ENTER. See Section XII clause N. ~~The Landlord, or the Landlord's representatives may peacefully enter the Premises during reasonable times for the purposes listed below, provided the Tenant or the Tenant's guests are present. If no one is in the~~

~~Premises, and request has been made for repair and/or entry by the Tenant, the Landlord, or the Landlord's agents may enter peacefully and at reasonable times by duplicate or master key. If the Landlord requests entry, a written notice shall be given to the Tenant twenty four (24) hours prior to entry. The Landlord reserves the right to enter the Premises without notice in case of emergency. The Landlord reserves the right to enter by other means if locks have been changed in violation of the Lease.~~

Such entry may be for: repairs, estimating repair or refurbishing costs; pest control preventive maintenance; ~~filter changes; testing or replacing smoke detectors; retrieving unreturned tools or appliances; preventing waste of utilities; removing or rekeying unauthorized security devices or unauthorized alarm systems;~~ removing health or safety hazards (including hazardous materials); inspections when imminent danger to person or property is reasonably suspected; entry by a law enforcement officer with search warrant or arrest warrant; ~~showing apartment to prospective tenants (after vacating notice has been given);~~ or insurance agents; or other valid business purposes.

XVI. NON-LIABILITY. The Tenant acknowledges that any security measures provided by the Landlord shall not be treated by the Tenant as a guarantee against crime or a reduction in the risk of crime. The Landlord shall not be liable to the Tenant, the Tenant's guests, or occupants for injury, damage, or loss to person or property caused by criminal conduct of other persons, including theft, burglary, assault, vandalism, or other crimes. The Landlord shall not be liable to the Tenant, guest or occupant for personal injury or damage or loss of personal property from fire, flood, water leaks, rain, hail, ice, snow, smoke, lightning, wind, explosions; or actions of Tenant, Tenant's guests or others who enter the premises with or without the knowledge of the Tenant, ~~and interruption of utilities unless caused by the Landlord's negligence.~~ The Landlord has no duty to remove ice, sleet, or snow; but the Landlord may do so in whole or in part, with or without notice. If the Landlord's employees are requested to render services not contemplated in the Lease, the Tenant shall hold the Landlord harmless from all liability for same.

XVII. LEASE COMPLIANCE. The Landlord and the Tenant have, at all times, the right to require compliance with all covenants, terms and conditions of the Lease, notwithstanding any conduct or custom on the Landlord's or the Tenant's part in refraining from so doing at any time. Waiver at any time of any breach or condition of the Lease shall not constitute or become a waiver of any subsequent breach, or change any condition of the Lease. The Landlord, where not required by law, may discontinue any facilities, amenities, or such services rendered by the Landlord and furnished to several tenants on a common basis, not expressly covenanted for herein, it being understood that they constitute no part of the consideration for the Lease.

XVIII. DEFAULT BY THE TENANT. In the event the Tenant is in default of any of the terms or obligations of the Lease, violates and/or fails to comply with any of the covenants, terms, or conditions of the Lease, or any community policies herein or hereafter adopted by the Landlord, said default shall constitute grounds for termination of the Lease and/or eviction by the Landlord. It is expressly understood and agreed that the Tenant shall be and remain liable for any deficiency in rent until the Lease expires or until such times as in the interim, the Premises are leased by another acceptable tenant. The Tenant shall also be and remain liable for any expense incidental to re-letting, cleaning costs beyond normal wear and tear, trash removal, ~~painting costs, utilities,~~ or any

other damages and costs which the Landlord has sustained by virtue of the Tenant's use and occupancy of the Premises or default under the Lease.

XIX. DEFAULT BY THE LANDLORD. If the Landlord is in default of the obligations imposed by the Lease, the Tenant may terminate the Lease by following these procedures (as directed by Revised Code 5321.07): (1) the Tenant shall make written request for repair or remedy of the condition within a reasonable time, and all rents must be current at such time; after receiving the request, the Landlord shall have the reasonable time to repair, or remedy, considering the nature of the problem and reasonable availability of materials, labor and utilities, (reasonable time is considered to be not more than thirty (30) days); if such time has passed and if the Landlord has not made a diligent effort to repair or has not reported on the progress of remedy, then the Tenant may deposit all rent that is due, on or before the due date, with the Clerk of Courts of the Municipal of County have jurisdiction or (2) the Tenant may give written notice of intent to terminate the Lease unless the repair is made within thirty (30) days.

XX. ENTIRE AGREEMENT. The Lease and attached Addenda listed in Paragraph XXIII are the entire agreement between the Landlord and the Tenant. No representations oral or written, not contained herein or attached hereto, shall bind either party, except any attached Addendum. The Landlord or the Landlord's agents (including management personal and other employees or agents) do not have authority to waive, amend or terminate the Lease or any part of it and do not have authority to make promises, representations or agreements which impose duties of security or other obligation on the Landlord or the Landlord's agents unless done in writing. No action or omission of the Landlord's representative shall be deemed a waiver of any subsequent violation, default, or time or place of performance.

XXI. SEVERABILITY. If any portion of the Lease is found to be void, unenforceable, or against public policy, the remaining portions of the Lease shall not be affected.

XXII. BINDING EFFECT. The Lease is binding on the Landlord and the Tenant and on their respective heirs, successors, executors, and administrators. The Consumer Sales Practices Act does not apply to the Lease.

XXIII. ADDENDA. The following addenda and other provisions attached are a part of the Lease. (as initialed below by Tenant and Landlord).

Landlord Tenant

1) ~~Inventory and Condition form~~

2) ~~Community Policies~~

3) ~~Pet Addendum~~

4) ~~Other Addenda as listed: Item B -- Plat of Survey showing premises, attached.~~

CAUTION TO ALL PARTIES: THE LEASE, WHEN SIGNED BY ALL PARTIES, IS A BINDING LEGAL OBLIGATION. DO NOT SIGN WITHOUT FULLY UNDERSTANDING IT. CONSULT AN ATTORNEY IF YOU HAVE ANY QUESTIONS.

The said Landlord and Tenant have executed the Lease in duplicate on the day and year first written above.

LANDLORD/AGENT:

TENANT

NAME AND ADDRESS OF LANDLORD

Sunbury Real Estate Holdings, LLC

c/o Mike Taliercio, Managing Member

157 S. Vernon St., Sunbury, OH 43074

NAME AND ADDRESS OF AGENT

CO-SIGNATORY

As Co-Signer, with my signature below, I agree that I fully understand I am responsible for all rent and chargeable damages, JOINTLY AND SEVERALLY, along with said Tenant. It is further understood that I shall remain responsible throughout the initial term and any month to month renewal by the conditions of the lease or until the Tenant returns exclusive possession to the Landlord, whichever is the longer.

Signature

Print full name

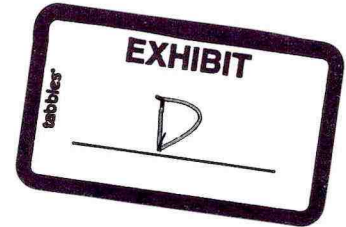
Date

Driver's License #

State of Issue

Expiration Date

IN THE COURT OF COMMON PLEAS
DELAWARE COUNTY, OHIO



MOLLY DRAYER, :
 :
Plaintiff, : Case No. 21 CV H.03 0093
 :
vs. : Judge James P. Schuck
 :
SUNBURY REAL ESTATE :
HOLDINGS, LLC, et al., :
 :
Defendants. :

**PLAINTIFF'S RESPONSES TO DEFENDANT SUNBURY REAL ESTATE'S FIRST SET
OF INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS TO PLAINTIFF MOLLY DRAYER**

Pursuant to Rules 26, and 33 of the Ohio Rules of Civil Procedure, Plaintiff Molly Drayer ("Plaintiff") hereby responds to Defendant's First Set of Interrogatories and Request for Production and Request for Admissions. Plaintiff is conducting ongoing investigation of the claims and defenses herein and reserves the right to supplement any response herein.

GENERAL OBJECTIONS

1. Plaintiff reserves all proper objections to the materiality, relevance and/or admissibility of the subject matter of the responses provided to these requests. All responses are provided subject to and without waiving the general objections as well as the objections listed in the individual responses.
2. Plaintiff objects to the definitions and instructions submitted with Defendant's requests, if any, and to the extent that they attempt to impose obligations that exceed the requirements set forth in the Ohio Rules of Civil Procedure.

3. Plaintiff objects to the request for documents to the extent that they seek information and documents protected from disclosure by the attorney-client privilege, the work product doctrine, or any other privilege available by statute, rule, or common law. No such privileged information will be disclosed.
4. Plaintiff objects to the request for documents to the extent that they seek information and documents for claims and/or causes of action contained in Plaintiff's Complaint which have already been disposed of and/or otherwise adjudicated by the Court.
5. Plaintiff objects to each request to the extent it seeks information or documents already within Defendant's knowledge, possession, custody, or control, or is equally or more easily available to Defendant, on the grounds that such request is unduly burdensome and oppressive.
6. Plaintiff objects to Defendant's request to the extent that they are vague, unduly burdensome, oppressive, or seek information that is neither admissible at trial nor is reasonably calculated to lead to the discovery of admissible evidence.
7. Any response that non-objectionable documents will be produced is not to be construed as a representation that such documents are in existence or are currently in the possession, custody or control of Plaintiff, but is only meant to indicate that any such document found by Plaintiff will be produced.
8. Plaintiff states that the responses to the interrogatories are based upon information known or believed to be true at the time of this response. Plaintiff expressly reserves the right to amend or supplement the responses if new information is learned through discovery.

INTERROGATORIES

1. Please state your name, date of birth, social security number, present residence address, and the name and address of the person to whom you were married at the time of the occurrence.

ANSWER:

**Molly Drayer, an unmarried woman
170 S. Columbus St.
Sunbury, Ohio 43074
DOB - 03/-9/1964
SSN - xxx-xx-2279**

2. Have you ever been known by a name other than that listed in your answer to the immediately preceding interrogatory, and, if so, list all such other names by which you have been known and the inclusive dates thereof.

ANSWER:

Molly Drayer, fka Molly Kibler, fka Molly K. Drayer-Kibler

3. State when "the fence" or "Plaintiff's fence" as identified in Paragraphs 10, 20, 21 and 25 of Plaintiff's complaint was installed; who installed said fence; who paid for the installation of the fence; and who obtained the necessary permits to have said fence installed.

ANSWER:

**Installed - In or about 2011.
Installed by:
Workman Fence Co.,
38 Evening St.
Sunbury, OH 43074
Paid by Molly Drayer
Permits - Unknown.**

4. From 2000 through present, please state and describe all actions of Plaintiff and/or her "predecessors-in-interest" that demonstrate open, notorious, and/or continuous possession of the portion of land identified in "red" in Exhibit B to Plaintiff's Complaint, the individual who took each action, and the dates that each action took place.

ANSWER:

Objection: Plaintiff objects to this Interrogatory because it is overbroad, unduly burdensome, and oppressive. Further, Plaintiff objects to this Interrogatory as it seeks a narrative response. Finally, Plaintiff objects to this Interrogatory as Defendant seeks information and

documentation for claims and/or causes of action contained in Plaintiff's Complaint which have already been disposed of and/or otherwise adjudicated by the Court

Notwithstanding the foregoing objection, Plaintiff contends that Plaintiff mowed the grass, trimmed trees, and provided the overall care and maintenance to the area in question until Defendants tore down the fence on the date that the Complaint in this matter was filed

/s/ Brian K. Duncan
Brian K. Duncan (0080751)

5. To the extent Plaintiff claimed an implied easement over and across any portion of property owned by the Defendants in this action, please identify the name, address and telephone number of any person using said implied easement.

ANSWER:

Objection: Plaintiff objects to this Interrogatory because it is overbroad, unduly burdensome, and oppressive. Further, Plaintiff objects to this Interrogatory as it seeks a narrative response. Finally, Plaintiff objects to this Interrogatory as Defendant seeks information and documentation for claims and/or causes of action contained in Plaintiff's Complaint which have already been disposed of and/or otherwise adjudicated by the Court

Notwithstanding the foregoing objection, Plaintiff and her guests and invitees used the area in question and Plaintiff contends that Plaintiff mowed the grass, trimmed trees, and provided the overall care and maintenance to the area in question until Defendants tore down the fence on the date that the Complaint in this matter was filed.

/s/ Brian K. Duncan
Brian K. Duncan (0080751)

6. To the extent Plaintiff claimed an implied easement over and across any portion of property owned by Defendants in this action, please identify the specific areas the implied easement is located.

ANSWER:

Objection: Plaintiff objects to this Interrogatory because it is overbroad, unduly burdensome, and oppressive. Further, Plaintiff objects to this Interrogatory as it seeks a narrative response. Finally, Plaintiff objects to this Interrogatory as Defendant seeks information and documentation for claims and/or causes of action contained in Plaintiff's Complaint which have already been disposed of and/or otherwise adjudicated by the Court

Notwithstanding the foregoing objection, Plaintiff and her guests and invitees used the area in question as identified in the Complaint and Plaintiff contends that Plaintiff mowed the grass, trimmed trees, and provided the overall care and maintenance to the area in question until Defendants tore down the fence on the date that the Complaint in this matter was filed.

/s/ Brian K. Duncan
Brian K. Duncan (0080751)

7. To the extent Plaintiff claimed a prescriptive easement over and across any portion of property owned by the Defendants in this action, please identify the name, address and telephone number of any person using said prescriptive easement.

ANSWER:

Objection: Plaintiff objects to this Interrogatory because it is overbroad, unduly burdensome, and oppressive. Further, Plaintiff objects to this Interrogatory as it seeks a narrative response. Finally, Plaintiff objects to this Interrogatory as Defendant seeks information and documentation for claims and/or causes of action contained in Plaintiff's Complaint which have already been disposed of and/or otherwise adjudicated by the Court

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/s/ Brian K. Duncan
Brian K. Duncan (0080751)

8. To the extent Plaintiff claimed a prescriptive easement over and across any portion of property owned by Defendants in this action, please identify the specific areas the prescriptive easement is located.

ANSWER:

Objection: Plaintiff objects to this Interrogatory because it is overbroad, unduly burdensome, and oppressive. Further, Plaintiff objects to this Interrogatory as it seeks a narrative response. Finally, Plaintiff objects to this Interrogatory as Defendant seeks information and documentation for claims and/or causes of action contained in Plaintiff's Complaint which have already been disposed of and/or otherwise adjudicated by the Court

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/s/ Brian K. Duncan
Brian K. Duncan (0080751)

9. To the extent Plaintiff claimed an easement by necessity over and across any portion of property owned by the Defendants in this action, please identify the name, address and telephone number of any person using said easement by necessity.

ANSWER:

Objection: Plaintiff objects to this Interrogatory because it is overbroad, unduly burdensome, and oppressive. Further, Plaintiff objects to this Interrogatory as it seeks a narrative response. Finally, Plaintiff objects to this Interrogatory as Defendant seeks information and documentation for claims and/or causes of action contained in Plaintiff's Complaint which have already been disposed of and/or otherwise adjudicated by the Court

Notwithstanding the foregoing objection, Plaintiff and her guests and invitees used the area in question as identified in the Complaint and Plaintiff contends that Plaintiff mowed the grass, trimmed trees, and provided the overall care and maintenance to the area in question until Defendants tore down the fence on the date that the Complaint in this matter was filed

/s/ Brian K. Duncan
Brian K. Duncan (0080751)

10. To the extent Plaintiff claimed easement by necessity over and across any portion of property owned by Defendants in this action, please identify the specific areas the prescriptive easement is located.

ANSWER:

Objection: Plaintiff objects to this Interrogatory because it is overbroad, unduly burdensome, and oppressive. Further, Plaintiff objects to this Interrogatory as it seeks a narrative response. Finally, Plaintiff objects to this Interrogatory as Defendant seeks information and documentation for claims and/or causes of action contained in Plaintiff's Complaint which have already been disposed of and/or otherwise adjudicated by the Court

Notwithstanding the foregoing objection, Plaintiff and her guests and invitees used the area in question as identified in the Complaint and Plaintiff contends that Plaintiff mowed the grass, trimmed trees, and provided the overall care and maintenance to the area in question until Defendants tore down the fence on the date that the Complaint in this matter was filed

/s/ Brian K. Duncan
Brian K. Duncan (0080751)

11. To the extent Plaintiff claims that the Driveway Easement, as identified in paragraph 11 or Plaintiff's Complaint, has been breached by any Defendant to this litigation, please describe how the Driveway Easement has been breached by Defendant(s), the date of said breach, and how Plaintiff was damaged by the alleged breach.

ANSWER:

Objection: Plaintiff objects to this Interrogatory because it is overbroad, unduly burdensome, and oppressive. Further, Plaintiff objects to this Interrogatory as it seeks a narrative response.

Notwithstanding the foregoing objection, Plaintiff states that Defendants breached and or intended to breach the Driveway Easement by and through certain correspondence delivered to Plaintiff from Defendant.

/s/ Brian K. Duncan
Brian K. Duncan (0080751)

12. Please identify the names and addresses of all witnesses known to Plaintiff that have knowledge supporting the allegations in Plaintiff's complaint, and indicate which witnesses Plaintiff expects or intends to call to testify as a witness in this case.

ANSWER:

- 1.) Plaintiff;
- 2.) Scott Baker, Prior Owner - 614.309.967;
- 3.) Defendants;
- 4.) Zelma M. Shull – See Case No.: 18 CV H 07 0377
- 5.) William T. Hatfield – See Case No.: 18 CV H 07 0377
- 6.) Jacqueline M. Hatfield – See Case No.: 18 CV H 07 0377
- 7.) Various representatives from the Village of Sunbury, Ohio, nka the City of Sunbury, OH – See Case No.: 18 CV H 07 0377
- 8.) Nicholas Chambers – 317.910.2426
- 9.) Other neighbors of the Parties

13. Have you ever been fined, sentenced, or found guilty of any offense (including traffic offenses, misdemeanors, and felonies) by any court? If so, state for each fine paid, conviction, or plea of guilty:

- a. The offense of which you were convicted or to which you pled guilty;
- b. The date you were convicted or entered a plea of guilty; and
- c. The court in which you were convicted or entered a plea of guilty.

ANSWER:

- 1.) 2007TRC1460, In the Municipal Court, Morrow County, OH
 - a. Molly K. Drayer-Kibler
 - b. 03/10/2007
 - c. OVI
- 2.) 2007TRD146, 2007TRC1460, In the Municipal Court, Morrow County, OH
 - a. Molly K. Drayer-Kibler
 - b. 03/10/2007
 - c. Marked Lanes

14. Please itemize and describe all damages that Plaintiff is claiming in this lawsuit, including a description of those damages and the amount claimed for each item of damage.

ANSWER:

Objection: Plaintiff objects to this Interrogatory because it is overbroad, unduly burdensome, and oppressive. Further, Plaintiff objects to this Interrogatory as it seeks a narrative response.

Notwithstanding the foregoing objection, Plaintiff states that she is merely requesting declaratory relief with respect to the Shared Driveway Agreement/Driveway Easement, and an offset/set off for damages incurred as a result of Plaintiff's fence being torn down by Defendants on the date that the Complaint in this matter was filed.

/s/ Brian K. Duncan
Brian K. Duncan (0080751)

15. Please describe all actions taken by Plaintiff for the repair and maintenance of the area contemplated by the Driveway Easement since Plaintiff's purchase of 170 S. Columbus Street, Sunbury, Ohio, 43074 (identified in Plaintiff's Complaint as "Plaintiff's Property."); the date that such repair and maintenance took place; and what individual or entity completed the said repair and maintenance.

ANSWER:

Objection: Plaintiff objects to this Interrogatory because it is overbroad, unduly burdensome, and oppressive. Further, Plaintiff objects to this Interrogatory as it seeks a narrative response.

Notwithstanding the foregoing objection, Plaintiff states that Plaintiff mowed the grass, trimmed trees, restored gravel, and provided the overall care and maintenance to the area in question.

/s/ Brian K. Duncan
Brian K. Duncan (0080751)

16. Please state all residential addresses where Plaintiff has lived for the past fifteen (15) years.

ANSWER:

- 1.) 170 S. Columbus St., Sunbury, Ohio 43074; and
- 2.) 1576 Twp Rd. 166, Marengo, OH 43334

17. Please state when Plaintiff was first made aware of "the Driveway Easement" as identified in her Complaint.

ANSWER:

Objection: Plaintiff objects to this Interrogatory because it is overbroad, unduly burdensome, and oppressive. Further, Plaintiff objects to this Interrogatory as it seeks a narrative response.

Notwithstanding the foregoing objection, Plaintiff states that Plaintiff became aware of the Driveway Easement prior to the Closing as the lender would not provide financing unless and until access was made available.

/s/ Brian K. Duncan
Brian K. Duncan (0080751)

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. All statements, bills, or other documents referring or relating to expenses claimed to be a result of the allegations in Plaintiff's Complaint.

RESPONSE:

Objection: Defendant objects to this Request.

Notwithstanding the foregoing, N/A

2. All permits, leases, deeds, surveys or other documents referencing or relating to the installation, construction, and/or maintenance of the fence referenced in Plaintiff's Complaint.

RESPONSE:

Objection: Defendant objects to this Request.

Notwithstanding the foregoing, N/A

3. All correspondence, communications, and/or documents exchanged between or among Plaintiff and her "predecessors-in-interest" as referend in Plaintiff's Complaint.

RESPONSE:

Objection: Defendant objects to this Request.

Notwithstanding the foregoing, N/A

4. All correspondence, communications, and/or documents exchanged between or among Plaintiff and any Defendant in this lawsuit.

RESPONSE:

Objection: Defendant objects to this Request.

Notwithstanding the foregoing, See attached

5. All correspondence, communications, and/or documents exchanged between or among Plaintiff and any local governmental entity, including but not limited to, as referend in Plaintiff's Complaint.

RESPONSE:

RESPONSE:

Objection: Defendant objects to this Request.

Notwithstanding the foregoing, N/A

6. All reports prepared by experts hired on behalf of the Plaintiff, whether economists, medical experts, grief experts, psychiatrists or psychologists, surveyors, engineers, or any other experts or consultants of any sort, regarding either liability or damage issues involved in this case.

RESPONSE:

Objection: Defendant objects to this Request.

Notwithstanding the foregoing, N/A

7. All exhibits or other demonstrative evidence of any sort, which Plaintiff intends to introduce and/or use during the trial of this action.

RESPONSE:

Objection: Defendant objects to this Request.

Notwithstanding the foregoing, See Attached.

8. All photographs, videotapes, drawings or renderings of any type relating to the property involved in this lawsuit or any incident attendant thereto, and any photographs depicting Plaintiff and/or family members which the Plaintiff may use as evidence at trial.

RESPONSE:

Objection: Defendant objects to this Request.

Notwithstanding the foregoing, See Attached.

9. All documents upon which Plaintiff relied when answering Defendant's First Set of Interrogatories to Plaintiff.

RESPONSE:

Objection: Defendant objects to this Request.

Notwithstanding the foregoing, See Attached.

10. All documents that Plaintiff contends will support her claims, allegations, and/or damages in this action.

RESPONSE:

Objection: Defendant objects to this Request.

Notwithstanding the foregoing, See Attached.

11. Any and all notes, diaries, logs, journals, letters, electronic mail, text messages, calendars, Facebook postings, tweets, or other social media messages that relate or refer to the incident referenced in Plaintiff's Complaint or the injuries alleged to have been sustained.

RESPONSE:

Objection: Defendant objects to this Request.

Notwithstanding the foregoing, NA.

12. All documents, correspondence, e-mails, text messages, or electronically stored information which you claim support the allegations of your complaint in this case.

RESPONSE:

Objection: Defendant objects to this Request.

Notwithstanding the foregoing, See Attached.

13. All documents, correspondence, e-mails, text messages, or electronically stored information which relate in any manner to damages being claimed in this lawsuit.

RESPONSE:

13. All tax bills, receipts, or documentation of other monetary disbursements that Plaintiff has made at any time with respect to both "the Driveway Easement" identified in Plaintiff's Complaint and/or the portion of land identified in "red" in Exhibit B to Plaintiff's Complaint.

RESPONSE:

Objection: Defendant objects to this Request.

Notwithstanding the foregoing, NA.

Respectfully Submitted,

/s/ Brian K. Duncan

Brian K. Duncan (0080751)

BKD LEGAL LLC

119 East Granville Street

Sunbury, OH 43074

Ph: 740.965.1347

Fx: 614.386.0410

bduncan@bkdlegal.com

Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that I have mailed the foregoing via email and/or by United States regular mail, postage prepaid, on this 21st day of March 2022 to the following:

Matthew S. Teetor, Esq.
TEETOR | WESTFALL
200 E. Campus View Blvd., Ste. 200
Columbus, OH 43235
Counsel for Defendant

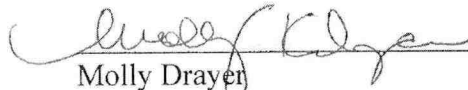
IN THE COURT OF COMMON PLEAS
DELAWARE COUNTY, OHIO

MOLLY DRAYER, :
 :
Plaintiff, : Case No. 21 CV H 03 0093
 :
vs. : Judge James P. Schuck
 :
SUNBURY REAL ESTATE :
HOLDINGS, LLC, et al., :
 :
Defendants.

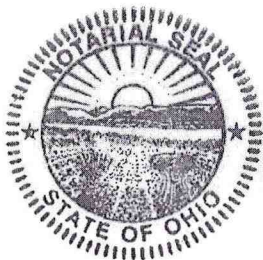
VERIFICATION

STATE OF OHIO :
 : ss
COUNTY OF DELAWARE :


I, Molly Drayer, affirm that the Answers of Plaintiff to the First Set of Interrogatories of Defendants are true to the best of my knowledge, information, and belief.


Molly Drayer

Sworn to and subscribed before me this 21st day of March 2022.



Dena L. Bissell
Notary Public, State of Ohio
My Commission Expires 10/10/24


Notary Public

< Mollys Flowers
+16145796493



Sunday, December 9, 2018

Hi Molly! Your neighbor, Mike.
Please call regarding the law-
suit. Apparently, your lawyer
has been calling mine regarding
additional claims. Thanks!

6:41 PM

M Yes- I'll call 2mrrw!

11:50 PM

Monday, December 10, 2018

Good morning! I should be
available after 10.

7:54 AM

M After 2 for me

9:13 AM

Ok. I should be available.

11:25 AM

Wednesday, December 12, 2018

Hi Molly! Its Mike Taliercio. My
attorneys say we can proceed
as we like. However, you should
contact your attorney to let him
know our plans & see if s/he
has any additional input. I am



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Wednesday, December 12, 2018

Hi Molly! Its Mike Taliercio. My attorneys say we can proceed as we like. However, you should contact your attorney to let him know our plans & see if s/he has any additional input. I am mostly available to meet & talk before the 20th & after the 27th.

11:24 AM

M After 27th would b good!
Sounds good.

11:42 AM

Ok. Let's figure out a more solid date over the holiday. Have a great day!

11:49 AM

M 11:49 AM

Thursday, January 3, 2019

M Excellent information! Just heard u on 610!

4:3



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M Excellent information! Just heard u on 610!

4:33 PM

4:34 PM

Lol... thanks! 😊

M ! 🌸 4:34 PM

What does your calendar look like? When do you think you would like to me?

4:43 PM

Meet

M R u in town this wknd? I can offer you \$15,000.00 and we split closing costs.

4:46 PM

Sunday, January 6, 2019

Sorry. I just saw your text. I am in town this weekend. I can do 20000 and you can cover your share of the costs. As I said before I already have about \$3000 into the survey work. However I am willing to sub



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Sunday, January 6, 2019

Sorry. I just saw your text. I am in town this weekend. I can do 20000 and you can cover your share of the costs. As I said before I already have about \$3000 into the survey work. However I am willing to sub parcel off more of the property to cross the street so that you would have that as your driv

View all

12:50 PM

Do you have a copy of the easement that was granted to the previous owner of the home by Celler Lumber and 2006?

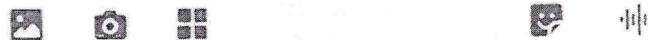
12:54 PM

M

My Attorney has copy of easement.

1:16 PM

Ok. I have a copy too. I have a few things I need to get done today, but can make myself available later this afternoon or another time this week if that is





Me



12:50 PM, Jan 6

Sorry. I just saw your text. I am in town this weekend. I can do 20000 and you can cover your share of the costs. As I said before I already have about \$3000 into the survey work. However I am willing to sub parcel off more of the property to cross the street so that you would have that as your driveway in to perpetuity and then I would have an easement on it.



Copy text



Share



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Ok. I have a copy too. I have a few things I need to get done today, but can make myself available later this afternoon or another time this week if that is better for you.

1:25 PM

M 2day is not good - I need 2 help my daughter w/car issue - what do we need 2 discuss?

1:28 PM

Ok. I think we need to discuss details to finalize an agreement so we can get things rolling.

1:29 PM

M Ur right - justify boundaries! Maybe later 2day - but then I'm at work all week!

1:31 PM

Ok. Let me know when you think might be a good time later today. If we can't do it today, let's set a dsy/time for next weekend so we can plan our schedules around it. 😊 Will that work?

1:34 PM



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1:34 PM that work?

M Hey Mike - I'm home 4 a bit is 4ish ok? 2:53 PM

2:55 PM Sure. Want me to come to your back door?

M Yes - txt me, I'll meet u and we can walk property? 3:00 PM

3:09 PM Ok

3:54 PM On my way in about 5 min.

M 3:55 PM

Wednesday, January 8, 2020

11:27 AM Hi! Call dropped in the middle of your thought.

11:28 AM Feel free to call back.

M Phone died - at work will call l8r! 12:05 PM



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Phone died - at work will call
l8r!

12:05 PM

12:12 PM Kk. No worries 😊

Friday, April 24, 2020

Hi Molly! Thanks for your time
this morning. This is what I will
need:

On the morning of May 1st I will
need just a small arrangement
of flowers that are blue or
assorted colors of blue. This is
just for a friend's wife birthday
I'm going to send maybe 20 or
\$25 on that.

10:14 AM

The 2nd arrangement I will
need for may 16th or 17th are 6
yellow roses with dark orange
outlining& 6 French cut white
tulips.

This will need to be delivered
locally.

10:17 AM



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Wednesday, February 24, 2021

Hi Molly! Neighbor, Mike.
Please have your attorney
contact me directly about your
offer. I will decide when it's
time for me to have representa-
tion, if needed. Thanks! Hope
you are well!

7:26 PM

Phone call & email
communication are fine.

mj-tal@hotmail.com

7:29 PM

M Hey Mike! Hope u r well!
Do you mean an offer to
purchase side lot? Do we
have to go thru attorney?

7:41 PM

M I will if u want - go thru
attorney!

7:42 PM

We don't have to. My attorney
called me today had told me
that your attorney reached out
to him.



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that your attorney reached out to him.
7:42 PM

M Hmmm ... not sure why -
I'd rather not go thru attorney
if possible - but for legal
documents?
7:43 PM

And, not "had". Sorry, driving
using voice to text.
7:43 PM

You might want to call your
attorney then and instruct him
not to reach out on your behalf
if that is not your wishes.
7:44 PM

M No prob - yea I'll call to c
what's up!
7:44 PM

Friday, March 5, 2021

Hi! I thought you didn't want to
use attorneys...? I just got an
email from mine regarding your
offer, as communicated to him
from your attorney.
3:03 PM



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offer, as communicated to him
from your attorney.

3:03 PM

3:08 PM That offer is declined.

M We need to use an attorney
for a closing -

3:26 PM

3:30 PM Ok. Not sure what that has to do
with our situation.

M I asked him - if we came to
an agreement - to do closing
and that I need new survey if
he was provided one.

3:32 PM

M He said he was in contact
with your attorney

3:33 PM

3:37 PM Ok, but my attorney is not
representing me at this time in
this matter.

M Oh - how about \$4000.00

3:40 PM

3:40 PM Take your fence down



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3:37 PM

Ok, but my attorney is not representing me at this time in this matter.



Oh - how about \$4000.00

3:40 PM

3:40 PM

Take your fence down.

3:41 PM

You have until April 1st.



Mike

3:41 PM

3:48 PM

You violated your easement agreement. You turned down the offer to purchase it. You refused to sign a lease agreement. You sued me. Now you insult me with your offer. Take the fence down by April 1st.

However, if you want the property I will accept \$45,000. If not, you will be dealing with

View all





Me



3:48 PM, Mar 5

You violated your easement agreement.
You turned down the offer to purchase it.
You refused to sign a lease agreement.
You sued me. Now you insult me with
your offer. Take the fence down by April
1st.

However, if you want the property I
will accept \$45,000. If not, you will be
dealing with a development company.



Copy text



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M You are THREATENING ME
AND I FESR FOR MY LIFE 4:19 PM

M POLICE WILL BE NOTIFIED - I
FEAR FOR MY HOME, FAMILY
AND MY LIFE

THESE ARE THREATS 4:20 PM

4:20 PM I am not threatening you. Nor
have mentioned anything that
would make you fear for your
life.

4:21 PM You pay or you remove the
fence. Its simple.

M DONT CONTACT ME 4:21 PM

4:21 PM That is ok. You can contact the
police.

4:59 PM Almost forgot, you will also
need to relocate your boat off
my property by April 1st.





Mollys Flowers

+16145796493



FEAR FOR MY HOME, FAMILY
AND MY LIFE

THESE ARE THREATS

4:20 PM

I am not threatening you. Nor
have mentioned anything that
would make you fear for your
life.

4:20 PM

You pay or you remove the
fence. Its simple.

4:21 PM



DONT CONTACT ME

4:21 PM

That is ok. You can contact the
police.

4:21 PM

Almost forgot, you will also
need to relocate your boat off
my property by April 1st.

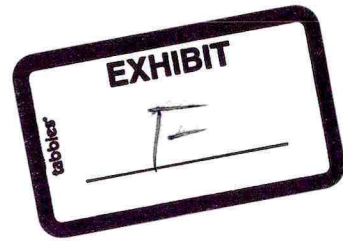
4:59 PM

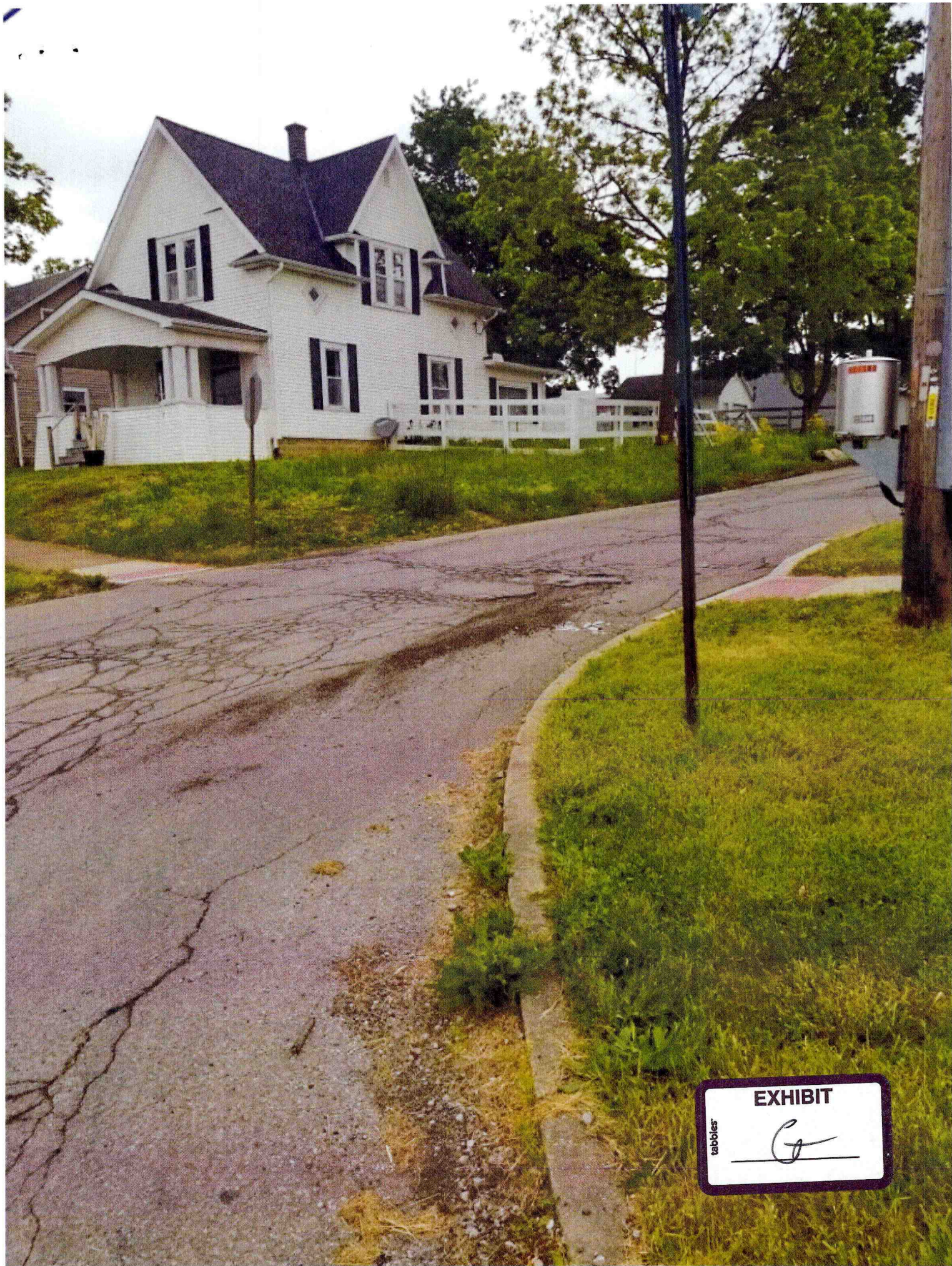
Monday, March 8, 2021

The fence comes down today.
Come get your dogs.

11:11 AM



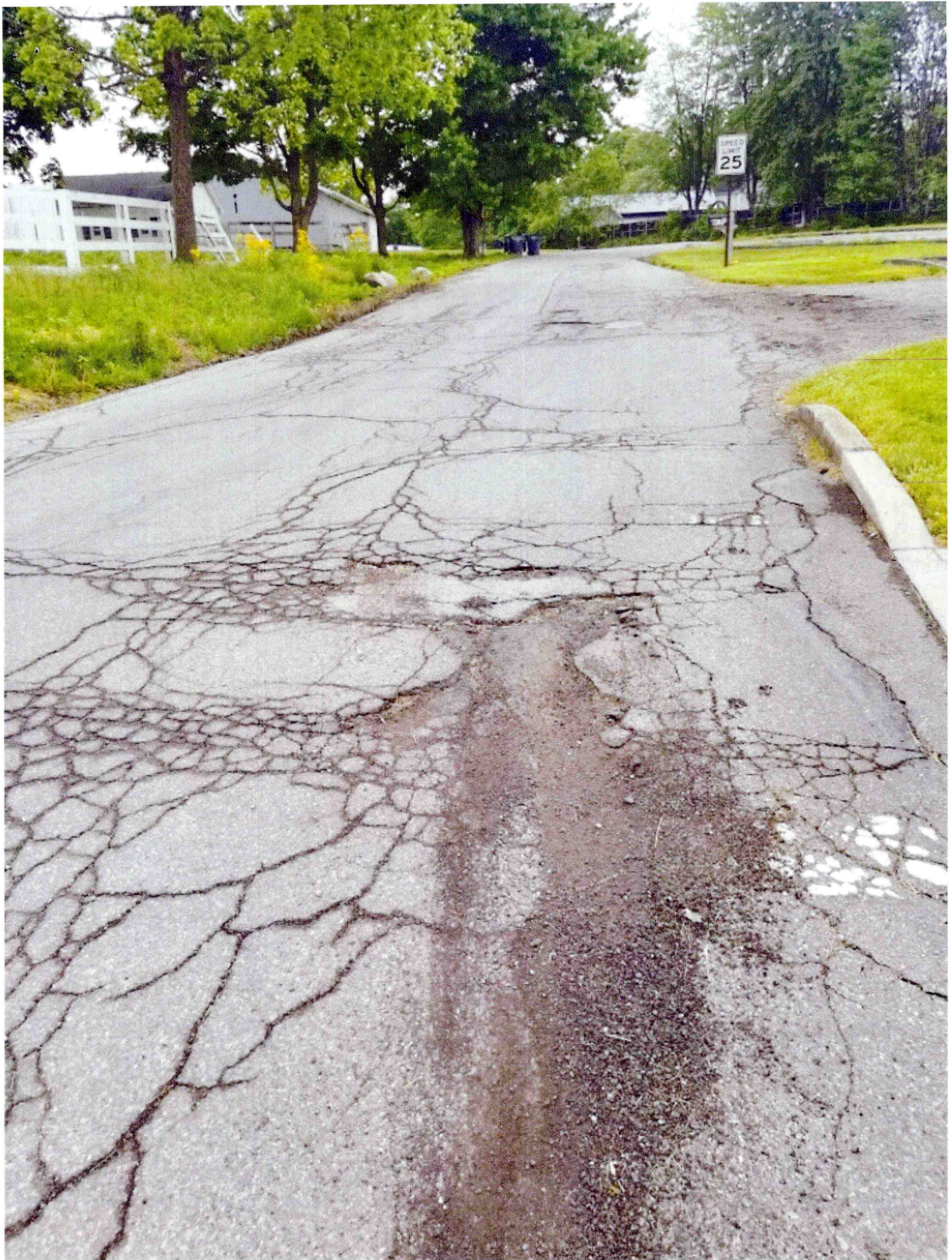




EXHIBIT

tabbles

G





EXHIBIT

tabbles

H

**LOVE THY
NEIGHBOR**

#FENCELIVESMATTER





IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, OHIO

MOLLY DRAYER,	:	
	:	
Plaintiff,	:	Case No. 21 CV H 03 0093
	:	
vs.	:	Judge James P. Schuck
	:	
SUNBURY REAL ESTATE	:	
HOLDINGS, LLC, et al.,	:	
	:	
Defendants.	:	

RESPONSES OF DEFENDANTS
SUNBURY REAL ESTATE HOLDINGS AND MICHAEL TALIERCIO
TO PLAINTIFF MOLLY DRAYER'S FIRST SET OF INTERROGATORIES,
REQUESTS FOR ADMISSION, AND REQUESTS FOR PRODUCTION
OF DOCUMENTS

Defendant Sunbury Real Estate Holdings, LLC et. al. ("Defendant") submits the following responses to Plaintiff Molly Drayer's ("Plaintiff") First Sets of Request for Admission ("RFA"), Interrogatories ("Interrogatories") and Requests for Production of Documents ("Requests"). Defendant's legal counsel is prepared to meet with Plaintiff's counsel to discuss, and, if possible, resolve any disputes that may arise concerning the meaning, scope, and relevance of Plaintiff's discovery requests. Defendant's responses have been prepared in accordance with the Ohio Rules of Civil Procedure and pursuant to a reasonably diligent search for the information requested. Defendant reserves the right to supplement these responses.

Discovery in this case is ongoing. Consequently, the answers set forth herein are based only upon the information, witnesses, and documents presently available to and known by the Defendant. Further, the Defendant's discovery, independent investigation, legal research and analysis may give rise to additional contentions, facts, documents, and testimony, and add new meaning to the presently-known contentions, facts, documents and testimony, as well as establish



entirely new factual conclusions and legal contentions, all of which may lead to substantial additions to, changes in, or variations from these answers.

The responses are given without prejudice to the Defendant's right to produce evidence of subsequently discovered, or later recalled, contentions, facts, documents or witnesses, upon which changes to these answers may be based.

Defendant specifically reserves all rights under the Ohio Rules of Civil Procedure and the objections set forth herein.

DEFENDANT'S GENERAL OBJECTIONS

A. Defendant objects to the Interrogatories and Requests to the extent they seek information beyond that which is allowed by the Ohio Rules of Civil Procedure and to the extent that they seek to impose any obligations upon Defendant inconsistent with or greater than the obligations imposed by the applicable Rules.

B. Defendant has not yet completed its investigation of the facts related to this litigation. Consequently, all of the responses contained herein are based only on such information as is presently available. Accordingly, Defendant reserves the right to supplement these responses pursuant to the Ohio Rules of Civil Procedure.

C. Defendant objects to the Interrogatories and Requests to the extent they call for disclosure or production of information protected from disclosure by the attorney-client privilege, work product doctrine, any other privilege, or other grounds that protect information from disclosure. In addition, certain of these Interrogatories and Requests are so broad or ambiguous that privileged and/or work product information is arguably encompassed within the scope thereof, even though Defendant may not have specifically identified to date any information or documents that are being withheld. To the extent of the foregoing, Defendant objects to these Interrogatories and Requests as exceeding the scope of permissible discovery.

D. Defendant objects to the Interrogatories and Requests to the extent they are overly broad, unduly burdensome, and seek information that is neither relevant nor likely to lead to the discovery of admissible evidence.

Subject to, and without waiving these objections, Defendant provides the following responses:

REQUESTS FOR ADMISSION

Please Admit or Deny the Following Requests:

- 1) Admit that Defendants are the owners of 157 S. Vernon St., Sunbury, Ohio 43074 (“Defendants’ Property”).

Response: *Admit that Sunbury Real Estate Holdings, LLC is the owner of 157 S. Vernon Street.*

- 2) Admit that there is an access driveway Easement for the benefit of Plaintiff.

Response: *Admit that an Easement exists for the benefit of the owner of 170 S. Columbus St. subject to certain and expressed conditions and limitations.*

- 3) Admit that Plaintiff makes daily use of the driveway Easement.

Response: *Defendants object on the ground that this request for admission is overly broad and that the extent to Defendants’ knowledge about the use of the aforementioned driveway Easement is speculative in nature. Subject to and without waiving any general or specific objections, Defendant admits that Plaintiff has regularly used the driveway described in the “driveway Easement.”*

- 4) Admit that Defendants installed a “speed bump” on a portion of Plaintiff’s Property and/or the driveway Easement.

Response: *Admit that a speedbump was installed on Defendants’ property, as admitted in Defendant’s Answer to Plaintiff’s Complaint and Counterclaim. There was no speedbump installed on Plaintiff’s property by Defendants. Further answering, the speedbump installed by Defendants on Defendants’ property is not within or on the area contemplated by the driveway Easement.*

- 5) Admit that Defendant Michael J. Taliercio removed the fence owned by Plaintiff that was situated upon Defendant's Property on the day the Complaint was filed in the instant matter.

Response: *Admit that a fence that was installed on Defendants' property without permission or authority was removed from Defendants' property.*

INTERROGATORIES

INTERROGATORY 1: State the full name, address and phone number of the person(s) answering and assisting with answering these interrogatories.

Response: *Michael Talercio and Sunbury Real Estate Holdings, LLC, with assistance from undersigned counsel.*

INTERROGATORY 2: If you are not either of the Defendants, please describe, in full detail, your relationship to Defendants.

Response: *N/A*

INTERROGATORY 3: Identify each person whom you expect to call as an expert witness at the trial of this case and, as to each expert so identified, state the subject matter on which he/she is expected to testify, the substance of the facts and opinions that you would expect he/she to state and a summary of the grounds for each opinion; to the extent any expert has provided a written summary of his or her opinion(s), please provide a full copy.

Response: *Defendants object on the ground that this is premature. Subject to and without waiving any general or specific objections, Defendants state that they will identify all witnesses in accordance with the Court's scheduling order, the local rules, and the Ohio Rules of Civil Procedure.*

INTERROGATORY 4: State the names and addresses of all persons with knowledge of any facts or information relevant to any of the facts, allegations, or defenses stated in the Defendants' Answer and Counterclaims, provide a summary of facts or information in each such person's possession which supports or may tend to support your defenses.

Response: *Defendants object on the grounds that this Interrogatory is overbroad and unduly burdensome to the extent it seeks information concerning "all persons" with knowledge of any facts or information. Identifying every person with such knowledge is not proportional to the needs of the case considering the importance of the issues at stake in the litigation, the amount in controversy, the parties'*

relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues and where the burden or expense of the proposed discovery outweighs its likely benefit. Subject to and without waiving any general or specific objections, Defendants state, upon information and belief, the following individuals may have knowledge relevant to allegations set forth in Defendants' Answer and Counterclaims:

- a) Plaintiff Molly Drayer, as on cross-examination
170 S. Columbus St.
Sunbury, OH 43074*
- b) Defendant Michael Taliercio
4378 Park Pt.
Lewis Center, OH 43035*
- c) Fred J. Millgan
483 Dempsey Rd.
Westerville, Ohio 43081*
- d) John B. Miller and/or another representative of the entity known as
"Cellar Lumber"*
- e) Allen Rothermel, Village Administrator for the Village of Sunbury*
- f) Tom Hatfield, former Mayor for the Village of Sunbury*
- g) David Brehm, attorney for the Village of Sunbury*
- h) Arnie Workman, of Workman Fence Co.*
- i) Steve Fox, surveyor*

INTERROGATORY 5: Please identify all documents that you reviewed and/or relied upon to assist you in preparing the answers to these Interrogatories.

Response: *Defendants object on the grounds that this Interrogatory is overbroad and unduly burdensome. Subject to and without waiving any general or specific objections, Defendant generally reviewed the pleadings and the documents relative to the properties in question, as well as documents pertaining to damages incurred.*

INTERROGATORY 6: Please identify all persons, contractors, agents, or other individuals who have performed landscaping, hardscaping, or any other type of similar work on Defendant's Property from January 1, 2015 to present.

Response: *Defendants object on the grounds that this Interrogatory is overbroad and unduly burdensome to the extent that it seeks "all persons" who have performed general maintenance work on Defendant's Property since 2015. Additionally, Defendant objects as to relevance – this interrogatory is not reasonably calculated to lead to admissible and/or relevant evidence. Subject to and without waiving any general or specific objections, Mike Talercio has performed his own landscaping, hardscaping and/or similar work of the type since the property was bought.*

INTERROGATORY 7: Identify all persons who have knowledge of facts which support or may tend to support your defense(s) and provide a summary of the facts or information in each such person's possession which supports or may tend to support your defense(s).

Response: *Defendants object on the ground that this Interrogatory is overbroad and unduly burdensome to the extent it seeks "all persons" who have knowledge or facts which would support Defendant's defenses. Defendant also objects to the extent that this Interrogatory seeks information protected by Attorney-Client privilege. Attorney-Client privilege is not waived as to any communication between Defendant and counsel. Subject to and without waiving and general or specific objections, see response to Interrogatory No. 4.*

INTERROGATORY 8: State the name, occupation, business address and telephone number of each expert you have consulted with or plan to call as a witness in this case.

Response: *Defendants object on the ground that this Interrogatory seeks attorney work-product. Additionally, Defendant objects on the ground that this is premature. Subject to and without waiving any general or specific objections, Defendants state that they will identify all witnesses in accordance with the Court's scheduling order, the local rules, and the Ohio Rules of Civil Procedure.*

INTERROGATORY 9: Identify and provide a home address and telephone number for each person whom you expect to call as a lay witness at the trial of this case, and, as to each such witness, state the subject matter and the substance of the expected testimony. If any such person has provided a written statement to you, please identify the date and substance of each such written statement

Response: *Defendants object on the ground that this is premature. Subject to and without waiving any general or specific objections, Defendants state that they will identify all witnesses in accordance with the Court's scheduling order, the local rules, and the Ohio Rules of Civil Procedure. Subject to and without waiving any general or specific objections, at this time, see response to Interrogatory No. 4.*

INTERROGATORY 10: Identify all communications made by Defendants to Plaintiff relating to the allegations referenced in Defendants' Counterclaim under Paragraph 10, and describe the substance of each communication.

Response: *See Exhibit G to Plaintiff's Complaint. Defendant Mike Talercio has also communicated with Plaintiff via text. Copies of those texts are being produced contemporaneously herewith. Defendants reserve the right to supplement.*

INTERROGATORY 11: For each item of damages you claim in this action, please identify all persons upon whom you will rely to support your damages.

Response: *Defendants object on the ground that this is premature. Subject to and without waiving any general or specific objections, Defendants state that they will identify all witnesses in accordance with the Court's scheduling order, the local rules, and the Ohio Rules of Civil Procedure. Subject to and without waiving any general or specific objections, Defendant Mike Talercio will testify as to damages.*

INTERROGATORY 12: For each item of damages you claim in this action, please state the amount of damages you are seeking, and the basis upon which you compute this amount.

Response: *Defendants seek damages for attorneys' fees incurred as a result of this litigation as well as damages for loss of income. As of the date of this discovery, attorney's fees are approximately \$10,000 and Defendant has incurred approximately \$25,000 in lost income and time. Defendants' property has also been damaged by Plaintiff's refusal to honor her obligations and duties under the Driveway Easement where Plaintiff is "solely responsible for the repair and maintenance of said improvements, and shall keep said improvements in good repair." Defendants reserve the right to amend and supplement these amounts as additional legal fees are incurred and income is lost due to continuing litigation. Defendant has also incurred damages based on Plaintiff's refusal to adhere to the requirements of the Driveway Easement, namely her failure to keep the driveway area in good repair as required under the express terms of the easement, these damages are ongoing.*

INTERROGATORY 13: For each item of damages you claim in this action, please identify all documents upon which you will rely upon to support your damages.

Response: *Defendants will rely on bills documenting legal fees incurred as well as documentation of loss of income to his business and invoices estimating the cost of repair to the driveway area.*

INTERROGATORY 14: Please identify with specificity the grounds for which you are seeking a Declaratory Judgment requesting that the Easement is void.

Response: *Defendant objects to this Interrogatory on the ground that it seeks a legal conclusion. Defendant is not an attorney and would rely on his attorney for the basis of any legal claims or conclusions. Subject to and without waiving any general or specific objections, Defendant would refer Plaintiff to the claims set forth in paragraphs 9-12 of Defendants' Counterclaim.*

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Produce all documents relied upon by You in responding to Plaintiff's First Set of Interrogatories.

Response: *See production. Defendants reserve the right to supplement.*

2. Complete copies of any and all written, taped or otherwise recorded communications between the Plaintiff and the Defendants, including but not limited to any and all written communications, emails, text messages, and/or any contracts or agreements signed between the parties.

Response: *See production. Defendants reserve the right to supplement.*

3. Complete copies of any inspection reports, estimates, or any other written documents regarding the Easement that is the subject of this lawsuit.

Response: *See production. Defendants reserve the right to supplement.*

4. Produce any and all documents, not otherwise requested above, which support or tend to support your responses to Defendant's First Set of Interrogatories in conjunction with these Requests for Production of Documents.

Response: *See production. Defendants reserve the right to supplement.*

5. Produce all documents that support your contention that you have complied with your duties as property owner with respect to the maintenance of the Easement.

Response: *See Driveway Easement, of which Plaintiff already has a copy. The Easement specifically states that "Grantee is solely responsible for the repair and maintenance of said improvements, and shall keep said improvements in good repair."*

6. Produce copies of all insurance policies in which either of the Defendants are the insured.

Response: *Objection. This request seeks information that is not relevant or admissible. Without waiving objections, see production. Defendants reserve the right to supplement.*

7. Produce copies of all e-mail, facsimile, or any other communications, electronic or otherwise, between Defendants and any contractors or construction professionals who performed work, inspected and/or otherwise have personal knowledge of the Easement subject to this litigation.

Response: *See production. Defendants reserve the right to supplement.*

8. Produce copies of any receipts, invoices or other proof of payment describing any of the good or services set forth in Defendants' Counterclaims.

Response: *See production. Defendants reserve the right to supplement.*


9. Produce complete copies of any and all documents which reference, document, discuss and/or relate to the allegations of trespass as set forth in the Defendants' Counterclaims, including but not limited to all documents, contracts, notes, and/or written communications.

Response: *See production. Defendants reserve the right to supplement.*

As to Objections:



Matthew S. Teetor (0087009)




Matthew S. Teetor (0087009)
J. Stephen Teetor (0023355)
TEETOR | WESTFALL
200 E. Campus View Blvd., Ste. 200
Columbus, Ohio 43235
(614) 412-4000 | Fax (614) 412-9012
email: mteetor@teetorlaw.com
steetor@teetorlaw.com
Attorneys for Defendants Sunbury Real
Estate Holdings, LLC and Michael Taliercio

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of April, 2022, the foregoing was served via U.S. mail and/or email to the following:

Brian K. Duncan (0080751)
BKD LEGAL, LLC
119 E. Granville St.
Sunbury, Ohio 43215
(740) 965-1347 | Fax (614) 386-0410
email: bduncan@bkdlegal.com
Attorney for Plaintiff



Matthew S. Teetor (0087009)