

## Public Records Request #3234

The following materials have been gathered in response to public records request #3234. These materials include:

- Email Correspondence
- Employee Information – Stuart Harborne

This information was provided as a response to a public records request on 4/30/20 and is current to that date. There is a possibility of more current information and/or documents related to the stated subject matter.

### Further Information

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For further information about this request or the Citywide Records Program, please contact:

Cheyenne Flotree  
Citywide Records Program Manager  
City of Charlotte/City Clerk's Office  
600 East 4<sup>th</sup> Street, 7<sup>th</sup> Floor  
Charlotte, NC 28202  
Cheyenne.Flotree@charlottenc.gov

Amelia Knight  
Public Records Specialist  
City of Charlotte/City Clerk's Office  
600 East 4<sup>th</sup> Street, 7<sup>th</sup> Floor  
Charlotte, NC 28202  
Amelia.Knight@charlottenc.gov

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**From:** m turner <agerasia62@gmail.com>  
**Sent:** Thursday, August 15, 2019 4:41 PM  
**To:** Phipps, Gregory; Ken Cagle  
**Subject:** [EXT] Easement issue with City of Charlotte

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

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Gregory,

My mother resides at 9416 Hood Road. I am the son and her representative.

**We are encountering an issue with the City of Charlotte** concerning the City's easement request on our property. This easement request is at the bequest of **RD Harrell Co** (aka Kahuna Group) that seeks to develop 'The Retreat @ Rocky River': Please see the enclosed link:

[http://ww.charmeck.org/Planning/Subdivision/Approvals/2018/TheRetreatatRockyRiver\(SF\).pdf](http://ww.charmeck.org/Planning/Subdivision/Approvals/2018/TheRetreatatRockyRiver(SF).pdf)

We have been in discussion with representatives of Kahuna Group and now the City of Charlotte concerning easement requests. The City of Charlotte - specifically Stuart Harborne - has been presented with our CONCERNS regarding this project (PROJECT NUMBER TK19150185/100-17-563).

Specifically, there is a topographical / environmental concern. We are not aware that there has been any formal community hearing with regard to the development project 'The Retreat @ Rocky River' nor formal analysis of vehicle volumes - road infrastructure associated with this development.

At our meeting with the representatives of the City in early June 2019, we were assured that a formal graphic depiction of how topographical issues would be addressed should be forthcoming. RD Harrell of Kahuna Group agreed to have his counsel draw up a legal contract before the project would commence so that subcontractors constructing the sewer line might be held accountable for returning the landscape to its original state. Neither the City nor other stakeholders have provided any information promised. We DISPUTE the City's position that OTHER OPTIONS are not available for construction of this sewer line. However, we are encountering a lack of transparency with the City as the City is hiding behind an outside consultant - Joshua Frey - as they PUSH forward with obtaining easement under the THREAT of EMINENT DOMAIN. The City has procured a formal appraisal of property involved for this project and presented to us this week. We are far more concerned about ecological issues that might arise and have no interest in signing the City's contract. We are under the impression that other OPTIONS are being considered by the DEVELOPER but the City has not been forthcoming with specifics.

We are in consultation with the Army Corp of Engineers, the NC DEQ, the EPA and other agencies concerning potential impacts associated with stream and terrain associated with this proposed project.

As we move the ball forward in addressing an **unnecessary infringement** on private property, we would like to determine what assistance you might be able to render.

Thank you.



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**From:** m turner <agerasia62@gmail.com>  
**Sent:** Sunday, August 18, 2019 8:37 PM  
**To:** Ferguson, Angela; Harborne, Stuart; Frey, Joshua; Ken Cagle; RDean@kahuna-group.com; Phipps, Gregory  
**Subject:** Re: The Retreat at Rocky River\_ Turner\_Parcel 2  
**Attachments:** ESMT SSE WLE TCE.REV 0.docx

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

**EXTERNAL EMAIL:** This email originated from the Internet. Do not click any images, links or open any attachments unless you recognize and trust the sender and know the content is safe. Please click the Phish Alert button to forward the email to Bad.Mail.

Angela,

I appreciate your feedback.

1. As I pointed out to Stuart, there is a 45 degree topographical incline over 1/3 to 1/2 of the proposed easement - sewer placement. The incline extends to the flowing stream of water. I walked the property today and re analyzed the situation.

The cross section provided per our meeting on 7.31 is meaningless. I am not convinced that the engineers understand what they are dealing with.

The course of the sewer line will come within one yard of the creek over one section of our property (side adjacent to 9400 Hood Rd).

Before easement is granted, I will need the following.

a. Meeting with the engineer and erosion control subcontractor to discuss issues related to sewer placement.

**b. The formal erosion control plan - during and subsequent to sewer placement.**

c. Establishment of a trail of accountability so that the subcontractor and The City are responsible for successful erosion control measures. Otherwise, the EPA, NC DEQ, and the Army Corp of Engineers will be involved. I have already contacted each entity.

Frankly, I am not sure HOW erosion will be contained - controlled absent the construction of a retaining wall. I will not be paying for a retaining wall - but the City **will** be paying once there is silt deposition in the stream.

This concern has been sitting on Stuart's desk for months now. Nothing has been addressed as everyone has been hiding behind an 'outside contractor' - paid for by my tax dollars - when you and Stuart should be addressing the issues. Your 'outside contractor'- Joshua Frey - has proven incompetent.

I am not eager to grant an easement without full delineation of your plan of action.

2. You are correct that RD Harrell is the owner of the property and developer of said

property through one of his LLCs and or Kahuna Group. It is my understanding that RD Harrell will subcontract with a licensed utility contractor 'approved' by the City to place the sewer line. There are three entities of concern here. RD Harrell who does not currently possess a license to function as a developer, the City of Charlotte, and an UNKNOWN utility contractor to be subcontracted by one of RD Harrell's LLCs. RD Harrell has had extensive issues in the past with his developments. The City will simply require RD Harrell to use an 'approved' utility contractor and inspect the work done to verify consistency with City Water and Sewer standards. My goal is create a clear trail of accountability so that erosion-placement - stream preservation are done appropriately. Therefore, I need more information.

1. Name of utility subcontractor, contact person, and contact information. RD Harrell, I have been awaiting your reply.
2. Verification of subcontractor insurance policies.
3. Ingress and egress.
4. Dirt removal process.
5. Identification of trees to be cut and how debris will be removed.
6. Verification that the Army Corp of Engineers has approved this project.
7. How the subcontractor plans to address erosion control plan delineated by erosion control engineers.
8. How will we handle deficiencies outlined above.

**3. If the Sewer and Water department AND the developer are considering other options, why would I grant the City an easement when other options may be available?** I will not be signing any easement agreement until we have reached **FULL TRANSPARENCY** regarding this issue. I would like to review the Water and Sewer policies concerning pump stations.

4. Yes, there will be a signed contract with the City. The contract you originally sent me is not acceptable. I have attached appropriate revisions of the Word Document you sent. In addition, I will need to know what 'excise tax' means? We will NOT be allowing any debris, dirt, tree cutting, equipment, or other activities **outside** of the 20 ft permanent easement and 10 ft temporary easement. The subcontractor will be required to orchestrate ALL work activities within the 30 ft space. Any activity outside this area - and associated damages - will be compensated by the City and or utility subcontractor without arbitration.

With regard to addendums attached to the City contract, this will be presented in consultation with legal counsel. At a minimum, the City's erosion plan will be attached to any contract as well as clearly defined recourse if said erosion plan is not implemented or found to be inadequate during the course of construction. Additional stipulations shall include that (a) easement will not be used as part of a 'green space' trail system and (b) a statement from the City tax department delineating reduction in property taxes associated with said easement agreement.

Thank you for your prompt attention to these matters.

Mike Turner

On Fri, Aug 16, 2019 at 3:05 PM Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)> wrote:

Mr. Turner,

Good afternoon. Please see my responses below and let me know if you have any additional questions.

Thank you,

Angela Ferguson

Real Estate Project Manager

City of Charlotte, General Services

Real Estate Division

600 E. 4<sup>th</sup> Street – 14<sup>th</sup> Floor

Charlotte, NC 28202

Office: 704-778-8724

**From:** m turner [mailto:[agerasia62@gmail.com](mailto:agerasia62@gmail.com)]

**Sent:** Thursday, August 15, 2019 11:38 AM

**To:** Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)>; Frey, Joshua <[joshfrey@ptmc.net](mailto:joshfrey@ptmc.net)>; Harborne, Stuart <[Stuart.Harborne@ci.charlotte.nc.us](mailto:Stuart.Harborne@ci.charlotte.nc.us)>; Ken Cagle <[kencagle@carolinasecurity.com](mailto:kencagle@carolinasecurity.com)>; [RDean@kahuna-group.com](mailto:RDean@kahuna-group.com)

**Subject:** Re: [EXT] Reference developer and standing\_The Retreat at Rocky River

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Angela and Stuart,

I have still not received clarification with regard to how the city will address erosion and return of landscape to

its original condition given the topography the mountain where the sewer line is being placed. - An erosion control plan will be generated by the engineers and erosion control subcontractor and will require permitting approval by the City.

I understood that subsequent to our meeting at 9416 that several pieces of information would be forthcoming.

1. **Graphic analysis** of how the landscape would be returned to its original state per Eagle Engineering. – At the meeting on 6/5, a graphic with regard to the proposed easement contour once the project was completed was requested. Our agent sent a summary of the meeting on 6/6 and stated that we would be requesting a cross-section that would allow you to see what the elevation would look like in terms of grading post construction. A cross section that was created for the property was provided to you 7/31 (see attached). That is the only depiction we have of the elevation relating to the before and after. Can you clarify what you are requesting?

2. A **contractual agreement** from RD Harrell concerning issues associated with Kahuna's subcontracting

with another entity to complete sewer line placement. **RD Harrell has not responded to any emails nor**

**has he returned any phone calls to address this matter.** – The agreements necessary for the installation of the sewer line will be between Ms. Turner and the City of Charlotte. We can address your concerns about the construction of the project through our agreements, which are binding. I have attached a sample of a Special Provision that includes some of the items that can be considered in this document. These are only examples and would need to be approved by Charlotte Water prior to execution. This document would be signed by Ms. Turner and a Charlotte Water representative. It would be provided to the contractor prior to construction to insure that they are aware of special instructions they are required to follow outside of the normal scope of work that are specific to your mothers property.

On June 9<sup>th</sup> our agent received a list of concerns and questions that you proposed. I believe the questions were answered and the concerns that you raised about the agreement were as follows –

- 'X IN ADDITION TO .....This shall include, but not be limited to, the removal of trees, shrubs, and landscaping, as well as making modification of the topography, which are necessary for the construction of the project', is not acceptable. – *Are you requesting that this language be removed or revised?*
- 'GRANTOR understands and agrees that the consideration amount covers and includes all improvements located within the easement area or areas unless stated otherwise.', will have to be revised. – *Please clarify the revisions you are requesting.*
- -No ingress or egress will be afforded outside of PERMANENT EASEMENT at any time and or Temporary Easement after one year. – *I am checking with our legal department on the language and options for revisions.*
- The arbitration clause will need to be revised. – *Please clarify the revisions you are requesting.*

I have attached a word version of the agreement. In order to clarify what revisions you are requesting the document can be redlined with your proposed revisions and/or comments. If you would like to provide a copy of the agreement with your comments and requested changes we will forward it to our legal department to review.

Once this information is in hand, we will be better equipped to address your appraisal offer.

I would also like for you to forward the original appraisal paperwork - including methodology - to me as

soon as possible. – I have requested that Josh Frey mail you a copy of the full appraisal. Please let me know if you have not received it by early next week.

Would the city be so kind as to explain to me why you are working with RD Harrell when he does not have

a contractor's license in the state of NC? - RD Harrell is not the contractor for this project, they are the owner of the property. As part of Charlotte Waters preconstruction process, they require and verify the contractor for any project is a licensed utility contractor in NC. This project has not gotten to the preconstruction process.

Would you be so kind as to provide additional information with regard to other options the contractor is considering for sewer placement?

The current design for the sewer line was established in order to follow the natural drainage pattern in the area. The developer requested that the engineers look into an alternative route that would minimize the impacts due to property owners concerns. This option is being reviewed by Charlotte Water and a response is expected soon.

Thank you.

Mike Turner

On Thu, Aug 15, 2019 at 10:18 AM Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)> wrote:

Mr. Turner,

Please let me know if you have any further questions.

Thank you,

Angela Ferguson

Real Estate Project Manager

City of Charlotte, General Services



Real Estate Division

600 E. 4<sup>th</sup> Street – 14<sup>th</sup> Floor

Charlotte, NC 28202

Office: 704-778-8724

**From:** m turner [mailto:[agerasia62@gmail.com](mailto:agerasia62@gmail.com)]

**Sent:** Wednesday, August 14, 2019 10:04 AM

**To:** Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)>

**Subject:** Re: [EXT] Reference developer and standing\_The Retreat at Rocky River

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Thank you for your follow up email.

I appreciate your promptness.

I will contact Bert at the appropriate time.

Mike Turner

On Wed, Aug 14, 2019 at 8:56 AM Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)> wrote:

Mr. Turner,

Good morning. I am sorry I missed your call yesterday.

The City attorney that will be addressing your concerns is Bert Concepcion. His contact number is (704) 336-8158 and I have copied him on this email as well.

I understand that you feel that the easement document proposed is not acceptable to you. This is the standard easement agreement used by the City to acquire the rights necessary for Charlotte Water projects. If you would like to propose revisions to the language in the agreement we can review them and work with you to address your concerns.

Please let me know if you have any additional questions.

Thank you,

Angela Ferguson

Real Estate Project Manager

City of Charlotte, General Services

Real Estate Division

600 E. 4<sup>th</sup> Street – 14<sup>th</sup> Floor

Charlotte, NC 28202

Office: 704-778-8724

**From:** m turner [mailto:[agerasia62@gmail.com](mailto:agerasia62@gmail.com)]

**Sent:** Tuesday, August 13, 2019 3:51 PM

**To:** Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)>; Ken Cagle <[kencagle@carolinasecurity.com](mailto:kencagle@carolinasecurity.com)>; Harborne, Stuart <[Stuart.Harborne@ci.charlotte.nc.us](mailto:Stuart.Harborne@ci.charlotte.nc.us)>; RDean@kahuna-group.com; Frey, Joshua <[joshfrey@ptmc.net](mailto:joshfrey@ptmc.net)>

**Subject:** Re: [EXT] Reference developer and standing\_The Retreat at Rocky River

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Good afternoon Angela,

I left a voice message for you.

I have already responded to this document which is unacceptable.

Please forward to me the name and contact information for the city attorney

that will be addressing this issue.

Thank you for your prompt attention to this matter.

Mike Turner

On Tue, Aug 13, 2019 at 2:44 PM Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)> wrote:

Mr. Turner,

Good afternoon. The agreement that we are requesting to acquire the easement was presented to you by Josh Frey on June 6, 2019. I have attached a copy for your reference. It would be in your best interest to discuss any concerns or special requests directly with the City of Charlotte. This can be done by requesting revisions to the attached easement document and/or items can be placed in a special provision, both of which are binding. If you would like to present our agent, Josh Frey, a list of the items that you would like placed in an agreement we will work with you to attempt to address your concerns.

Thank you,

Angela Ferguson

Real Estate Project Manager

City of Charlotte, General Services

Real Estate Division

600 E. 4<sup>th</sup> Street – 14<sup>th</sup> Floor

Charlotte, NC 28202

Office: 704-778-8724

**From:** m turner [mailto:[agerasia62@gmail.com](mailto:agerasia62@gmail.com)]

**Sent:** Tuesday, August 13, 2019 1:23 PM

**To:** [RDean@kahuna-group.com](mailto:RDean@kahuna-group.com); Harborne, Stuart <[Stuart.Harborne@ci.charlotte.nc.us](mailto:Stuart.Harborne@ci.charlotte.nc.us)>; Ken Cagle <[kencagle@carolinasecurity.com](mailto:kencagle@carolinasecurity.com)>; Steven Whitworth <[swhitworth@kahuna-group.com](mailto:swhitworth@kahuna-group.com)>; Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)>

**Subject:** [EXT] Reference developer and standing

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Gentlemen,

**I would serve the city well to know that Dean Harrell has NOT contacted me concerning a legal**

**document for his easement request.**

We will not be cooperating with Dean or the city until

this has been completed.

Mike Turner

Excise Tax ??????????

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STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

PROJECT NAME: Enter Project Name  
PROJECT NO: Enter Project No.  
PARCEL NO.: Enter Parcel No.

A Portion of Tax Lot Number: Enter Tax ID

Property Address: Enter Address

Brief Description for the Index: Easement

**EASEMENT AGREEMENT**

**THIS GRANT OF EASEMENT** is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_  
by and between \_\_\_\_\_ (hereinafter referred to as GRANTOR)  
and the CITY OF CHARLOTTE, a municipal corporation, 600 East Fourth Street, Charlotte, North Carolina  
28202, Mecklenburg County, North Carolina (hereinafter referred to as GRANTEE).

The designations GRANTOR and GRANTEE, as used herein, shall include said parties, their heirs,  
successors, and assigns, and shall include singular, plural, masculine, feminine, or neuter as required by  
context.

**WITNESSETH:**

**WHEREAS**, said Grantor owns a certain tract of land ("Property") in or near the City of Charlotte,  
County of Mecklenburg, North Carolina, the same being the land conveyed to Grantor, by deed recorded  
in Book \_\_\_\_\_, Page \_\_\_\_\_ in the office of the Register of Deeds of Mecklenburg County; and

**NOW THEREFORE** said GRANTOR for good and valuable consideration to be paid by the City of  
Charlotte, the GRANTOR, has bargained and sold, and by these presents does bargain, sell, and convey  
to said GRANTEE and its successors a non-exclusive, perpetual easement (the "Permanent Easement"),  
for the purpose of laying, constructing, and maintaining a sanitary sewer line(s), and/or water  
line(s)/meter(s) in connection with the above-referenced public project and described as follows:

**DRAWN BY CHARLOTTE CITY ATTORNEY'S OFFICE**  
**RETURN TO: CITY OF CHARLOTTE-BOX 227**  
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THAT PORTION of land so labeled on the map attached hereto and incorporated herein by reference, said map having been prepared by or for the City of Charlotte.

And, a Temporary Construction Easement, if applicable as noted below:

\_\_\_\_ In addition, if so indicated here, said GRANTOR, for good and valuable consideration, receipt of which is acknowledged, has granted, and by these presents does grant to said GRANTEE and its successors a Temporary Construction Easement ("TCE") for the purpose of laying and constructing the public project referenced above. This shall include, but not be limited to, the removal of trees, shrubs, and landscaping, as well as making modification of the topography, which are necessary for the construction of the project. Said TCE is located in that certain portion of the Property in or near the City of Charlotte, County of Mecklenburg and State of North Carolina, and described as follows:

THAT PORTION of the Property labeled "Temporary Construction Easement" or "TCE" on the map attached hereto as Exhibit A and incorporated herein by reference, said map having been prepared by or for the City of Charlotte.

The TCE granted in the immediately preceding paragraph, if any, shall take effect upon the beginning of this project's construction on the above named parcel, and shall have a duration of \_\_\_\_ (\_\_\_\_) year(s); and the parties hereto further covenant and agree that upon the expiration of the TCE as herein provided, the GRANTEE or its Contractor shall have no further obligations to maintain or rights to enter upon the TCE described herein.

GRANTOR understands and agrees that the consideration amount covers and includes all improvements located within the easement area or areas unless stated otherwise.

GRANTEE shall have such right of ingress, egress, and regress over and upon ~~any lands of the GRANTOR adjacent to or in the vicinity of~~ the Permanent Easement as may be necessary for the purposes of locating, laying, constructing, reconstructing, inspecting, operating, extending, maintaining, and otherwise keeping open and in good repair the sanitary sewer line(s), water line(s), or meter(s) for which the Permanent Easement is granted. ~~If adequate access is not provided by established means of approach,~~ the GRANTOR shall be compensated for any damage resulting at any time from the exercise of the right of ingress, egress, and regress hereby granted. ~~In the event of disagreement at any time as to the amount of any such damage, one arbitrator shall be selected by the GRANTOR, one by the GRANTEE, and a third, if necessary, by the two so selected, and that the decision in writing of two of said arbitrators shall be final and binding upon the parties hereto.~~

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It is understood that the GRANTOR shall erect no permanent structure of any kind over or across this Permanent Easement. In addition, no permanent structure of any kind shall be erected over or across the TCE for so long as such TCE remains in effect. For purposes of this document, permanent structure includes, but is not limited to: buildings, tennis courts, and swimming pools. Neither may water be ponded or impounded over or across said Permanent Easement or TCE (for so long as such TCE remains in effect).

It is further understood that the Permanent Easement(s) granted herein may be utilized for intermittent construction activities, of the above referenced public project.

**DRAWN BY CHARLOTTE CITY ATTORNEY'S OFFICE**  
**RETURN TO: CITY OF CHARLOTTE-BOX 227**  
ESMT SSE WLE TCE.REV 0

~~GRANTOR understands that this property is being acquired for a construction project of the GRANTEE and agrees that construction may begin on said property upon execution of this Agreement. It is further agreed that commencement of construction on said property prior to receiving compensation shall not be deemed as trespass and GRANTOR shall waive claim of trespass on said property.~~

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GRANTOR, his heirs and assigns, hereby covenants to and with the GRANTEE that GRANTOR is the owner of the hereinabove-described property, and that GRANTOR has the right to convey these temporary and/or permanent easements.

**TO HAVE AND TO HOLD** the land hereinbefore described unto the GRANTEE, its successors and assigns, for the aforesaid uses and purposes and none other.

SIGNATURES AND ACKNOWLEDGEMENTS TO FOLLOW

DRAWN BY CHARLOTTE CITY ATTORNEY'S OFFICE  
RETURN TO: CITY OF CHARLOTTE-BOX 227  
ESMT SSE WLE TCE.REV 0

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**From:** Ferguson, Angela  
**Sent:** Friday, August 23, 2019 4:01 PM  
**To:** m turner; Ken Cagle; Harborne, Stuart; RDean@kahuna-group.com; Frey, Joshua; Phipps, Gregory  
**Subject:** RE: The Retreat at Rocky River\_ Turner\_Parcel 2  
**Attachments:** The Retreat at Rocky River Phase 2 - Memo.pdf

**Categories:** Green Category

Mr. Turner,

Attached is the response from Charlotte Water that you requested explaining what other options were considered for this project. Please let me know if you have any additional questions regarding this matter.

Thank you,

Angela Ferguson  
Real Estate Project Manager  
City of Charlotte, General Services  
Real Estate Division  
600 E. 4<sup>th</sup> Street – 14<sup>th</sup> Floor  
Charlotte, NC 28202  
Office: 704-778-8724

---

**From:** Ferguson, Angela  
**Sent:** Thursday, August 22, 2019 1:54 PM  
**To:** 'm turner' <agerasia62@gmail.com>; Ken Cagle <kencagle@carolinasecurity.com>; Harborne, Stuart <Stuart.Harborne@ci.charlotte.nc.us>; RDean@kahuna-group.com; Frey, Joshua <joshfrey@ptmc.net>; Phipps, Gregory <gaphipps@ci.charlotte.nc.us>  
**Subject:** RE: The Retreat at Rocky River\_ Turner\_Parcel 2

Mr. Turner,

Good afternoon.

It is our goal to reach an amicable settlement with you. I appreciate your patience as I gather the information you have requested, including information regarding erosion control, from other departments. A response to your additional requests/questions will be forthcoming.

Thank you,

Angela Ferguson  
Real Estate Project Manager  
City of Charlotte, General Services  
Real Estate Division  
600 E. 4<sup>th</sup> Street – 14<sup>th</sup> Floor  
Charlotte, NC 28202  
Office: 704-778-8724

**From:** m turner [<mailto:agerasia62@gmail.com>]  
**Sent:** Tuesday, August 20, 2019 12:40 PM  
**To:** Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)>; Ken Cagle <[kencagle@carolinasecurity.com](mailto:kencagle@carolinasecurity.com)>; Harborne, Stuart <[Stuart.Harborne@ci.charlotte.nc.us](mailto:Stuart.Harborne@ci.charlotte.nc.us)>; [RDean@kahuna-group.com](mailto:RDean@kahuna-group.com); Frey, Joshua <[joshfrey@ptmc.net](mailto:joshfrey@ptmc.net)>; Phipps, Gregory <[gaphipps@ci.charlotte.nc.us](mailto:gaphipps@ci.charlotte.nc.us)>  
**Subject:** Re: The Retreat at Rocky River\_ Turner\_Parcel 2

Angela,

The City – working with the developer who is not licensed in NC to ‘develop’ anything - is requesting an easement on OUR property but expects the homeowner to accept the following,

a. The formal erosion control plans will be created after the easements have been acquired. Once the easements are acquired and rights are granted to access the property, they would begin discussions with a site contractor that would handle the horizontal development. These erosion control plans would be reviewed and approved by Charlotte Water.

b. As stated above the formal erosion control plans will be created after the easements have been acquired. These plans will be reviewed and approved by Charlotte Water.

We identified a problem for you and expect the City and developer to address this issue **PRIOR** to accepting your easement request.

In addition, RD Harrell will need to disclose the CONTRACTOR to be used PRIOR to our acceptance of your easement request.

a. **The Contractor will be chosen when the easements have been acquired and the project is ready for construction.** This information can be provided to

you when the contractor is chosen

b. Verification of subcontractor insurance policies. -This can be provided to you when the contractor is chosen

Concerning the following replies,

a. The developer has confirmed access to the project can be limited to the permanent and temporary easement areas only during construction.

We can address this concern in a special provision.

b. Dirt removal process. – The temporary and permanent easements along the project would be utilized, as needed, to transport any debris or

soil back up to the primary project area, then redistributed there per the grading plan or moved offsite as need be through the construction entrance

of the primary project on Rocky River Road.

c. Identification of trees to be cut and how debris will be removed. – Debris will be removed in the same manner as dirt removal discussed above.

All of the trees in the permanent easement area will be removed. This is necessary in order to install the sewer pipe. The contractor will remove



trees in the TCE, as necessary, in order to complete the project. No trees outside of the easement areas will be removed.

d. The developer has confirmed that all work to be completed during the project will be limited to the 30' easement area. We would be able to draft a special provision to address these concerns.

as well as,

A request could be made that we draft a special provision stating that the contractor must coordinate with Land Development to ensure an erosion

control specialist perform site visits at regular intervals during construction. **We would need to verify that the Developer would agree to this.**

there is clearly a problem with this developer – and the City. **Are you suggesting that an unlicensed developer can decide if he wants to cooperate**

**with an erosion control specialist from Land Development?** Excuse me but this is foolishness.

Time is of essence for RD Harrell to step up to the plate and start addressing these issues **IN WRITING** as I have requested over and over again.

I will await on a formal answer from City Water and Sewer with regard to,

*If the Sewer and Water department AND the developer are considering other options, why would I grant the City an easement when other options may be available? I will not be signing any easement agreement until we have reached FULL TRANSPARENCY regarding this issue. I would like to review the Water and Sewer policies concerning pump stations. – I have requested this information from Charlotte Water.*

**This should be a formal statement on official letterhead from the head of the Water and Sewer department. During our last meeting with RD Harrell, yourself, Ken Cagle, myself, and Eagle Engineering, we clearly delineated for you ACCEPTABLE OPTIONS for homeowners concerning placement of this sewer line. Full transparency will be required before further discussion.**

**At this juncture, the City still has the opportunity to proceed with due diligence as requested. No easement will be granted until all my concerns are addressed in writing by the City and Developer. Unfortunately, we are at an impasse.**

Thanks Angela.

Mike Turner

On Mon, Aug 19, 2019 at 4:58 PM Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)> wrote:

Mr. Turner,

Good evening. Please see my responses below. I am coordinating with other departments to gather additional information requested but wanted to provide you with a timely response to the questions I was able to address.

I will respond to the questions I was unable to answer as I receive the information.

Please let me know if you have any additional questions.

Thank you,

Angela Ferguson

Real Estate Project Manager

City of Charlotte, General Services

Real Estate Division

600 E. 4<sup>th</sup> Street – 14<sup>th</sup> Floor

Charlotte, NC 28202

Office: 704-778-8724

**From:** m turner [mailto:[agerasia62@gmail.com](mailto:agerasia62@gmail.com)]

**Sent:** Sunday, August 18, 2019 8:37 PM

**To:** Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)>; Harborne, Stuart <[Stuart.Harborne@ci.charlotte.nc.us](mailto:Stuart.Harborne@ci.charlotte.nc.us)>; Frey, Joshua <[joshfrey@ptmc.net](mailto:joshfrey@ptmc.net)>; Ken Cagle <[kencagle@carolinasecurity.com](mailto:kencagle@carolinasecurity.com)>; [RDean@kahuna-group.com](mailto:RDean@kahuna-group.com); Phipps, Gregory <[gaphipps@ci.charlotte.nc.us](mailto:gaphipps@ci.charlotte.nc.us)>

**Subject:** Re: The Retreat at Rocky River\_ Turner\_Parcel 2

**EXTERNAL EMAIL:** This email originated from the Internet. Do not click any images, links or open any attachments unless you recognize and trust the sender and know the content is safe. Please click the Phish Alert button to forward the email to Bad.Mail.

Angela,

I appreciate your feedback.

1. As I pointed out to Stuart, there is a 45 degree topographical incline over 1/3 to 1/2 of the proposed easement - sewer placement. The incline extends to the flowing

stream of water. I walked the property today and re analyzed the situation. The cross section provided per our meeting on 7.31 is meaningless. I am not convinced that the engineers understand what they are dealing with. The course of the sewer line will come within one yard of the creek over one section of our property (side adjacent to 9400 Hood Rd).

Before easement is granted, I will need the following.

- a. Meeting with the engineer and erosion control subcontractor to discuss issues related to sewer placement. -See below regarding the erosion control contractor.
- b. **The formal erosion control plan - during and subsequent to sewer placement.** - The formal erosion control plans will be created after the easements have been acquired. Once the easements are acquired and rights are granted to access the property, they would begin discussions with a site contractor that would handle the horizontal development. These erosion control plans would be reviewed and approved by Charlotte Water.
- c. Establishment of a trail of accountability so that the subcontractor and The City are responsible for successful erosion control measures. Otherwise, the EPA, NC DEQ, and the Army Corp of Engineers will be involved. I have already contacted each entity. Frankly, I am not sure HOW erosion will be contained - controlled absent the construction of a retaining wall. I will not be paying for a retaining wall - but the City **will** be paying once there is silt deposition in the stream. -As stated above the formal erosion control plans will be created after the easements have been acquired. These plans will be reviewed and approved by Charlotte Water.

This concern has been sitting on Stuart's desk for months now. Nothing has been addressed as everyone has been hiding behind an 'outside contractor' - paid for by my tax dollars - when you and Stuart should be addressing the issues. Your 'outside contractor'- Joshua Frey - has proven incompetent. – The City of Charlotte uses independent contractors to assist in the acquisition of land for City projects. The contractors that the City utilizes are licensed real estate professionals.

I am not eager to grant an easement without full delineation of your plan of action.

2. You are correct that RD Harrell is the owner of the property and developer of said property through one of his LLCs and or Kahuna Group. It is my understanding that RD Harrell will subcontract with a licensed utility contractor 'approved' by the City to place the sewer line. There are three entities of concern here. RD Harrell who does not currently possess a license to function as a developer, the City of Charlotte, and an UNKNOWN utility contractor to be subcontracted by one of RD Harrell's LLCs. RD Harrell has had extensive issues in the past with his developments. The City will simply require RD Harrell to use an 'approved' utility contractor and inspect the work done to verify consistency with City Water and Sewer standards. My goal is create a clear trail of accountability so that erosion-placement - stream preservation are done appropriately. Therefore, I need more information.

1. Name of utility subcontractor, contact person, and contact information. RD Harrell, I have been awaiting your reply. – The Contractor will be chosen when the easements have been acquired and the project is ready for construction. This information can be provided to you when the contractor is chosen.
2. Verification of subcontractor insurance policies. -This can be provided to you when the contractor is chosen.
3. Ingress and egress. – The developer has confirmed access to the project can be limited to the permanent and temporary easement areas only during construction. We can address this concern in a special provision.
4. Dirt removal process. – The temporary and permanent easements along the project would be utilized, as needed, to transport any debris or soil back up to the primary project area, then redistributed there per the grading plan or moved offsite as need be through the construction entrance of the primary project on Rocky River Road.
5. Identification of trees to be cut and how debris will be removed. – Debris will be removed in the same manner as dirt removal discussed above. All of the trees in the permanent easement area will be removed. This is necessary in order to install the sewer pipe. The contractor will remove trees in the TCE, as necessary, in order to complete the project. No trees outside of the easement areas will be removed.

6. Verification that the Army Corp of Engineers has approved this project. – Additional information will be provided when it is available.

7. How the subcontractor plans to address erosion control plan delineated by erosion control engineers. – This information can be provided once final erosion control plans are approved.

8. How will we handle deficiencies outlined above. -If there are any concerns with erosion control after the project is completed you can contact Land Development to discuss issues you believe were caused by the project.

**3. If the Sewer and Water department AND the developer are considering other options, why would I grant the City an easement when other options may be available?** I will not be signing any easement agreement until we have reached **FULL TRANSPARENCY** regarding this issue. I would like to review the Water and Sewer policies concerning pump stations. – I have requested this information from Charlotte Water.

4. Yes, there will be a signed contract with the City. The contract you originally sent me is not acceptable. I have attached appropriate revisions of the Word Document you sent. Our legal department is currently reviewing you requested revisions.

In addition, I will need to know what 'excise tax' means? - An excise tax is a tax levied on an instrument by which any interest in real property is conveyed to another. This would be paid by the City of Charlotte.

We will NOT be allowing any debris, dirt, tree cutting, equipment, or other activities **outside** of the 20 ft permanent easement and 10 ft temporary easement. The subcontractor will be required to orchestrate ALL work activities within the 30 ft space. Any activity outside this area - and associated damages - will be compensated by the City and or utility subcontractor without arbitration.

-The developer has confirmed that all work to be completed during the project will be limited to the 30' easement area. We would be able to draft a special provision to address these concerns.

With regard to addendums attached to the City contract, this will be presented in consultation with legal counsel. At a minimum, the City's erosion plan will be attached to any contract as well as clearly defined recourse if said erosion plan is not implemented or found to be inadequate during the course of construction. – As stated above the formal erosion control plan will be developed after the easements have been acquired and will be reviewed by Charlotte Water. The developer would be required to use a contractor with a valid license approved by Charlotte Water. A request could be made that we draft a special provision stating that the contractor must coordinate with Land Development to ensure an erosion control specialist perform site visits at regular intervals during construction. We would need to verify that the Developer would agree to this. Additional stipulations shall include that (a) easement will not be used as part of a 'greenspace' trail system - The agreement we are requesting states that we are acquiring the easement for the purpose of laying, constructing, and maintaining a sanitary sewer line(s), and/or water line(s)/meter(s). The city would only be able to use the easement area for these purposes. and (b) a statement from the City tax department delineating reduction in property taxes associated with said easement agreement. - The City of Charlotte is not purchasing all rights for the land, only rights to maintain the infrastructure installed in the easement area. The land will still be owned by Ms. Turner so she would be responsible for property taxes.

Thank you for your prompt attention to these matters.

Mike Turner

On Fri, Aug 16, 2019 at 3:05 PM Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)> wrote:

Mr. Turner,

Good afternoon. Please see my responses below and let me know if you have any additional questions.

Thank you,

Angela Ferguson

Real Estate Project Manager

City of Charlotte, General Services

Real Estate Division

600 E. 4<sup>th</sup> Street – 14<sup>th</sup> Floor

Charlotte, NC 28202

Office: 704-778-8724

**From:** m turner [mailto:[agerasia62@gmail.com](mailto:agerasia62@gmail.com)]

**Sent:** Thursday, August 15, 2019 11:38 AM

**To:** Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)>; Frey, Joshua <[joshfrey@ptmc.net](mailto:joshfrey@ptmc.net)>; Harborne, Stuart <[Stuart.Harborne@ci.charlotte.nc.us](mailto:Stuart.Harborne@ci.charlotte.nc.us)>; Ken Cagle <[kencagle@carolinasecurity.com](mailto:kencagle@carolinasecurity.com)>; [RDean@kahuna-group.com](mailto:RDean@kahuna-group.com)

**Subject:** Re: [EXT] Reference developer and standing\_The Retreat at Rocky River

**EXTERNAL EMAIL:** This email originated from the Internet. Do not click any images, links or open any attachments unless you recognize and trust the sender and know the content is safe. Please click the Phish Alert button to forward the email to Bad.Mail.

Angela and Stuart,

I have still not received clarification with regard to how the city will address erosion and return of landscape to

its original condition given the topography the mountain where the sewer line is being placed. - An erosion control plan will be generated by the engineers and erosion control subcontractor and will require permitting approval by the City.

I understood that subsequent to our meeting at 9416 that several pieces of information would be forthcoming.

1. **Graphic analysis** of how the landscape would be returned to its original state per Eagle Engineering. – At the meeting on 6/5, a graphic with regard to the proposed easement contour once the project was completed was requested. Our agent sent a summary of the meeting on 6/6 and stated that we would be requesting a cross-section that would allow you to see what the elevation would look like in terms of grading post construction. A cross section that was created for the property was provided to you 7/31 (see attached). That is the only depiction we have of the elevation relating to the before and after. Can you clarify what you are requesting?

2. A **contractual agreement** from RD Harrell concerning issues associated with Kahuna's subcontracting

with another entity to complete sewer line placement. **RD Harrell has not responded to any emails nor**

**has he returned any phone calls to address this matter.** – The agreements necessary for the installation of the sewer line will be between Ms. Turner and the City of Charlotte. We can address your concerns about the construction of the project through our agreements, which are binding. I have attached a sample of a Special Provision that includes some of the items that can be considered in this document. These are only examples and would need to be approved by Charlotte Water prior to execution. This document would be signed by Ms. Turner and a Charlotte Water representative. It would be provided to the contractor prior to construction to insure that they are aware of special instructions they are required to follow outside of the normal scope of work that are specific to your mothers property.

On June 9<sup>th</sup> our agent received a list of concerns and questions that you proposed. I believe the questions were answered and the concerns that you raised about the agreement were as follows –

- 'X IN ADDITION TO .....This shall include, but not be limited to, the removal of trees, shrubs, and landscaping, as well as making modification of the topography, which are necessary for the construction of the project', is not acceptable. – *Are you requesting that this language be removed or revised?*
- 'GRANTOR understands and agrees that the consideration amount covers and includes all improvements located within the easement area or areas unless stated otherwise.', will have to be revised. – *Please clarify the revisions you are requesting.*
- -No ingress or egress will be afforded outside of PERMANENT EASEMENT at any time and or Temporary Easement after one year. – *I am checking with our legal department on the language and options for revisions.*
- The arbitration clause will need to be revised. – *Please clarify the revisions you are requesting.*

I have attached a word version of the agreement. In order to clarify what revisions you are requesting the document can be redlined with your proposed revisions and/or comments. If you would like to provide a copy of the agreement with your comments and requested changes we will forward it to our legal department to review.

Once this information is in hand, we will be better equipped to address your appraisal offer.

I would also like for you to forward the original appraisal paperwork - including methodology - to me as

soon as possible. – I have requested that Josh Frey mail you a copy of the full appraisal. Please let me know if you have not received it by early next week.

Would the city be so kind as to explain to me why you are working with RD Harrell when he does not have

a contractor's license in the state of NC? - RD Harrell is not the contractor for this project, they are the owner of the property. As part of Charlotte Waters preconstruction process, they require and verify the contractor for any project is a licensed utility contractor in NC. This project has not gotten to the preconstruction process.

Would you be so kind as to provide additional information with regard to other options the contractor is considering for sewer placement?

The current design for the sewer line was established in order to follow the natural drainage pattern in the area. The developer requested that the engineers look into an alternative route that would minimize the impacts due to property owners concerns. This option is being reviewed by Charlotte Water and a response is expected soon.

Thank you.

Mike Turner

On Thu, Aug 15, 2019 at 10:18 AM Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)> wrote:

Mr. Turner,

Please let me know if you have any further questions.

Thank you,

Angela Ferguson

Real Estate Project Manager

City of Charlotte, General Services

Real Estate Division

600 E. 4<sup>th</sup> Street – 14<sup>th</sup> Floor

Charlotte, NC 28202

Office: 704-778-8724

**From:** m turner [mailto:[agerasia62@gmail.com](mailto:agerasia62@gmail.com)]

**Sent:** Wednesday, August 14, 2019 10:04 AM

**To:** Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)>

**Subject:** Re: [EXT] Reference developer and standing\_The Retreat at Rocky River

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Thank you for your follow up email.

I appreciate your promptness.

I will contact Bert at the appropriate time.

Mike Turner

On Wed, Aug 14, 2019 at 8:56 AM Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)> wrote:

Mr. Turner,

Good morning. I am sorry I missed your call yesterday.



The City attorney that will be addressing your concerns is Bert Concepcion. His contact number is (704) 336-8158 and I have copied him on this email as well.

I understand that you feel that the easement document proposed is not acceptable to you. This is the standard easement agreement used by the City to acquire the rights necessary for Charlotte Water projects. If you would like to propose revisions to the language in the agreement we can review them and work with you to address your concerns.

Please let me know if you have any additional questions.

Thank you,

Angela Ferguson

Real Estate Project Manager

City of Charlotte, General Services

Real Estate Division

600 E. 4<sup>th</sup> Street – 14<sup>th</sup> Floor

Charlotte, NC 28202

Office: 704-778-8724

**From:** m turner [mailto:[agerasia62@gmail.com](mailto:agerasia62@gmail.com)]

**Sent:** Tuesday, August 13, 2019 3:51 PM

**To:** Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)>; Ken Cagle <[kencagle@carolinasecurity.com](mailto:kencagle@carolinasecurity.com)>; Harborne, Stuart <[Stuart.Harborne@ci.charlotte.nc.us](mailto:Stuart.Harborne@ci.charlotte.nc.us)>; [RDean@kahuna-group.com](mailto:RDean@kahuna-group.com); Frey, Joshua <[joshfrey@ptmc.net](mailto:joshfrey@ptmc.net)>

**Subject:** Re: [EXT] Reference developer and standing\_The Retreat at Rocky River

**EXTERNAL EMAIL:** This email originated from the Internet. Do not click any images, links or open any attachments unless you recognize and trust the sender and know the content is safe. Please click the Phish Alert button to forward the email to Bad.Mail.

Good afternoon Angela,

I left a voice message for you.

I have already responded to this document which is unacceptable.

Please forward to me the name and contact information for the city attorney

that will be addressing this issue.

Thank you for your prompt attention to this matter.

Mike Turner

On Tue, Aug 13, 2019 at 2:44 PM Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)> wrote:

Mr. Turner,

Good afternoon. The agreement that we are requesting to acquire the easement was presented to you by Josh Frey on June 6, 2019. I have attached a copy for your reference. It would be in your best interest to discuss any concerns or special requests directly with the City of Charlotte. This can be done by requesting revisions to the attached easement document and/or items can be placed in a special provision, both of which are binding. If you would like to present our agent, Josh Frey, a list of the items that you would like placed in an agreement we will work with you to attempt to address your concerns.

Thank you,

Angela Ferguson

Real Estate Project Manager

City of Charlotte, General Services

Real Estate Division

600 E. 4<sup>th</sup> Street – 14<sup>th</sup> Floor

Charlotte, NC 28202

Office: 704-778-8724

**From:** m turner [mailto:[agerasia62@gmail.com](mailto:agerasia62@gmail.com)]

**Sent:** Tuesday, August 13, 2019 1:23 PM

**To:** [RDean@kahuna-group.com](mailto:RDean@kahuna-group.com); Harborne, Stuart <[Stuart.Harborne@ci.charlotte.nc.us](mailto:Stuart.Harborne@ci.charlotte.nc.us)>; Ken Cagle <[kencagle@carolinasecurity.com](mailto:kencagle@carolinasecurity.com)>; Steven Whitworth <[swhitworth@kahuna-group.com](mailto:swhitworth@kahuna-group.com)>; Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)>

**Subject:** [EXT] Reference developer and standing

**EXTERNAL EMAIL:** This email originated from the Internet. Do not click any images, links or open any attachments unless you recognize and trust the sender and know the content is safe. Please click the Phish Alert button to forward the email to Bad.Mail.

Gentlemen,

**I would serve the city well to know that Dean Harrell has NOT contacted me concerning a legal**

**document for his easement request.**

We will not be cooperating with Dean or the city until

this has been completed.

Mike Turner

# CHARLOTTE WATER

**Date:** August 22, 2019

**To:** Stuart Harborne  
Real Estate Acquisition Program Manager

**From:** Mike Garbark, PE  
Installation & Development Services – Division Manager

**Subject:** The Retreat at Rocky River Phase 2 – Sanitary Sewer Alignment

Mr. Harborne,

In order to properly serve the site, Charlotte Water will require the trunk main to follow the natural drainage pattern as outlined in Charlotte Water's Design Manual, specifically Chapter 4, Section E, Paragraph 1. This alignment can be seen on the approved plans dated 4/10/2019. Utilizing the natural drainage pattern, which is usually in the same location as creeks and rivers, will guarantee the sewer is in the lowest point allowing the entire drainage basin to be served by the sewer trunkline. This is important to Charlotte Water for the following reason:

- Reduces the need for parallel systems, which reduces the resources for maintainance
- Allows more potential customers to connect to gravity sewer
- Allows future development to tie into the gravity sewer at an elevation that is reasonable and will not require sewer replacement.

Additional alternatives including a realignment and a pump station were evaluated. The developer's engineer provided a realignment showing the sewer at a much higher elevation and unable to adequately serve adjacent parcels. The alternative alignment would not be acceptable to Charlotte Water because it would not be able to adequately serve the basin and requiring a future parallel system to be installed along the natural drainage pattern to serve the remaining portions of the basin. A public pump station to serve the site would not be acceptable to Charlotte Water. With the location of the site being in the upper portion of the drainage basin, a pump station would not be able to serve the entire basin violating Charlotte Water's Pump Station Policy.

After evaluating all the alternatives and considering the impacts, it is in the opinion of Charlotte Water that following the natural drainage pattern to serve The Retreat at Rocky River – Phase 2 would be the only acceptable solution.

Should you need any additional information or assistance, please do not hesitate to contact me.

Sincerely,



Mike Garbark

---

**From:** m turner <agerasia62@gmail.com>  
**Sent:** Wednesday, August 28, 2019 12:38 PM  
**To:** Ferguson, Angela; Harborne, Stuart; RDean@kahuna-group.com; Ken Cagle; john steila; Phipps, Gregory  
**Subject:** [EXT] Re: The Retreat at Rocky River\_ Parcel 2

**EXTERNAL EMAIL:** This email originated from the Internet. Do not click any images, links or open any attachments unless you recognize and trust the sender and know the content is safe. Please click the Phish Alert button to forward the email to Bad.Mail.

*Angela,*

*You are simply repeating what has already been discussed.*

*There will be no easement granted until the following happens.*

- 1. Erosion control meets with me on the property and a written erosion control plan is presented to me. The written erosion control plan will be part of any contract signed with the City and RD Harrell.*
- 2. RD Harrell presents a WRITTEN contract addressing the issues you have summarized AND agrees to work with City erosion control specialists.*
- 3. The City contract is written to my satisfaction. I will not agree to arbitration nor additional use of land outside of the temporary easement which the City contract allows.*

*Stuart - DIRECTOR OF LAND ACQUISITION - has been informed of our issues in writing and has done nothing to address these issues. RD Harrell does not respond and there is no suggestion that he will comply with the City on anything. Yet, the City persists in moving forward. At this point, further communication is a waste of my time.*

*Have a great day Angela.*

*Mike Turner*

On Wed, Aug 28, 2019 at 10:39 AM Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)> wrote:

Mr. Turner,

Good afternoon. I believe that we have been able to address some of your questions and concerns and are still gathering additional information to provide to you. I wanted to summarize our communication to ensure that I have adequately addressed some of your concerns and restate what you are still requesting.

Your outstanding requests:

- The formal erosion control plan - during and subsequent to sewer placement

- The name of the contractor who will be chosen to perform the work and verification of their insurance policies
- Meeting with the engineer and erosion control subcontractor to discuss issues related to sewer placement
- Establishment of a trail of accountability so that the subcontractor and The City are responsible for successful erosion control measures
- Verification that the Army Corp of Engineers has approved this project
- City's erosion plan be attached to any contract as well as clearly defined recourse if said erosion plan is not implemented or found to be inadequate during the course of construction
- Revisions to the easement agreement submitted on 8/18
- 

Questions that have been addressed –

*Ingress and egress* – The developer has confirmed access to the project can be limited to the permanent and temporary easement areas only during construction. We can address this concern in a special provision.

*-Dirt removal process.* – The temporary and permanent easements along the project would be utilized, as needed, to transport any debris or soil back up to the primary project area, then redistributed there per the grading plan or moved offsite as need be through the construction entrance of the primary project on Rocky River Road.

*- Identification of trees to be cut and how debris will be removed.* – Debris will be removed in the same manner as dirt removal discussed above. All of the trees in the permanent easement area will be removed. This is necessary in order to install the sewer pipe. The contractor will remove trees in the TCE, as necessary, in order to complete the project. No trees outside of the easement areas will be removed.

*- Water and Sewer policies concerning pump stations.* – Provided to you on 8/20

*- A formal answer from City Water and Sewer with regard to, If the Sewer and Water department AND the developer are considering other options This should be a formal statement on official letterhead from the head of the Water and Sewer department.* -Provided to you on 8/23

*-Clarify what 'excise tax' means?* - An excise tax is a tax levied on an instrument by which any interest in real property is conveyed to another. This would be paid by the City of Charlotte.

*- Why we are using an outside contractor to negotiate the acquisition of the easements-* – The City of Charlotte uses independent contractors to assist in the acquisition of land for City projects. The contractors that the City utilizes are licensed real estate professionals.

*-How will we handle deficiencies outlined above.-* -If there are any concerns with erosion control after the project is completed you can contact Land Development to discuss issues you believe were caused by the project.

A Coordinator in land development has been assigned to this project and they will be the City's Land Development liaison for field inspections duties. If there are "issues" caused by the project, they will be resolved ultimately by the developer or permittee, though the liaison has the authority to influence those decisions. If the work causes significant offsite sedimentation impacts, the

permittee may be liable for civil penalties as described in Chapter 17, Section 67 of City of Charlotte Code (Soil Erosion and Sedimentation Control Ordinance). (A link to the code was provided)

*-The easement will not be used as part of a 'greenspace' trail system* - The agreement we are requesting states that we are acquiring the easement for the purpose of laying, constructing, and maintaining a sanitary sewer line(s), and/or water line(s)/meter(s). The city would only be able to use the easement area for these purpose.

*- Statement from the City tax department delineating reduction in property taxes associated with said easement agreement.* - The City of Charlotte is not purchasing all rights for the land, only rights to maintain the infrastructure installed in the easement area. The land will still be owned by Ms. Turner so she would be responsible for property taxes.

*- A contractual agreement from RD Harrell concerning issues associated with Kahuna's subcontracting with another entity to complete sewer line placement.* - The agreements necessary for the installation of the sewer line will be between Ms. Turner and the City of Charlotte. We can address your concerns about the construction of the project through our agreements, which are binding.

*- Original appraisal paperwork* – Our agent sent you a copy of the appraisal on 8/16

*- Would the city be so kind as to explain to me why you are working with RD Harrell when he does not have a contractor's license in the state of NC?* - RD Harrell is not the contractor for this project, they are the owner of the property. As part of Charlotte Waters preconstruction process, they require and verify the contractor for any project is a licensed utility contractor in NC. This project has not gotten to the preconstruction process.

*- The name and contact information for the city attorney that will be addressing this issue* – Provided to you on 8/14

*- Why is the designation 'widow' included in this document?* We have to specify marital status (this is also the designation used in her deed for the property)

*- Clarification of easement - 'in gross' or 'appurtenant'* The easement requested is an easement in gross since there are no dominant estates associated with the easement.

*-Valuation of trees to be removed.* – Included in the appraisal.

*-Explanation of why retaining wall is not an option - options for construction of retaining wall - or other contingencies - in the event that erosion control is an issue.* Charlotte Water considers a retaining wall as a structure and we do not allow structures in our easements for maintenance purposes. They can be placed outside of our easement as long as the zone of influence doesn't impede our easement.

*- Maintenance of easement longitudinally - legal parameters of transference - ownership interest - responsibilities.* – The easement provides the City of Charlotte a legal right to use a portion of the property, as shown on the plat, for the purpose of laying, constructing, and maintaining a sanitary sewer line. The legal title to the land itself remains with the owner of the land.

Please let me know if there are additional items that I have missed. I want to ensure that I provide timely responses to your questions and concerns.

Thank you,

Angela Ferguson

Real Estate Project Manager

City of Charlotte, General Services

Real Estate Division

600 E. 4<sup>th</sup> Street – 14<sup>th</sup> Floor

Charlotte, NC 28202

Office: 704-778-8724



---

**From:** m turner <agerasia62@gmail.com>  
**Sent:** Friday, September 13, 2019 5:19 PM  
**To:** Ferguson, Angela; Harborne, Stuart; john steila; Ken Cagle; Phipps, Gregory; Korolos, Tony; RDean@kahuna-group.com; Wilson, Jay  
**Subject:** Re: [EXT] Re: The Retreat at Rocky River\_ Parcel 2

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

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Angela,

*After review of the PDF sent, it appears the City will be accessing land OUTSIDE of the TEMP EASEMENT. This will NOT be acceptable as you will ONLY access land INSIDE of the TEMPORARY EASEMENT - and only for a limited period of time. If you stray ONE INCH outside of the TEMPORARY EASEMENT requested, the whole operation will be shut down immediately.*

***Obviously this is a POORLY thought out process without any understanding of the topography involved.*** This is what I tried to convey to

*Stuart MONTHS AGO yet there was no attempt on his part to address this situation. Eagle Engineering did a cursory identification where the proposed sewer would be constructed but has not evaluated other issues involved. Jay has not provided a written plan NOR has anyone from his department been out to the property to evaluate the situation. Frankly, the real estate acquisition department seems motivated to collude in enriching the developer in the process of securing additional tax revenue from new development construction.*

*Angela, we have received a good deal of commentary 'that we should trust the City' and 'the permittee (whoever that is or will be)' in this matters. Thanks for running interference for Stuart and the City but everyone involved is aware of your role in this process.*

*I have made it PERFECTLY CLEAR what kind of documents must be included in any agreement with the City. I did not approach the City about this matter nor will I be partly to the City's efforts to **enrich developers**. There is no reason any of the property owners involved should consider that Stuart or you have endeavored to make this 'amicable'.*

***As I have advised you in the past, it is time for the City to stand down on this project and consider other options.***

Mike Turner

On Fri, Sep 13, 2019 at 2:12 PM Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)> wrote:

***Mr. Turner,***

***Good afternoon. As I mentioned previously, it is our goal to reach an amicable settlement with you.***

*Please see the responses to your previous requests below -*

Per your previous email you are requesting the following information before signing any agreement:

1. A written erosion control plan
2. Identification of the 'new permittee'
3. Written agreement by the 'new permittee' to comply with the erosion control plan
4. Identification of the utility subcontractor
5. Review of all permits

In response:

1. The attached preliminary plan from the Applicant presents a suitable and acceptable erosion control plan for the additional grading that would be required in the sanitary sewer R-O-W. It has not been submitted for review and approval as of the time of this email.
2. I do not have any information about future permittees
3. Any 'permittee' who takes ownership of the approved plan agrees to follow the approved plan, including all soil erosion and sedimentation control plans. Specifically, any approved plan must include notes that instruct the permittee to follow the plan sequence, install measures as shown on the approved plan, and continuously and diligently maintain all sediment and erosion control measures until such time that the Erosion Control Coordinator gives approval for removal. Though I do not know who the new permittee will be, no plans are approved without this (ordinance-required) condition specified on the civil site drawings.
4. I do not have any information about the utility subcontractor
5. See response note number 1.

*If you have additional questions or would like to discuss further I would be happy to coordinate a meeting at our office with the appropriate individuals at the City.*

*Thank you,*

Angela Ferguson

Real Estate Project Manager

City of Charlotte, General Services

Real Estate Division

600 E. 4<sup>th</sup> Street – 14<sup>th</sup> Floor

Charlotte, NC 28202

Office: 704-778-8724

**From:** m turner [mailto:[agerasia62@gmail.com](mailto:agerasia62@gmail.com)]

**Sent:** Wednesday, September 04, 2019 8:21 PM

**To:** Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)>; Harborne, Stuart <[Stuart.Harborne@ci.charlotte.nc.us](mailto:Stuart.Harborne@ci.charlotte.nc.us)>; Ken Cagle <[kencagle@carolinasecurity.com](mailto:kencagle@carolinasecurity.com)>; RDean@kahuna-group.com; Phipps, Gregory <[gaphipps@ci.charlotte.nc.us](mailto:gaphipps@ci.charlotte.nc.us)>; john steila <[lowcoat@yahoo.com](mailto:lowcoat@yahoo.com)>; Wilson, Jay <[jpwilson@ci.charlotte.nc.us](mailto:jpwilson@ci.charlotte.nc.us)>

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Very interesting follow up.

I was aware that RD Harrell - Kahuna Group was 'selling' the property. **Who is the new 'permittee'?** I suspect RD Harrell is 'selling' the property

to one of his LLCs to deflect liability. It seems RD Harrell is the tail wagging the dog (city) to get 'easement agreements' in place so 'the developer' will be more receptive to completing the transaction. Why would I, Ken Cagle or John Steila be interested in facilitating this transaction while the **stench** of money exchanging hands @ Real Estate Acquisition is overwhelming? Seriously?

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**I appreciate legal's work on the contract.** However, I have **no intention of signing anything** until an erosion

control plan is presented, the new 'permittee' is identified, the new 'permittee' agrees **in writing** to comply with the erosion control plan, the utility subcontractor has been identified, and all permits have been reviewed.

*Note to RD Harrell and the new 'permittee': you may want to wait until the City finalizes a sewer system for Rocky River before moving forward*

*on projects impacting the ecology of our land*  
(<http://www.charmeck.org/Planning/Land%20Use%20Planning/RockyRiverFinalPlan.pdf>).

Still a lot of work for you Angela. 😊

Mike Turner

On Wed, Sep 4, 2019 at 1:11 PM Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)> wrote:

Mr. Turner,

*Please see the response below from Jay Wilson, the Water Quality Administrator in the City of Charlotte's Land Development Division, regarding the elements in place to ensure responsible development on this and all development projects to protect the surface water resources. He outlines the steps in place to ensure all of the City's requirements are followed during construction. His contact information is listed below and he is available to speak to if you have additional questions about the process.*

*"Our team takes our responsibilities very seriously on every project in the City's jurisdiction. Programmatically, there are several elements in place to help us ensure uniform, responsible development that protects our surface water resources to the maximum extent practicable during every phase of construction.*

*First, every (privately funded) project in the City's jurisdiction that disturbs one or more acres must have grading permit coverage as described in the Soil Erosion and Sedimentation Control Ordinance ([Chapter 17 of City of Charlotte Code of Ordinances](#)). The permittee must demonstrate on a civil site plan reviewed and approved by the City that the site meets all of the City's minimum requirements, which are significantly more stringent than the State's Sediment Pollution Control Act.*

*After plan approval, the permittee will then be required to hold an on-site preconstruction meeting with City staff prior to commencement. After that meeting, our team will allow the permittee to clear land only to the extent necessary to install all of the required soil erosion and sedimentation control devices (sediment basins, diversion ditches, construction entrance, perimeter controls). After installation of all phase one measures, the site is inspected to ensure measures are installed per the approved plan and if everything is to plan then the grading permit is issued (which allows the permittee to begin clearing the entire work area and begin mass grading the site).*

*At that time the site will be subject to regular random inspections usually in 30-45 day intervals - although that frequency may be pushed up or down depending on several factors including but not limited to: history of noncompliance, proximity to critical resources, stage of construction, and site performance. In the event of noncompliance or significant offsite sedimentation we will work through an iterative enforcement process that can result in significant civil penalty assessments to the permittee of up to \$5000 per day, to the extent allowed by State law. If there are significant impacts to the receiving stream, we may require the permittee to hire a third party consultant to assess impacts and implement a remediation/clean-up plan.*

*The Erosion Control Coordinator assigned to this project is Ms. Gina Hodges, CPESC. She has almost 17 years of experience in erosion control and has been with the City, in this geographical territory, since 2004. In addition to having 15 years of experience with this territorial area, she also was born in raised in that part of the City and still lives in the area to this day – so she is very connected to the environment and the community. All of our Coordinators are assigned ‘cradle-to-grave’ responsibility for their projects... they review and approve the plans, inspect the site for compliance, conduct enforcement actions as necessary, and guide the permittee through the permit closure process at the conclusion of development.*

*I would be happy to provide more details if requested, and please pass along my contact information to Mr. Turner if it will help put his mind at ease. More information about our program and requirements can be found online [here](#).*

*Thank you,*

*Jay Wilson, CPESC Water Quality Administrator*

*City of Charlotte - Engineering & Project Management - Land Development Division*

*(704) 432-0958*

*[jpwilson@charlottenc.gov](mailto:jpwilson@charlottenc.gov)*

*In regards to your request for revision to the easement document, our legal department has approved the requested changes. They have removed the language pertaining to arbitration and use of land outside of the temporary easement. (see attached revised document)*

*Once the easements are secured RD Harrell, the property owner, is intending to sell the property to a developer/builder who will be completing the project. For this reason, the agreements you are requesting with RD Harrel regarding the construction of the sewer line do not apply since they will not be constructing the project. The new developer will be required to follow all City requirements for construction of the project as outlined above.*

*I have also addressed your last comments below-*

*1. Erosion control meets with me on the property and a written erosion control plan is presented to me. The written erosion control plan will be part of any contract signed with the City and RD Harrell. -An erosion control plan has not been created at this time. Once the easements have been secured the developer will be required to follow all City requirements for the construction of the project, including creating an erosion control plan and obtaining necessary approvals from Land Development.*

2. RD Harrell presents a WRITTEN contract addressing the issues you have summarized AND agrees to work with City erosion control specialists. - RD Harrell intends to sell the property to a developer once the easements have been secured. The new owner will be required to follow all City requirements outlined above.

3. The City contract is written to my satisfaction. I will not agree to arbitration nor additional use of land outside of the temporary easement which the City contract allows. -Our legal department has approved your requested revisions to the easement document. The language pertaining to arbitration additional use of land outside of the temporary easement has been removed (see attached).

I have also attached a special provisions agreement to address your concerns regarding access to your property, limitations to work only within the easement areas, removal of debris, and notice prior to construction of the project. Please review them and let me know if they are acceptable to you.

It is our goal to reach an amicable settlement with you. Please let me know if you have any additional questions that were not addressed in this response or would like me to schedule a meeting to discuss further.

Thank you,

Angela Ferguson

Real Estate Project Manager

City of Charlotte, General Services

Real Estate Division

600 E. 4<sup>th</sup> Street – 14<sup>th</sup> Floor

Charlotte, NC 28202

Office: 704-778-8724

**From:** m turner [mailto:[agerasia62@gmail.com](mailto:agerasia62@gmail.com)]

**Sent:** Wednesday, August 28, 2019 12:38 PM

**To:** Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)>; Harborne, Stuart <[Stuart.Harborne@ci.charlotte.nc.us](mailto:Stuart.Harborne@ci.charlotte.nc.us)>; [RDean@kahuna-group.com](mailto:RDean@kahuna-group.com); Ken Cagle <[kencagle@carolinasecurity.com](mailto:kencagle@carolinasecurity.com)>; john steila <[lowcoat@yahoo.com](mailto:lowcoat@yahoo.com)>; Phipps, Gregory <[gaphipps@ci.charlotte.nc.us](mailto:gaphipps@ci.charlotte.nc.us)>

**Subject:** [EXT] Re: The Retreat at Rocky River\_ Parcel 2

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Angela,

*You are simply repeating what has already been discussed.*

*There will be no easement granted until the following happens.*

- 1. Erosion control meets with me on the property and a written erosion control plan is presented to me. The written erosion control plan will be part of any contract signed with the City and RD Harrell.*
  
- 2. RD Harrell presents a WRITTEN contract addressing the issues you have summarized AND agrees to work with City erosion control specialists.*
  
- 3. The City contract is written to my satisfaction. I will not agree to arbitration nor additional use of land outside of the temporary easement which the City contract allows.*

*Stuart - DIRECTOR OF LAND ACQUISITION - has been informed of our issues in writing and has done nothing to address these issues. RD Harrell does not respond and there is no suggestion that he will comply with the City on anything. Yet, the City persists in moving forward. At this point, further communication is a waste of my time.*

*Have a great day Angela.*

*Mike Turner*

On Wed, Aug 28, 2019 at 10:39 AM Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)> wrote:

Mr. Turner,

Good afternoon. I believe that we have been able to address some of your questions and concerns and are still gathering additional information to provide to you. I wanted to summarize our communication to ensure that I have adequately addressed some of your concerns and restate what you are still requesting.

Your outstanding requests:

- The formal erosion control plan - during and subsequent to sewer placement
- The name of the contractor who will be chosen to perform the work and verification of their insurance policies
- Meeting with the engineer and erosion control subcontractor to discuss issues related to sewer placement
- Establishment of a trail of accountability so that the subcontractor and The City are responsible for successful erosion control measures
- Verification that the Army Corp of Engineers has approved this project
- City's erosion plan be attached to any contract as well as clearly defined recourse if said erosion plan is not implemented or found to be inadequate during the course of construction
- Revisions to the easement agreement submitted on 8/18
- 

Questions that have been addressed –

*Ingress and egress* – The developer has confirmed access to the project can be limited to the permanent and temporary easement areas only during construction. We can address this concern in a special provision.

*-Dirt removal process.* – The temporary and permanent easements along the project would be utilized, as needed, to transport any debris or soil back up to the primary project area, then redistributed there per the grading plan or moved offsite as need be through the construction entrance of the primary project on Rocky River Road.

*- Identification of trees to be cut and how debris will be removed.* – Debris will be removed in the same manner as dirt removal discussed above. All of the trees in the permanent easement area will be removed. This is necessary in order to install the sewer pipe. The contractor will remove trees in the TCE, as necessary, in order to complete the project. No trees outside of the easement areas will be removed.

*- Water and Sewer policies concerning pump stations.* – Provided to you on 8/20

*- A formal answer from City Water and Sewer with regard to, If the Sewer and Water department AND the developer are considering other options This should be a formal statement on official letterhead from the head of the Water and Sewer department.* -Provided to you on 8/23



-Clarify what 'excise tax' means? - An excise tax is a tax levied on an instrument by which any interest in real property is conveyed to another. This would be paid by the City of Charlotte.

- Why we are using an outside contractor to negotiate the acquisition of the easements- – The City of Charlotte uses independent contractors to assist in the acquisition of land for City projects. The contractors that the City utilizes are licensed real estate professionals.

-How will we handle deficiencies outlined above.- -If there are any concerns with erosion control after the project is completed you can contact Land Development to discuss issues you believe were caused by the project.

A Coordinator in land development has been assigned to this project and they will be the City's Land Development liaison for field inspections duties. If there are "issues" caused by the project, they will be resolved ultimately by the developer or permittee, though the liaison has the authority to influence those decisions. If the work causes significant offsite sedimentation impacts, the permittee may be liable for civil penalties as described in Chapter 17, Section 67 of City of Charlotte Code (Soil Erosion and Sedimentation Control Ordinance). (A link to the code was provided)

-The easement will not be used as part of a 'greenspace' trail system - The agreement we are requesting states that we are acquiring the easement for the purpose of laying, constructing, and maintaining a sanitary sewer line(s), and/or water line(s)/meter(s). The city would only be able to use the easement area for these purpose.

- Statement from the City tax department delineating reduction in property taxes associated with said easement agreement. - The City of Charlotte is not purchasing all rights for the land, only rights to maintain the infrastructure installed in the easement area. The land will still be owned by Ms. Turner so she would be responsible for property taxes.

- A contractual agreement from RD Harrell concerning issues associated with Kahuna's subcontracting with another entity to complete sewer line placement. – The agreements necessary for the installation of the sewer line will be between Ms. Turner and the City of Charlotte. We can address your concerns about the construction of the project through our agreements, which are binding.

- Original appraisal paperwork – Our agent sent you a copy of the appraisal on 8/16

- Would the city be so kind as to explain to me why you are working with RD Harrell when he does not have a contractor's license in the state of NC? - RD Harrell is not the contractor for this project, they are the owner of the property. As part of Charlotte Waters preconstruction process, they require and verify the contractor for any project is a licensed utility contractor in NC. This project has not gotten to the preconstruction process.

- The name and contact information for the city attorney that will be addressing this issue – Provided to you on 8/14

- Why is the designation 'widow' included in this document? We have to specify marital status (this is also the designation used in her deed for the property)

- Clarification of easement - 'in gross' or 'appurtenant' The easement requested is an easement in gross since there are no dominant estates associated with the easement.

*-Valuation of trees to be removed. – Included in the appraisal.*

*-Explanation of why retaining wall is not an option - options for construction of retaining wall - or other contingencies - in the event that erosion control is an issue. Charlotte Water considers a retaining wall as a structure and we do not allow structures in our easements for maintenance purposes. They can be placed outside of our easement as long as the zone of influence doesn't impede our easement.*

*- Maintenance of easement longitudinally - legal parameters of transference - ownership interest - responsibilities. – The easement provides the City of Charlotte a legal right to use a portion of the property, as shown on the plat, for the purpose of laying, constructing, and maintaining a sanitary sewer line. The legal title to the land itself remains with the owner of the land.*

Please let me know if there are additional items that I have missed. I want to ensure that I provide timely responses to your questions and concerns.

Thank you,

Angela Ferguson

Real Estate Project Manager

City of Charlotte, General Services

Real Estate Division

600 E. 4<sup>th</sup> Street – 14<sup>th</sup> Floor

Charlotte, NC 28202

Office: 704-778-8724

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**From:** m turner <agerasia62@gmail.com>  
**Sent:** Wednesday, September 18, 2019 4:13 PM  
**To:** Wilson, Jay; Ferguson, Angela; Harborne, Stuart; Ken Cagle; john steila; Korolos, Tony; Phipps, Gregory  
**Subject:** Re: [EXT] Re: The Retreat at Rocky River\_ Parcel 2

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Jay,

I received your message on Monday. **THANK YOU.**

I am trying to contact those neighbors involved in this matter to determine if they would like to meet with you as well.

As I have expressed to the nice people over at Real Estate Acquisition - specifically Stuart who refuses to reply or involve himself in these matters, **a meeting is probably useless unless we can get a written EROSION CONTROL PLAN to attach to any contractual agreement with the City.** That is the only way I can create a chain of accountability. Just coming out and reassuring us that everything will be fine will not be fruitful. Please verify your agreement to provide this written EROSION CONTROL PLAN after meeting with us.

Kind regards,

Mike Turner

On Wed, Sep 18, 2019 at 3:17 PM Wilson, Jay <[jpwilson@ci.charlotte.nc.us](mailto:jpwilson@ci.charlotte.nc.us)> wrote:

Hi Mr. Turner,

I've tried to contact you a couple times and left a message at the number you provided below.

If you (and/or) your neighbors would like to meet on site to discuss site challenges and the proposed erosion control plan please give me a call or reply to this email to set up a convenient time and date.

Desk phone: 704-432-0958

Mobile phone: 704-517-1152

Email address: [jpwilson@charlottenc.gov](mailto:jpwilson@charlottenc.gov)

Thank you,

**Jay Wilson, CPESC** Water Quality Administrator

City of Charlotte | Engineering & Project Management | Land Development Division | (704) 432-0958 | [jpwilson@charlottenc.gov](mailto:jpwilson@charlottenc.gov)

**From:** m turner [mailto:[agerasia62@gmail.com](mailto:agerasia62@gmail.com)]

**Sent:** Friday, September 13, 2019 4:15 PM

**To:** Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)>; Ken Cagle <[kencagle@carolinasecurity.com](mailto:kencagle@carolinasecurity.com)>; john steila <[lowcoat@yahoo.com](mailto:lowcoat@yahoo.com)>; Harborne, Stuart <[Stuart.Harborne@ci.charlotte.nc.us](mailto:Stuart.Harborne@ci.charlotte.nc.us)>; [RDean@kahuna-group.com](mailto:RDean@kahuna-group.com); Wilson, Jay <[jpwilson@ci.charlotte.nc.us](mailto:jpwilson@ci.charlotte.nc.us)>

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Angela,

*The phrase 'As I mentioned previously, it is our goal to reach an amicable settlement with you'*

*is placed in your correspondence so that when the City is sued and investigated*

*by Federal agencies for soil and erosion control, you trust that any court reviewing this case will accept*

*that the City sought an 'amicable settlement'. Unfortunately, I have NO desire to facilitate the City's underhanded*

*dealings with a developer (RD Harrell) either transferring a development project to a shell company or*

*selling the land to another developer for a sizable profit while TEARING UP OUR LAND so that I can*

*appreciate destruction, erosion and the pleasant smell of fecal matter coursing down the mountain.*

***I never requested your endeavors to create an 'amicable' settlement.***

*I am not sure how much clearer I make this to you and Stuart . Stuart must be hiding under his desk as everything was made perfectly clear to him months ago. **I have STATED clearly that a WRITTEN EROSION CONTROL PLAN must be included in any easement agreement with the City.** Perhaps, Jay can ambulate out of his office, evaluate the situation in person, and write a proposal that clarifies the PDF sent. NO ONE FROM YOU OFFICE HAS EVALUATED THE SITUATION IN PERSON. Quite frankly, this PDF is useless. Jay can contact me at 770-856-0964 to schedule an appointment and time frame for a WRITTEN EROSION CONTROL PLAN to ATTACH to any agreement.*

*Your responses are becoming quite comical Angela. Have a wonderful weekend.*

*Mike Turner*

On Fri, Sep 13, 2019 at 2:12 PM Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)> wrote:

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4. I do not have any information about the utility subcontractor

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*If you have additional questions or would like to discuss further I would be happy to coordinate a meeting at our office with the appropriate individuals at the City.*

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City of Charlotte, General Services

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*on projects impacting the ecology of our land*

*(<http://www.charmeck.org/Planning/Land%20Use%20Planning/RockyRiverFinalPlan.pdf>).*

Still a lot of work for you Angela. 😊

Mike Turner

On Wed, Sep 4, 2019 at 1:11 PM Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)> wrote:

*Mr. Turner,*

*Please see the response below from Jay Wilson, the Water Quality Administrator in the City of Charlotte's Land Development Division, regarding the elements in place to ensure responsible development on this and all development projects to protect the surface water resources. He outlines the steps in place to ensure all of the City's requirements are followed during construction. His contact information is listed below and he is available to speak to if you have additional questions about the process.*

*"Our team takes our responsibilities very seriously on every project in the City's jurisdiction. Programmatically, there are several elements in place to help us ensure uniform, responsible*

development that protects our surface water resources to the maximum extent practicable during every phase of construction.

First, every (privately funded) project in the City's jurisdiction that disturbs one or more acres must have grading permit coverage as described in the Soil Erosion and Sedimentation Control Ordinance ([Chapter 17 of City of Charlotte Code of Ordinances](#)). The permittee must demonstrate on a civil site plan reviewed and approved by the City that the site meets all of the City's minimum requirements, which are significantly more stringent than the State's Sediment Pollution Control Act.

After plan approval, the permittee will then be required to hold an on-site preconstruction meeting with City staff prior to commencement. After that meeting, our team will allow the permittee to clear land only to the extent necessary to install all of the required soil erosion and sedimentation control devices (sediment basins, diversion ditches, construction entrance, perimeter controls). After installation of all phase one measures, the site is inspected to ensure measures are installed per the approved plan and if everything is to plan then the grading permit is issued (which allows the permittee to begin clearing the entire work area and begin mass grading the site).

At that time the site will be subject to regular random inspections usually in 30-45 day intervals - although that frequency may be pushed up or down depending on several factors including but not limited to: history of noncompliance, proximity to critical resources, stage of construction, and site performance. In the event of noncompliance or significant offsite sedimentation we will work through an iterative enforcement process that can result in significant civil penalty assessments to the permittee of up to \$5000 per day, to the extent allowed by State law. If there are significant impacts to the receiving stream, we may require the permittee to hire a third party consultant to assess impacts and implement a remediation/clean-up plan.

The Erosion Control Coordinator assigned to this project is Ms. Gina Hodges, CPESC. She has almost 17 years of experience in erosion control and has been with the City, in this geographical territory, since 2004. In addition to having 15 years of experience with this territorial area, she also was born in raised in that part of the City and still lives in the area to this day – so she is very connected to the environment and the community. All of our Coordinators are assigned 'cradle-to-grave' responsibility for their projects... they review and approve the plans, inspect the site for compliance, conduct enforcement actions as necessary, and guide the permittee through the permit closure process at the conclusion of development.

I would be happy to provide more details if requested, and please pass along my contact information to Mr. Turner if it will help put his mind at ease. More information about our program and requirements can be found online [here](#).

Thank you,

Jay Wilson, CPESC Water Quality Administrator



(704) 432-0958

[jpwilson@charlottenc.gov](mailto:jpwilson@charlottenc.gov)

*In regards to your request for revision to the easement document, our legal department has approved the requested changes. They have removed the language pertaining to arbitration and use of land outside of the temporary easement. (see attached revised document)*

*Once the easements are secured RD Harrell, the property owner, is intending to sell the property to a developer/builder who will be completing the project. For this reason, the agreements you are requesting with RD Harrel regarding the construction of the sewer line do not apply since they will not be constructing the project. The new developer will be required to follow all City requirements for construction of the project as outlined above.*

*I have also addressed your last comments below-*

*1. Erosion control meets with me on the property and a written erosion control plan is presented to me. The written erosion control plan will be part of any contract signed with the City and RD Harrell. -An erosion control plan has not been created at this time. Once the easements have been secured the developer will be required to follow all City requirements for the construction of the project, including creating an erosion control plan and obtaining necessary approvals from Land Development.*

*2. RD Harrell presents a WRITTEN contract addressing the issues you have summarized AND agrees to work with City erosion control specialists. - RD Harrell intends to sell the property to a developer once the easements have been secured. The new owner will be required to follow all City requirements outlined above.*

*3. The City contract is written to my satisfaction. I will not agree to arbitration nor additional use of land outside of the temporary easement which the City contract allows. -Our legal department has approved your requested revisions to the easement document. The language pertaining to arbitration additional use of land outside of the temporary easement has been removed (see attached).*

*I have also attached a special provisions agreement to address your concerns regarding access to your property, limitations to work only within the easement areas, removal of debris, and notice prior to construction of the project. Please review them and let me know if they are acceptable to you.*

*It is our goal to reach an amicable settlement with you. Please let me know if you have any additional questions that were not addressed in this response or would like me to schedule a meeting to discuss further.*

*Thank you,*

Angela Ferguson

Real Estate Project Manager

City of Charlotte, General Services

Real Estate Division

600 E. 4<sup>th</sup> Street – 14<sup>th</sup> Floor

Charlotte, NC 28202

Office: 704-778-8724

**From:** m turner [mailto:[agerasia62@gmail.com](mailto:agerasia62@gmail.com)]

**Sent:** Wednesday, August 28, 2019 12:38 PM

**To:** Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)>; Harborne, Stuart <[Stuart.Harborne@ci.charlotte.nc.us](mailto:Stuart.Harborne@ci.charlotte.nc.us)>;  
[RDDean@kahuna-group.com](mailto:RDDean@kahuna-group.com); Ken Cagle <[kencagle@carolinasecurity.com](mailto:kencagle@carolinasecurity.com)>; john steila <[lowcoat@yahoo.com](mailto:lowcoat@yahoo.com)>;  
Phipps, Gregory <[gaphipps@ci.charlotte.nc.us](mailto:gaphipps@ci.charlotte.nc.us)>

**Subject:** [EXT] Re: The Retreat at Rocky River\_ Parcel 2

**EXTERNAL EMAIL:** This email originated from the Internet. Do not click any images, links or open any attachments unless you recognize and trust the sender and know the content is safe. Please click the Phish Alert button to forward the email to Bad.Mail.

*Angela,*

*You are simply repeating what has already been discussed.*

*There will be no easement granted until the following happens.*

*1. Erosion control meets with me on the property and a written erosion control plan is presented to me. The written erosion control plan will be part of any contract signed with the City and RD Harrell.*

*2. RD Harrell presents a WRITTEN contract addressing the issues you have summarized AND agrees to*

*work with City erosion control specialists.*

*3. The City contract is written to my satisfaction. I will not agree to arbitration nor additional use of land outside of the temporary easement which the City contract allows.*

*Stuart - DIRECTOR OF LAND ACQUISITION - has been informed of our issues in writing and has done nothing to address these issues. RD Harrell does not respond and there is no suggestion that he will comply with the City on anything. Yet, the City persists in moving forward. At this point, further communication is a waste of my time.*

*Have a great day Angela.*

*Mike Turner*

On Wed, Aug 28, 2019 at 10:39 AM Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)> wrote:

Mr. Turner,

Good afternoon. I believe that we have been able to address some of your questions and concerns and are still gathering additional information to provide to you. I wanted to summarize our communication to ensure that I have adequately addressed some of your concerns and restate what you are still requesting.

Your outstanding requests:

- The formal erosion control plan - during and subsequent to sewer placement
- The name of the contractor who will be chosen to perform the work and verification of their insurance policies
- Meeting with the engineer and erosion control subcontractor to discuss issues related to sewer placement

- Establishment of a trail of accountability so that the subcontractor and The City are responsible for successful erosion control measures
- Verification that the Army Corp of Engineers has approved this project
- City's erosion plan be attached to any contract as well as clearly defined recourse if said erosion plan is not implemented or found to be inadequate during the course of construction
- Revisions to the easement agreement submitted on 8/18
- 

Questions that have been addressed –

*Ingress and egress* – The developer has confirmed access to the project can be limited to the permanent and temporary easement areas only during construction. We can address this concern in a special provision.

*-Dirt removal process.* – The temporary and permanent easements along the project would be utilized, as needed, to transport any debris or soil back up to the primary project area, then redistributed there per the grading plan or moved offsite as need be through the construction entrance of the primary project on Rocky River Road.

*- Identification of trees to be cut and how debris will be removed.* – Debris will be removed in the same manner as dirt removal discussed above. All of the trees in the permanent easement area will be removed. This is necessary in order to install the sewer pipe. The contractor will remove trees in the TCE, as necessary, in order to complete the project. No trees outside of the easement areas will be removed.

*- Water and Sewer policies concerning pump stations.* – Provided to you on 8/20

*- A formal answer from City Water and Sewer with regard to, If the Sewer and Water department AND the developer are considering other options This should be a formal statement on official letterhead from the head of the Water and Sewer department.* -Provided to you on 8/23

*-Clarify what 'excise tax' means?* - An excise tax is a tax levied on an instrument by which any interest in real property is conveyed to another. This would be paid by the City of Charlotte.

*- Why we are using an outside contractor to negotiate the acquisition of the easements-* – The City of Charlotte uses independent contractors to assist in the acquisition of land for City projects. The contractors that the City utilizes are licensed real estate professionals.

*-How will we handle deficiencies outlined above.-* -If there are any concerns with erosion control after the project is completed you can contact Land Development to discuss issues you believe were caused by the project.

A Coordinator in land development has been assigned to this project and they will be the City's Land Development liaison for field inspections duties. If there are "issues" caused by the project, they will be resolved ultimately by the developer or permittee, though the liaison has the authority to influence those decisions. If the work causes significant offsite sedimentation impacts, the permittee may be liable for civil penalties as described in Chapter 17, Section 67 of City of Charlotte Code (Soil Erosion and Sedimentation Control Ordinance). (A link to the code was provided)

-*The easement will not be used as part of a 'greenspace' trail system* - The agreement we are requesting states that we are acquiring the easement for the purpose of laying, constructing, and maintaining a sanitary sewer line(s), and/or water line(s)/meter(s). The city would only be able to use the easement area for these purpose.

- *Statement from the City tax department delineating reduction in property taxes associated with said easement agreement.* - The City of Charlotte is not purchasing all rights for the land, only rights to maintain the infrastructure installed in the easement area. The land will still be owned by Ms. Turner so she would be responsible for property taxes.

- *A contractual agreement from RD Harrell concerning issues associated with Kahuna's subcontracting with another entity to complete sewer line placement.* - The agreements necessary for the installation of the sewer line will be between Ms. Turner and the City of Charlotte. We can address your concerns about the construction of the project through our agreements, which are binding.

- *Original appraisal paperwork* – Our agent sent you a copy of the appraisal on 8/16

- *Would the city be so kind as to explain to me why you are working with RD Harrell when he does not have a contractor's license in the state of NC?* - RD Harrell is not the contractor for this project, they are the owner of the property. As part of Charlotte Waters preconstruction process, they require and verify the contractor for any project is a licensed utility contractor in NC. This project has not gotten to the preconstruction process.

- *The name and contact information for the city attorney that will be addressing this issue* – Provided to you on 8/14

- *Why is the designation 'widow' included in this document?* We have to specify marital status (this is also the designation used in her deed for the property)

- *Clarification of easement - 'in gross' or 'appurtenant'* The easement requested is an easement in gross since there are no dominant estates associated with the easement.

-*Valuation of trees to be removed.* – Included in the appraisal.

-*Explanation of why retaining wall is not an option - options for construction of retaining wall - or other contingencies - in the event that erosion control is an issue.* Charlotte Water considers a retaining wall as a structure and we do not allow structures in our easements for maintenance purposes. They can be placed outside of our easement as long as the zone of influence doesn't impede our easement.

- *Maintenance of easement longitudinally - legal parameters of transference - ownership interest - responsibilities.* – The easement provides the City of Charlotte a legal right to use a portion of the property, as shown on the plat, for the purpose of laying, constructing, and maintaining a sanitary sewer line. The legal title to the land itself remains with the owner of the land.

Please let me know if there are additional items that I have missed. I want to ensure that I provide timely responses to your questions and concerns.

Thank you,

Angela Ferguson

Real Estate Project Manager

City of Charlotte, General Services

Real Estate Division

600 E. 4<sup>th</sup> Street – 14<sup>th</sup> Floor

Charlotte, NC 28202

Office: 704-778-8724

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**From:** Harborne, Stuart  
**Sent:** Monday, September 23, 2019 2:29 PM  
**To:** Phipps, Gregory  
**Subject:** FW: [EXT] Re: The Retreat at Rocky River\_ Parcel 2

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

Mr. Phipps.

I wanted to forward the last email received from Mr. Turner regarding the Rocky River Retreat. Angela Ferguson (COC Real Estate) is providing a summary of events by COB today.

Thanks

**Stuart Harborne**

Real Estate Acquisition Program Manager  
Department of General Services – Real Estate  
City of Charlotte  
600 East Fourth Street, 14<sup>th</sup> Floor  
Charlotte, NC 28202  
O: 704.336.3300  
M: 704 564 0689  
F: 704.353.0473

**From:** m turner [mailto:agerasia62@gmail.com]  
**Sent:** Monday, September 23, 2019 8:28 AM  
**To:** Wilson, Jay <jpwilson@ci.charlotte.nc.us>; Ken Cagle <kencagle@carolinasecurity.com>; john steila <lowcoat@yahoo.com>; Harborne, Stuart <Stuart.Harborne@ci.charlotte.nc.us>; Korolos, Tony <tkorolos@ci.charlotte.nc.us>  
**Subject:** Re: [EXT] Re: The Retreat at Rocky River\_ Parcel 2

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Jay,

*I have carefully considered your comments.*

*After consultations with affected neighbors, I would suggest that either you or someone from your department visit the properties affected and construct a detailed analysis of how you will handle erosion. Once this has been done, we will be happy to sit down with you and discuss. Given the age of computing, your presentation should be graphical and dynamic so we can visually understand what you plan on doing. I recommend that you conduct a geological analysis to determine what is underneath the topsoil of the mountain that will be disturbed. Once blasting is done, the City WILL have another problem with home repairs in the affected area..*

Frankly Jay, this process has been going on for some time now. **Everything was brought the attention of Stuart in early 2019 - HE DID NOTHING except continue to collude with the developer in order to push this project through.** Although none of this is your fault, you should have been asked to be present by **Stuart et al** at the time the City met with us concerning this project. I do not have time to meet with City employees when I never asked for the City's involvement NOR am I particularly interested in facilitating the City's corrupt dealings with developers.

Thank you. I do appreciate your offer to produce something substantive.

Mike Turner

On Thu, Sep 19, 2019 at 7:57 AM Wilson, Jay <[jpwilson@ci.charlotte.nc.us](mailto:jpwilson@ci.charlotte.nc.us)> wrote:

Mr. Turner,

Thank you for your reply.

It would be very helpful to meet BEFORE the written plan. In that manner I could ensure that I learn exactly what you would like the written plan to include. Thanks for your consideration.

Sincerely,

Jay Wilson

704-517-1152

**From:** m turner [mailto:[agerasia62@gmail.com](mailto:agerasia62@gmail.com)]

**Sent:** Wednesday, September 18, 2019 4:13 PM

**To:** Wilson, Jay <[jpwilson@ci.charlotte.nc.us](mailto:jpwilson@ci.charlotte.nc.us)>; Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)>; Harborne, Stuart <[Stuart.Harborne@ci.charlotte.nc.us](mailto:Stuart.Harborne@ci.charlotte.nc.us)>; Ken Cagle <[kencagle@carolinasecurity.com](mailto:kencagle@carolinasecurity.com)>; john steila <[lowcoat@yahoo.com](mailto:lowcoat@yahoo.com)>; Korolos, Tony <[tkorolos@ci.charlotte.nc.us](mailto:tkorolos@ci.charlotte.nc.us)>; Phipps, Gregory <[gaphipps@ci.charlotte.nc.us](mailto:gaphipps@ci.charlotte.nc.us)>

**Subject:** Re: [EXT] Re: The Retreat at Rocky River\_ Parcel 2



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Jay,

I received your message on Monday. **THANK YOU.**

I am trying to contact those neighbors involved in this matter to determine if they would like to meet with you as well.

As I have expressed to the nice people over at Real Estate Acquisition - specifically Stuart who refuses to reply or involve himself in these matters, **a meeting is probably useless unless we can get a written EROSION CONTROL PLAN to attach to any contractual agreement with the City.** That is the only way I can create a chain of accountability. Just coming out and reassuring us that everything will be fine will not be fruitful Please verify your agreement to provide this written EROSION CONTROL PLAN after meeting with us.

Kind regards,

Mike Turner

On Wed, Sep 18, 2019 at 3:17 PM Wilson, Jay <[jpwilson@ci.charlotte.nc.us](mailto:jpwilson@ci.charlotte.nc.us)> wrote:

Hi Mr. Turner,

I've tried to contact you a couple times and left a message at the number you provided below.

If you (and/or) your neighbors would like to meet on site to discuss site challenges and the proposed erosion control plan please give me a call or reply to this email to set up a convenient time and date.

Desk phone: 704-432-0958

Mobile phone: 704-517-1152

Email address: [jpwilson@charlottenc.gov](mailto:jpwilson@charlottenc.gov)

Thank you,

**Jay Wilson, CPESC** Water Quality Administrator

City of Charlotte | Engineering & Project Management | Land Development Division | (704) 432-0958 | [jpwilson@charlottenc.gov](mailto:jpwilson@charlottenc.gov)

**From:** m turner [mailto:[agerasia62@gmail.com](mailto:agerasia62@gmail.com)]

**Sent:** Friday, September 13, 2019 4:15 PM

**To:** Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)>; Ken Cagle <[kencagle@carolinasecurity.com](mailto:kencagle@carolinasecurity.com)>; john steila <[lowcoat@yahoo.com](mailto:lowcoat@yahoo.com)>; Harborne, Stuart <[Stuart.Harborne@ci.charlotte.nc.us](mailto:Stuart.Harborne@ci.charlotte.nc.us)>; [RDean@kahuna-group.com](mailto:RDean@kahuna-group.com); Wilson, Jay <[jpwilson@ci.charlotte.nc.us](mailto:jpwilson@ci.charlotte.nc.us)>

**Subject:** Re: [EXT] Re: The Retreat at Rocky River\_ Parcel 2

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Angela,

*The phrase 'As I mentioned previously, it is our goal to reach an amicable settlement with you'*

*is placed in your correspondence so that when the City is sued and investigated*

*by Federal agencies for soil and erosion control, you trust that any court reviewing this case will accept*

*that the City sought an 'amicable settlement'. Unfortunately, I have NO desire to facilitate the City's underhanded*

*dealings with a developer (RD Harrell) either transferring a development project to a shell company or*

*selling the land to another developer for a sizable profit while TEARING UP OUR LAND so that I can*

appreciate destruction, erosion and the pleasant smell of fecal matter coursing down the mountain.

***I never requested your endeavors to create an 'amicable' settlement.***

*I am not sure how much clearer I make this to you and Stuart . Stuart must be hiding under his desk as everything*

*was made perfectly clear to him months ago. I have STATED clearly that a WRITTEN EROSION CONTROL*

***PLAN must be included in any easement agreement with the City.*** *Perhaps, Jay can ambulate out of his office,*

*evaluate the situation in person, and write a proposal that clarifies the PDF sent. NO ONE FROM YOU OFFICE HAS*

*EVALUATED THE SITUATION IN PERSON. Quite frankly, this PDF is useless. Jay can contact me at 770-856-0964*

*to schedule an appointment and time frame for a WRITTEN EROSION CONTROL PLAN to ATTACH to any agreement.*

*Your responses are becoming quite comical Angela. Have a wonderful weekend.*

Mike Turner

On Fri, Sep 13, 2019 at 2:12 PM Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)> wrote:

***Mr. Turner,***

***Good afternoon. As I mentioned previously, it is our goal to reach an amicable settlement with you.***

***Please see the responses to your previous requests below -***

Per your previous email you are requesting the following information before signing any agreement:

1. A written erosion control plan
2. Identification of the 'new permittee'
3. Written agreement by the 'new permittee' to comply with the erosion control plan
4. Identification of the utility subcontractor
5. Review of all permits

In response:

1. The attached preliminary plan from the Applicant presents a suitable and acceptable erosion control plan for the additional grading that would be required in the sanitary sewer R-O-W. It has not been submitted for review and approval as of the time of this email.
2. I do not have any information about future permittees
3. Any 'permittee' who takes ownership of the approved plan agrees to follow the approved plan, including all soil erosion and sedimentation control plans. Specifically, any approved plan must include notes that instruct the permittee to follow the plan sequence, install measures as shown on the approved plan, and continuously and diligently maintain all sediment and erosion control measures until such time that the Erosion Control Coordinator gives approval for removal. Though I do not know who the new permittee will be, no plans are approved without this (ordinance-required) condition specified on the civil site drawings.
4. I do not have any information about the utility subcontractor
5. See response note number 1.

*If you have additional questions or would like to discuss further I would be happy to coordinate a meeting at our office with the appropriate individuals at the City.*

*Thank you,*

Angela Ferguson

Real Estate Project Manager

City of Charlotte, General Services

Real Estate Division

600 E. 4<sup>th</sup> Street – 14<sup>th</sup> Floor

Charlotte, NC 28202

Office: 704-778-8724

**From:** m turner [mailto:[agerasia62@gmail.com](mailto:agerasia62@gmail.com)]

**Sent:** Wednesday, September 04, 2019 8:21 PM

**To:** Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)>; Harborne, Stuart <[Stuart.Harborne@ci.charlotte.nc.us](mailto:Stuart.Harborne@ci.charlotte.nc.us)>; Ken Cagle <[kencagle@carolinasecurity.com](mailto:kencagle@carolinasecurity.com)>; RDean@kahuna-group.com; Phipps, Gregory <[gaphipps@ci.charlotte.nc.us](mailto:gaphipps@ci.charlotte.nc.us)>; john steila <[lowcoat@yahoo.com](mailto:lowcoat@yahoo.com)>; Wilson, Jay <[jpwilson@ci.charlotte.nc.us](mailto:jpwilson@ci.charlotte.nc.us)>

**Subject:** Re: [EXT] Re: The Retreat at Rocky River\_ Parcel 2

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Angela,

Very interesting follow up.

I was aware that RD Harrell - Kahuna Group was 'selling' the property. Who is the new 'permittee'? I suspect RD Harrell is 'selling' the property

to one of his LLCs to deflect liability. It seems RD Harrell is the tail wagging the dog (city) to get 'easement agreements' in place so 'the developer' will be more receptive to completing the transaction. Why would I, Ken Cagle or John Steila be interested in facilitating this transaction while the **stench** of money exchanging hands @ Real Estate Acquisition is overwhelming? Seriously?

**Jay had a well rehearsed presentation.** Nice job. Problem is, you are asking me, John Steila, and Ken Cagle to 'trust you' when we have no basis to 'trust you'. **We did not ask for your remarkable services.** Frankly, WE are more familiar with the topographic - ecological disturbances the City will cause than YOU are! Were you at our meeting? NOPE. RD Harrell was there BUT Angela has just broadcasted that he is NO longer be a stakeholder - aside from the capital gains he will accrue from his transfer and or sale of property. Jay, all I need from you is a written EROSION CONTROL PLAN.

**I appreciate legal's work on the contract.** However, I have **no intention of signing anything** until an erosion

control plan is presented, the new 'permittee' is identified, the new 'permittee' agrees **in writing** to comply with the erosion control plan, the utility subcontractor has been identified, and all permits have been reviewed.

*Note to RD Harrell and the new 'permittee': you may want to wait until the City finalizes a sewer system for Rocky River before moving forward*

*on projects impacting the ecology of our land*

*(<http://www.charmeck.org/Planning/Land%20Use%20Planning/RockyRiverFinalPlan.pdf>).*

Still a lot of work for you Angela. 😊

Mike Turner

On Wed, Sep 4, 2019 at 1:11 PM Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)> wrote:

*Mr. Turner,*

*Please see the response below from Jay Wilson, the Water Quality Administrator in the City of Charlotte's Land Development Division, regarding the elements in place to ensure responsible development on this and all development projects to protect the surface water resources. He outlines the steps in place to ensure all of the City's requirements are followed during construction. His contact information is listed below and he is available to speak to if you have additional questions about the process.*

*“Our team takes our responsibilities very seriously on every project in the City’s jurisdiction. Programmatically, there are several elements in place to help us ensure uniform, responsible development that protects our surface water resources to the maximum extent practicable during every phase of construction.*

*First, every (privately funded) project in the City’s jurisdiction that disturbs one or more acres must have grading permit coverage as described in the Soil Erosion and Sedimentation Control Ordinance ([Chapter 17 of City of Charlotte Code of Ordinances](#)). The permittee must demonstrate on a civil site plan reviewed and approved by the City that the site meets all of the City’s minimum requirements, which are significantly more stringent than the State’s Sediment Pollution Control Act.*

*After plan approval, the permittee will then be required to hold an on-site preconstruction meeting with City staff prior to commencement. After that meeting, our team will allow the permittee to clear land only to the extent necessary to install all of the required soil erosion and sedimentation control devices (sediment basins, diversion ditches, construction entrance, perimeter controls). After installation of all phase one measures, the site is inspected to ensure measures are installed per the approved plan and if everything is to plan then the grading permit is issued (which allows the permittee to begin clearing the entire work area and begin mass grading the site).*

*At that time the site will be subject to regular random inspections usually in 30-45 day intervals - although that frequency may be pushed up or down depending on several factors including but not limited to: history of noncompliance, proximity to critical resources, stage of construction, and site performance. In the event of noncompliance or significant offsite sedimentation we will work through an iterative enforcement process that can result in significant civil penalty assessments to the permittee of up to \$5000 per day, to the extent allowed by State law. If there are significant impacts to the receiving stream, we may require the permittee to hire a third party consultant to assess impacts and implement a remediation/clean-up plan.*

*The Erosion Control Coordinator assigned to this project is Ms. Gina Hodges, CPESC. She has almost 17 years of experience in erosion control and has been with the City, in this geographical territory, since 2004. In addition to having 15 years of experience with this territorial area, she also was born in raised in that part of the City and still lives in the area to this day – so she is very connected to the environment and the community. All of our Coordinators are assigned ‘cradle-to-grave’ responsibility for their projects... they review and approve the plans, inspect the site for compliance, conduct enforcement actions as necessary, and guide the permittee through the permit closure process at the conclusion of development.*

*I would be happy to provide more details if requested, and please pass along my contact information to Mr. Turner if it will help put his mind at ease. More information about our program and requirements can be found online [here](#).*

Thank you,

Jay Wilson, CPESC Water Quality Administrator

City of Charlotte - Engineering & Project Management - Land Development Division

(704) 432-0958

[jpwilson@charlottenc.gov](mailto:jpwilson@charlottenc.gov)

*In regards to your request for revision to the easement document, our legal department has approved the requested changes. They have removed the language pertaining to arbitration and use of land outside of the temporary easement. (see attached revised document)*

*Once the easements are secured RD Harrell, the property owner, is intending to sell the property to a developer/builder who will be completing the project. For this reason, the agreements you are requesting with RD Harrel regarding the construction of the sewer line do not apply since they will not be constructing the project. The new developer will be required to follow all City requirements for construction of the project as outlined above.*

*I have also addressed your last comments below-*

*1. Erosion control meets with me on the property and a written erosion control plan is presented to me. The written erosion control plan will be part of any contract signed with the City and RD Harrell. -An erosion control plan has not been created at this time. Once the easements have been secured the developer will be required to follow all City requirements for the construction of the project, including creating an erosion control plan and obtaining necessary approvals from Land Development.*

*2. RD Harrell presents a WRITTEN contract addressing the issues you have summarized AND agrees to work with City erosion control specialists. - RD Harrell intends to sell the property to a developer once the easements have been secured. The new owner will be required to follow all City requirements outlined above.*

*3. The City contract is written to my satisfaction. I will not agree to arbitration nor additional use of land outside of the temporary easement which the City contract allows. -Our legal department has approved your requested revisions to the easement document. The language pertaining to arbitration additional use of land outside of the temporary easement has been removed (see attached).*

*I have also attached a special provisions agreement to address your concerns regarding access to your property, limitations to work only within the easement areas, removal of debris, and notice prior to construction of the project. Please review them and let me know if they are acceptable to you.*

*It is our goal to reach an amicable settlement with you. Please let me know if you have any additional questions that were not addressed in this response or would like me to schedule a meeting to discuss further.*

*Thank you,*

Angela Ferguson

Real Estate Project Manager

City of Charlotte, General Services

Real Estate Division

600 E. 4<sup>th</sup> Street – 14<sup>th</sup> Floor

Charlotte, NC 28202

Office: 704-778-8724

**From:** m turner [mailto:[agerasia62@gmail.com](mailto:agerasia62@gmail.com)]

**Sent:** Wednesday, August 28, 2019 12:38 PM

**To:** Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)>; Harborne, Stuart <[Stuart.Harborne@ci.charlotte.nc.us](mailto:Stuart.Harborne@ci.charlotte.nc.us)>; RDean@kahuna-group.com; Ken Cagle <[kencagle@carolinasecurity.com](mailto:kencagle@carolinasecurity.com)>; john steila <[lowcoat@yahoo.com](mailto:lowcoat@yahoo.com)>; Phipps, Gregory <[gaphipps@ci.charlotte.nc.us](mailto:gaphipps@ci.charlotte.nc.us)>

**Subject:** [EXT] Re: The Retreat at Rocky River\_ Parcel 2

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*Angela,*

*You are simply repeating what has already been discussed.*

*There will be no easement granted until the following happens.*

*1. Erosion control meets with me on the property and a written erosion control plan is presented to me. The*



*written erosion control plan will be part of any contract signed with the City and RD Harrell.*

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*Stuart - DIRECTOR OF LAND ACQUISITION - has been informed of our issues in writing and has done nothing to address these issues. RD Harrell does not respond and there is no suggestion that he will comply with the City on anything. Yet, the City persists in moving forward. At this point, further communication is a waste of my time.*

*Have a great day Angela.*

*Mike Turner*

On Wed, Aug 28, 2019 at 10:39 AM Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)> wrote:

Mr. Turner,

Good afternoon. I believe that we have been able to address some of your questions and concerns and are still gathering additional information to provide to you. I wanted to summarize our communication to ensure that I have adequately addressed some of your concerns and restate what you are still requesting.

Your outstanding requests:

- The formal erosion control plan - during and subsequent to sewer placement

- The name of the contractor who will be chosen to perform the work and verification of their insurance policies
- Meeting with the engineer and erosion control subcontractor to discuss issues related to sewer placement
- Establishment of a trail of accountability so that the subcontractor and The City are responsible for successful erosion control measures
- Verification that the Army Corp of Engineers has approved this project
- City's erosion plan be attached to any contract as well as clearly defined recourse if said erosion plan is not implemented or found to be inadequate during the course of construction
- Revisions to the easement agreement submitted on 8/18
- 

Questions that have been addressed –

*Ingress and egress* – The developer has confirmed access to the project can be limited to the permanent and temporary easement areas only during construction. We can address this concern in a special provision.

*-Dirt removal process.* – The temporary and permanent easements along the project would be utilized, as needed, to transport any debris or soil back up to the primary project area, then redistributed there per the grading plan or moved offsite as need be through the construction entrance of the primary project on Rocky River Road.

*- Identification of trees to be cut and how debris will be removed.* – Debris will be removed in the same manner as dirt removal discussed above. All of the trees in the permanent easement area will be removed. This is necessary in order to install the sewer pipe. The contractor will remove trees in the TCE, as necessary, in order to complete the project. No trees outside of the easement areas will be removed.

*- Water and Sewer policies concerning pump stations.* – Provided to you on 8/20

*- A formal answer from City Water and Sewer with regard to, If the Sewer and Water department AND the developer are considering other options This should be a formal statement on official letterhead from the head of the Water and Sewer department.* -Provided to you on 8/23

*-Clarify what 'excise tax' means?* - An excise tax is a tax levied on an instrument by which any interest in real property is conveyed to another. This would be paid by the City of Charlotte.

*- Why we are using an outside contractor to negotiate the acquisition of the easements-* – The City of Charlotte uses independent contractors to assist in the acquisition of land for City projects. The contractors that the City utilizes are licensed real estate professionals.

*-How will we handle deficiencies outlined above.-* -If there are any concerns with erosion control after the project is completed you can contact Land Development to discuss issues you believe were caused by the project.

A Coordinator in land development has been assigned to this project and they will be the City's Land Development liaison for field inspections duties. If there are "issues" caused by the project, they will be resolved ultimately by the developer or permittee, though the liaison has the authority to influence those decisions. If the work causes significant offsite

sedimentation impacts, the permittee may be liable for civil penalties as described in Chapter 17, Section 67 of City of Charlotte Code (Soil Erosion and Sedimentation Control Ordinance). (A link to the code was provided)

*-The easement will not be used as part of a 'greenspace' trail system* - The agreement we are requesting states that we are acquiring the easement for the purpose of laying, constructing, and maintaining a sanitary sewer line(s), and/or water line(s)/meter(s). The city would only be able to use the easement area for these purpose.

*- Statement from the City tax department delineating reduction in property taxes associated with said easement agreement.* - The City of Charlotte is not purchasing all rights for the land, only rights to maintain the infrastructure installed in the easement area. The land will still be owned by Ms. Turner so she would be responsible for property taxes.

*- A contractual agreement from RD Harrell concerning issues associated with Kahuna's subcontracting with another entity to complete sewer line placement.* – The agreements necessary for the installation of the sewer line will be between Ms. Turner and the City of Charlotte. We can address your concerns about the construction of the project through our agreements, which are binding.

*- Original appraisal paperwork* – Our agent sent you a copy of the appraisal on 8/16

*- Would the city be so kind as to explain to me why you are working with RD Harrell when he does not have a contractor's license in the state of NC?* - RD Harrell is not the contractor for this project, they are the owner of the property. As part of Charlotte Waters preconstruction process, they require and verify the contractor for any project is a licensed utility contractor in NC. This project has not gotten to the preconstruction process.

*- The name and contact information for the city attorney that will be addressing this issue* – Provided to you on 8/14

*- Why is the designation 'widow' included in this document?* We have to specify marital status (this is also the designation used in her deed for the property)

*- Clarification of easement - 'in gross' or 'appurtenant'* The easement requested is an easement in gross since there are no dominant estates associated with the easement.

*-Valuation of trees to be removed.* – Included in the appraisal.

*-Explanation of why retaining wall is not an option - options for construction of retaining wall - or other contingencies - in the event that erosion control is an issue.* Charlotte Water considers a retaining wall as a structure and we do not allow structures in our easements for maintenance purposes. They can be placed outside of our easement as long as the zone of influence doesn't impede our easement.

*- Maintenance of easement longitudinally - legal parameters of transference - ownership interest - responsibilities.* – The easement provides the City of Charlotte a legal right to use a portion of the property, as shown on the plat, for the purpose of laying, constructing, and maintaining a sanitary sewer line. The legal title to the land itself remains with the owner of the land.

Please let me know if there are additional items that I have missed. I want to ensure that I provide timely responses to your questions and concerns.

Thank you,

Angela Ferguson

Real Estate Project Manager

City of Charlotte, General Services

Real Estate Division

600 E. 4<sup>th</sup> Street – 14<sup>th</sup> Floor

Charlotte, NC 28202

Office: 704-778-8724

---

**From:** m turner <agerasia62@gmail.com>  
**Sent:** Thursday, September 26, 2019 5:18 PM  
**To:** Harborne, Stuart; Korolos, Tony; Phipps, Gregory; Lyles, Viola; RDean@kahuna-group.com  
**Subject:** Re: [EXT] Re: The Retreat at Rocky River\_ Parcel 2

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

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Gentlemen and mayor,

I am in receipt of further correspondence from Angela Ferguson concerning the City's request for an easement provision.

I have advised the City that a formal erosion plan will be necessary before any easement is granted. Given the topography of land involved, I am concerned that there may be an issue with stream erosion.

In addition, I have asked who the developer will be and who the subcontractors will be for this project. Unfortunately, the City has not been helpful. Stuart Harborne has been absent from discussion. Stuart was appraised of the situation in early 2019.

I will also need answers as to why RD Harrell's parcel was reappraised at roughly \$3 million dollars. At the time of purchase in 2015, RD Harrell paid \$800,000. There is an UNEXPLAINED increase in appraisal value and I will need full disclosure.

I have asked that that City 'stand down' on moving forward with this project as there has been negligible planning and unanswered questions concerning these matters. I will be present to address issues at the council meeting on October 14.

At this time, no easement provision will be granted to the City.

Thank you!

Mike Turner

On Thu, Sep 26, 2019 at 4:24 PM Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)> wrote:

Mr. Turner,

Assurances for erosion control are provided by an approved civil site plan drafted by a P.E., R.L.A, or P.L.S, under the employ of the permittee. Regulators are prohibited by State law from designing those plans. Since the permitted will ultimately be the buyer of the development they will be responsible for drafting this document. To address your concerns, I drafted a special provision document that would be provided to the new permittee and contractors to address your concerns regarding the erosion control measures that are to be followed. This document would be signed by the current property owner and would transfer to the new permittee (developer) when the property is sold. Please review the document and let me know if this would help address your concerns.

Currently this transaction is scheduled to be placed on the October 14<sup>th</sup> Council agenda. As part of our process a letter will be going out to you regarding this transaction. However, we are hopeful we can come to an agreement with you. If the special provisions document provided does not relive your concerns we would like to schedule a face to face meeting with you and City management prior to October 7<sup>th</sup> to discuss. Please provide your availability to schedule this meeting.

I look forward to your response.

Thank you,

Angela Ferguson

Real Estate Project Manager

City of Charlotte, General Services

Real Estate Division

600 E. 4<sup>th</sup> Street – 14<sup>th</sup> Floor

Charlotte, NC 28202

Office: 704-778-8724

**From:** m turner [mailto:[agerasia62@gmail.com](mailto:agerasia62@gmail.com)]

**Sent:** Friday, September 13, 2019 4:15 PM

**To:** Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)>; Ken Cagle <[kencagle@carolinasecurity.com](mailto:kencagle@carolinasecurity.com)>; john steila <[lowcoat@yahoo.com](mailto:lowcoat@yahoo.com)>; Harborne, Stuart <[Stuart.Harborne@ci.charlotte.nc.us](mailto:Stuart.Harborne@ci.charlotte.nc.us)>; [RDean@kahuna-group.com](mailto:RDean@kahuna-group.com); Wilson, Jay <[jpwilson@ci.charlotte.nc.us](mailto:jpwilson@ci.charlotte.nc.us)>

**Subject:** Re: [EXT] Re: The Retreat at Rocky River\_ Parcel 2

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Angela,

*The phrase 'As I mentioned previously, it is our goal to reach an amicable settlement with you'*

*is placed in your correspondence so that when the City is sued and investigated*

by Federal agencies for soil and erosion control, you trust that any court reviewing this case will accept that the City sought an 'amicable settlement'. Unfortunately, I have NO desire to facilitate the City's underhanded dealings with a developer (RD Harrell) either transferring a development project to a shell company or selling the land to another developer for a sizable profit while TEARING UP OUR LAND so that I can appreciate destruction, erosion and the pleasant smell of fecal matter coursing down the mountain. **I never requested your endeavors to create an 'amicable' settlement.**

I am not sure how much clearer I make this to you and Stuart . Stuart must be hiding under his desk as everything was made perfectly clear to him months ago. **I have STATED clearly that a WRITTEN EROSION CONTROL PLAN must be included in any easement agreement with the City.** Perhaps, Jay can ambulate out of his office, evaluate the situation in person, and write a proposal that clarifies the PDF sent. **NO ONE FROM YOU OFFICE HAS EVALUATED THE SITUATION IN PERSON.** Quite frankly, this PDF is useless. Jay can contact me at 770-856-0964 to schedule an appointment and time frame for a WRITTEN EROSION CONTROL PLAN to ATTACH to any agreement.

Your responses are becoming quite comical Angela. Have a wonderful weekend.

Mike Turner

On Fri, Sep 13, 2019 at 2:12 PM Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)> wrote:

**Mr. Turner,**

**Good afternoon. As I mentioned previously, it is our goal to reach an amicable settlement with you.**

**Please see the responses to your previous requests below -**

Per your previous email you are requesting the following information before signing any agreement:

1. A written erosion control plan
2. Identification of the 'new permittee'

3. Written agreement by the 'new permittee' to comply with the erosion control plan
4. Identification of the utility subcontractor
5. Review of all permits

In response:

1. The attached preliminary plan from the Applicant presents a suitable and acceptable erosion control plan for the additional grading that would be required in the sanitary sewer R-O-W. It has not been submitted for review and approval as of the time of this email.
2. I do not have any information about future permittees
3. Any 'permittee' who takes ownership of the approved plan agrees to follow the approved plan, including all soil erosion and sedimentation control plans. Specifically, any approved plan must include notes that instruct the permittee to follow the plan sequence, install measures as shown on the approved plan, and continuously and diligently maintain all sediment and erosion control measures until such time that the Erosion Control Coordinator gives approval for removal. Though I do not know who the new permittee will be, no plans are approved without this (ordinance-required) condition specified on the civil site drawings.
4. I do not have any information about the utility subcontractor
5. See response note number 1.

*If you have additional questions or would like to discuss further I would be happy to coordinate a meeting at our office with the appropriate individuals at the City.*

*Thank you,*

Angela Ferguson

Real Estate Project Manager

City of Charlotte, General Services

Real Estate Division

600 E. 4<sup>th</sup> Street – 14<sup>th</sup> Floor

Charlotte, NC 28202

Office: 704-778-8724

**From:** m turner [mailto:[agerasia62@gmail.com](mailto:agerasia62@gmail.com)]

**Sent:** Wednesday, September 04, 2019 8:21 PM

**To:** Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)>; Harborne, Stuart <[Stuart.Harborne@ci.charlotte.nc.us](mailto:Stuart.Harborne@ci.charlotte.nc.us)>; Ken Cagle <[kencagle@carolinasecurity.com](mailto:kencagle@carolinasecurity.com)>; RDean@kahuna-group.com; Phipps, Gregory <[gaphipps@ci.charlotte.nc.us](mailto:gaphipps@ci.charlotte.nc.us)>; john steila <[lowcoat@yahoo.com](mailto:lowcoat@yahoo.com)>; Wilson, Jay <[jpwilson@ci.charlotte.nc.us](mailto:jpwilson@ci.charlotte.nc.us)>

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Angela,

Very interesting follow up.

I was aware that RD Harrell - Kahuna Group was 'selling' the property. **Who is the new 'permittee'?** I suspect RD Harrell is 'selling' the property

to one of his LLCs to deflect liability. It seems RD Harrell is the tail wagging the dog (city) to get 'easement agreements' in place so 'the developer' will be more receptive to completing the transaction. Why would I, Ken Cagle or John Steila be interested in facilitating this transaction while the **stench** of money exchanging hands @ Real Estate Acquisition is overwhelming? Seriously?

**Jay had a well rehearsed presentation.** Nice job. Problem is, you are asking me, John Steila, and Ken Cagle to 'trust you' when we have no basis to 'trust you'. **We did not ask for your remarkable services.** Frankly, WE are more familiar with the topographic - ecological disturbances the City will cause than YOU are! Were you at our meeting? NOPE. RD Harrell was there BUT Angela has just broadcasted that he is NO longer be a stakeholder - aside from the capital gains he will accrue from his transfer and or sale of property. Jay, all I need from you is a written EROSION CONTROL PLAN.

**I appreciate legal's work on the contract.** However, I have **no intention of signing anything** until an erosion

control plan is presented, the new 'permittee' is identified, the new 'permittee' agrees **in writing** to comply with the erosion control plan, the utility subcontractor has been identified, and all permits have been reviewed.

*Note to RD Harrell and the new 'permittee': you may want to wait until the City finalizes a sewer system for Rocky River before moving forward*

*on projects impacting the ecology of our land*

*(<http://www.charmeck.org/Planning/Land%20Use%20Planning/RockyRiverFinalPlan.pdf>).*

Still a lot of work for you Angela. 😊

Mike Turner

On Wed, Sep 4, 2019 at 1:11 PM Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)> wrote:

*Mr. Turner,*

Please see the response below from Jay Wilson, the Water Quality Administrator in the City of Charlotte's Land Development Division, regarding the elements in place to ensure responsible development on this and all development projects to protect the surface water resources. He outlines the steps in place to ensure all of the City's requirements are followed during construction. His contact information is listed below and he is available to speak to if you have additional questions about the process.

*"Our team takes our responsibilities very seriously on every project in the City's jurisdiction. Programmatically, there are several elements in place to help us ensure uniform, responsible development that protects our surface water resources to the maximum extent practicable during every phase of construction.*

*First, every (privately funded) project in the City's jurisdiction that disturbs one or more acres must have grading permit coverage as described in the Soil Erosion and Sedimentation Control Ordinance ([Chapter 17 of City of Charlotte Code of Ordinances](#)). The permittee must demonstrate on a civil site plan reviewed and approved by the City that the site meets all of the City's minimum requirements, which are significantly more stringent than the State's Sediment Pollution Control Act.*

*After plan approval, the permittee will then be required to hold an on-site preconstruction meeting with City staff prior to commencement. After that meeting, our team will allow the permittee to clear land only to the extent necessary to install all of the required soil erosion and sedimentation control devices (sediment basins, diversion ditches, construction entrance, perimeter controls). After installation of all phase one measures, the site is inspected to ensure measures are installed per the approved plan and if everything is to plan then the grading permit is issued (which allows the permittee to begin clearing the entire work area and begin mass grading the site).*

*At that time the site will be subject to regular random inspections usually in 30-45 day intervals - although that frequency may be pushed up or down depending on several factors including but not limited to: history of noncompliance, proximity to critical resources, stage of construction, and site performance. In the event of noncompliance or significant offsite sedimentation we will work through an iterative enforcement process that can result in significant civil penalty assessments to the permittee of up to \$5000 per day, to the extent allowed by State law. If there are significant impacts to the receiving stream, we may require the permittee to hire a third party consultant to assess impacts and implement a remediation/clean-up plan.*

*The Erosion Control Coordinator assigned to this project is Ms. Gina Hodges, CPESC. She has almost 17 years of experience in erosion control and has been with the City, in this geographical territory, since 2004. In addition to having 15 years of experience with this territorial area, she also was born in raised in that part of the City and still lives in the area to this day – so she is very connected to the environment and the community. All of our Coordinators are assigned 'cradle-to-grave' responsibility for their projects... they review and approve the plans, inspect the site for compliance, conduct enforcement actions as necessary, and guide the permittee through the permit closure process at the conclusion of development.*

*I would be happy to provide more details if requested, and please pass along my contact information to Mr. Turner if it will help put his mind at ease. More information about our program and requirements can be found online [here](#).*

*Thank you,*

*Jay Wilson, CPESC Water Quality Administrator*

*City of Charlotte - Engineering & Project Management - Land Development Division*

*(704) 432-0958*

*[jpwilson@charlottenc.gov](mailto:jpwilson@charlottenc.gov)*

*In regards to your request for revision to the easement document, our legal department has approved the requested changes. They have removed the language pertaining to arbitration and use of land outside of the temporary easement. (see attached revised document)*

*Once the easements are secured RD Harrell, the property owner, is intending to sell the property to a developer/builder who will be completing the project. For this reason, the agreements you are requesting with RD Harrel regarding the construction of the sewer line do not apply since they will not be constructing the project. The new developer will be required to follow all City requirements for construction of the project as outlined above.*

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*It is our goal to reach an amicable settlement with you. Please let me know if you have any additional questions that were not addressed in this response or would like me to schedule a meeting to discuss further.*

*Thank you,*

Angela Ferguson

Real Estate Project Manager

City of Charlotte, General Services

Real Estate Division

600 E. 4<sup>th</sup> Street – 14<sup>th</sup> Floor

Charlotte, NC 28202

Office: 704-778-8724

**From:** m turner [mailto:[agerasia62@gmail.com](mailto:agerasia62@gmail.com)]

**Sent:** Wednesday, August 28, 2019 12:38 PM

**To:** Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)>; Harborne, Stuart <[Stuart.Harborne@ci.charlotte.nc.us](mailto:Stuart.Harborne@ci.charlotte.nc.us)>;  
[RDean@kahuna-group.com](mailto:RDean@kahuna-group.com); Ken Cagle <[kencagle@carolinasecurity.com](mailto:kencagle@carolinasecurity.com)>; john steila <[lowcoat@yahoo.com](mailto:lowcoat@yahoo.com)>;  
Phipps, Gregory <[gaphipps@ci.charlotte.nc.us](mailto:gaphipps@ci.charlotte.nc.us)>

**Subject:** [EXT] Re: The Retreat at Rocky River\_ Parcel 2

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*Have a great day Angela.*

*Mike Turner*

On Wed, Aug 28, 2019 at 10:39 AM Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)> wrote:

Mr. Turner,

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- The name of the contractor who will be chosen to perform the work and verification of their insurance policies
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- City's erosion plan be attached to any contract as well as clearly defined recourse if said erosion plan is not implemented or found to be inadequate during the course of construction
- Revisions to the easement agreement submitted on 8/18
- 

Questions that have been addressed –

*Ingress and egress* – The developer has confirmed access to the project can be limited to the permanent and temporary easement areas only during construction. We can address this concern in a special provision.

*-Dirt removal process.* – The temporary and permanent easements along the project would be utilized, as needed, to transport any debris or soil back up to the primary project area, then redistributed there per the grading plan or moved offsite as need be through the construction entrance of the primary project on Rocky River Road.

*- Identification of trees to be cut and how debris will be removed.* – Debris will be removed in the same manner as dirt removal discussed above. All of the trees in the permanent easement area will be removed. This is necessary in order to install the sewer pipe. The contractor will remove trees in the TCE, as necessary, in order to complete the project. No trees outside of the easement areas will be removed.

*- Water and Sewer policies concerning pump stations.* – Provided to you on 8/20

*- A formal answer from City Water and Sewer with regard to, If the Sewer and Water department AND the developer are considering other options This should be a formal statement on official letterhead from the head of the Water and Sewer department.* -Provided to you on 8/23

*-Clarify what 'excise tax' means?* - An excise tax is a tax levied on an instrument by which any interest in real property is conveyed to another. This would be paid by the City of Charlotte.

*- Why we are using an outside contractor to negotiate the acquisition of the easements-* – The City of Charlotte uses independent contractors to assist in the acquisition of land for City projects. The contractors that the City utilizes are licensed real estate professionals.

*-How will we handle deficiencies outlined above.-* -If there are any concerns with erosion control after the project is completed you can contact Land Development to discuss issues you believe were caused by the project.

A Coordinator in land development has been assigned to this project and they will be the City's Land Development liaison for field inspections duties. If there are "issues" caused by the project, they will be resolved ultimately by the developer or permittee, though the liaison has the authority to influence those decisions. If the work causes significant offsite sedimentation impacts, the permittee may be liable for civil penalties as described in Chapter 17, Section 67 of City of Charlotte Code (Soil Erosion and Sedimentation Control Ordinance). (A link to the code was provided)

*-The easement will not be used as part of a 'greenspace' trail system* - The agreement we are requesting states that we are acquiring the easement for the purpose of laying, constructing, and maintaining a sanitary sewer line(s), and/or water line(s)/meter(s). The city would only be able to use the easement area for these purpose.

*- Statement from the City tax department delineating reduction in property taxes associated with said easement agreement.* - The City of Charlotte is not purchasing all rights for the land, only rights to maintain the infrastructure installed in the easement area. The land will still be owned by Ms. Turner so she would be responsible for property taxes.

*- A contractual agreement from RD Harrell concerning issues associated with Kahuna's subcontracting with another entity to complete sewer line placement.* – The agreements necessary for the installation of the sewer line will be between Ms. Turner and the City of Charlotte. We can address your concerns about the construction of the project through our agreements, which are binding.

*- Original appraisal paperwork* – Our agent sent you a copy of the appraisal on 8/16

*- Would the city be so kind as to explain to me why you are working with RD Harrell when he does not have a contractor's license in the state of NC?* - RD Harrell is not the contractor for this project, they are the owner of the property. As part of Charlotte Waters preconstruction process, they require and verify the contractor for any project is a licensed utility contractor in NC. This project has not gotten to the preconstruction process.

*- The name and contact information for the city attorney that will be addressing this issue* – Provided to you on 8/14

*- Why is the designation 'widow' included in this document?* We have to specify marital status (this is also the designation used in her deed for the property)

*- Clarification of easement - 'in gross' or 'appurtenant'* The easement requested is an easement in gross since there are no dominant estates associated with the easement.

*-Valuation of trees to be removed.* – Included in the appraisal.

*-Explanation of why retaining wall is not an option - options for construction of retaining wall - or other contingencies - in the event that erosion control is an issue.* Charlotte Water considers a retaining wall as a structure and we do not allow structures in our easements for maintenance purposes. They can be placed outside of our easement as long as the zone of influence doesn't impede our easement.

*- Maintenance of easement longitudinally - legal parameters of transference - ownership interest - responsibilities.* – The easement provides the City of Charlotte a legal right to use a portion of the property, as shown on the plat, for the purpose of laying, constructing, and maintaining a sanitary sewer line. The legal title to the land itself remains with the owner of the land.

Please let me know if there are additional items that I have missed. I want to ensure that I provide timely responses to your questions and concerns.

Thank you,

Angela Ferguson

Real Estate Project Manager

City of Charlotte, General Services

Real Estate Division

600 E. 4<sup>th</sup> Street – 14<sup>th</sup> Floor

Charlotte, NC 28202

Office: 704-778-8724



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**From:** m turner <agerasia62@gmail.com>  
**Sent:** Monday, September 30, 2019 8:49 PM  
**To:** Phipps, Gregory; Korolos, Tony; Harborne, Stuart; Ken Cagle; john steila; RDean@kahuna-group.com; Lyles, Viola  
**Subject:** Re: [EXT] Re: The Retreat at Rocky River\_ Parcel 2

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

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Greg,

We have not received further correspondence from Tony concerning a meeting on Friday.

I know the City is pushing for resolution of this matter so the developer can complete the sell his property for a cool \$2 million profit.

Stuart et al were informed of landowner concerns in early 2019. Unfortunately, we are not satisfied with Stuart's departmental response.

**I will certainly let you know when I hear something.** Meanwhile, we will remain vigilant in addressing these issues.

Kind regards,

Mike Turner

On Fri, Sep 27, 2019 at 12:57 AM Phipps, Gregory <[gaphipps@ci.charlotte.nc.us](mailto:gaphipps@ci.charlotte.nc.us)> wrote:  
I'm available to meet. Please define "early morning."

Thanks!

**Greg Phipps, Councilmember**

**City Council District Four**  
Government Center  
600 E. Fourth Street  
Charlotte, NC 28202

**"Working for a Stronger Charlotte"**

704-336-3436 (office)  
704-574-7226 (mobile)  
704-632-8510 (e-fax)

**Budget & Effectiveness Committee Chair;**  
**Transportation & Planning Committee Member;**

**Charlotte Regional Transportation & Planning Organization Board-Lead Delegate (CRTPO);  
Catawba Wateree Citizens' Water Academy Graduate;  
NASCAR Hall of Fame Advisory Board Member;  
University City Partners Board Member**

On Sep 26, 2019, at 5:53 PM, m turner <[agerasia62@gmail.com](mailto:agerasia62@gmail.com)> wrote:

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Tony (and Greg),

We will be happy to meet you at 9416 Hood Road on Friday October 4th early morning.

Ken Cagle and possibly other neighbors affected will be present as well. This will provide you the benefit of better understanding our concerns. Greg is welcome to come as well.

I suggest that you have modeling graphics available to enlighten us on how erosion and final post sewer placement landscaping will appear. I trust that you will have detailed information regarding who the developer will be and subcontractors for the project. We will also need a formal analysis concerning appraisal increase for this developer. Please bring any documentation you have concerning geological evaluation of the land to be affected.

Otherwise I am not sure meeting you will be of benefit to either party.

Mike Turner

On Thu, Sep 26, 2019 at 5:26 PM Korolos, Tony <[tkorolos@ci.charlotte.nc.us](mailto:tkorolos@ci.charlotte.nc.us)> wrote:

Mr. Turner,

My name is Tony Korolos and I am the Real Estate division manager for the City. I would like the opportunity to meet with you in our office prior to October the 7<sup>th</sup> to discuss and find a resolution to your concerns.

Please let me know your availability next week.

Tony Korolos

Real Estate Division Manager

Department of General Services

City of Charlotte

600 East Fourth Street, 14<sup>th</sup> Floor

Charlotte, NC 28202

O: 704.249.6148

F: 704.353.0473

**From:** m turner [mailto:[agerasia62@gmail.com](mailto:agerasia62@gmail.com)]

**Sent:** Thursday, September 26, 2019 5:18 PM

**To:** Harborne, Stuart <[Stuart.Harborne@ci.charlotte.nc.us](mailto:Stuart.Harborne@ci.charlotte.nc.us)>; Korolos, Tony <[tkorolos@ci.charlotte.nc.us](mailto:tkorolos@ci.charlotte.nc.us)>; Phipps, Gregory <[gaphipps@ci.charlotte.nc.us](mailto:gaphipps@ci.charlotte.nc.us)>; Lyles, Viola <[vlyles@ci.charlotte.nc.us](mailto:vlyles@ci.charlotte.nc.us)>; [RDean@kahuna-group.com](mailto:RDean@kahuna-group.com)

**Subject:** Re: [EXT] Re: The Retreat at Rocky River\_ Parcel 2

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Gentlemen and mayor,

I am in receipt of further correspondence from Angela Ferguson concerning the City's request for an easement provision.

I have advised the City that a formal erosion plan will be necessary before any easement is granted. Given the topography of land involved, I am concerned that there may be an issue with stream erosion.

In addition, I have asked who the developer will be and who the subcontractors will be for this project. Unfortunately,

the City has not been helpful. Stuart Harborne has been absent from discussion. Stuart was appraised of the situation in early 2019.

I will also need answers as to why RD Harrell's parcel was reappraised at roughly \$3 million dollars. At the time of purchase in 2015, RD Harrell paid \$800,000. There is an UNEXPLAINED increase in appraisal value and I will need full disclosure.

I have asked that that City 'stand down' on moving forward with this project as there has been negligible planning

and unanswered questions concerning these matters. I will be present to address issues at the council meeting on October 14.

At this time, no easement provision will be granted to the City.

Thank you!

Mike Turner

On Thu, Sep 26, 2019 at 4:24 PM Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)> wrote:

Mr. Turner,

Assurances for erosion control are provided by an approved civil site plan drafted by a P.E., R.L.A, or P.L.S, under the employ of the permittee. Regulators are prohibited by State law from designing those plans. Since the permitted will ultimately be the buyer of the development they will be responsible for drafting this document. To address your concerns, I drafted a special provision document that would be provided to the new permittee and contractors to address your concerns regarding the erosion control measures that are to be followed. This document would be signed by the current property owner and would transfer to the new permittee (developer) when the property is sold. Please review the document and let me know if this would help address your concerns.

Currently this transaction is scheduled to be placed on the October 14<sup>th</sup> Council agenda. As part of our process a letter will be going out to you regarding this transaction. However, we are hopeful we can come to an agreement with you. If the special provisions document provided does not relive your concerns we would like to schedule a face to face meeting with you and City management prior to October 7<sup>th</sup> to discuss. Please provide your availability to schedule this meeting.

I look forward to your response.

Thank you,

Angela Ferguson

Real Estate Project Manager

City of Charlotte, General Services

Real Estate Division

600 E. 4<sup>th</sup> Street – 14<sup>th</sup> Floor

Charlotte, NC 28202

Office: 704-778-8724

**From:** m turner [mailto:[agerasia62@gmail.com](mailto:agerasia62@gmail.com)]

**Sent:** Friday, September 13, 2019 4:15 PM

**To:** Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)>; Ken Cagle <[kencagle@carolinasecurity.com](mailto:kencagle@carolinasecurity.com)>; john steila <[lowcoat@yahoo.com](mailto:lowcoat@yahoo.com)>; Harborne, Stuart <[Stuart.Harborne@ci.charlotte.nc.us](mailto:Stuart.Harborne@ci.charlotte.nc.us)>; [RDean@kahuna-group.com](mailto:RDean@kahuna-group.com); Wilson, Jay <[jpwilson@ci.charlotte.nc.us](mailto:jpwilson@ci.charlotte.nc.us)>

**Subject:** Re: [EXT] Re: The Retreat at Rocky River\_ Parcel 2

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Angela,

*The phrase 'As I mentioned previously, it is our goal to reach an amicable settlement with you'*

*is placed in your correspondence so that when the City is sued and investigated*

*by Federal agencies for soil and erosion control, you trust that any court reviewing this case will accept*

*that the City sought an 'amicable settlement'. Unfortunately, I have NO desire to facilitate the City's underhanded*

*dealings with a developer (RD Harrell) either transferring a development project to a shell company or*

*selling the land to another developer for a sizable profit while TEARING UP OUR LAND so that I can*

*appreciate destruction, erosion and the pleasant smell of fecal matter coursing down the mountain.*

***I never requested your endeavors to create an 'amicable' settlement.***

*I am not sure how much clearer I make this to you and Stuart . Stuart must be hiding under his desk as everything*

*was made perfectly clear to him months ago. I have **STATED** clearly that a **WRITTEN EROSION CONTROL***

***PLAN must be included in any easement agreement with the City.** Perhaps, Jay can ambulate out of his office,*

*evaluate the situation in person, and write a proposal that clarifies the PDF sent. NO ONE FROM YOU OFFICE HAS*

*EVALUATED THE SITUATION IN PERSON. Quite frankly, this PDF is useless. Jay can contact me at 770-856-0964*

*to schedule an appointment and time frame for a **WRITTEN EROSION CONTROL PLAN** to **ATTACH** to any agreement.*

*Your responses are becoming quite comical Angela. Have a wonderful weekend.*

*Mike Turner*

On Fri, Sep 13, 2019 at 2:12 PM Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)> wrote:

*Mr. Turner,*

*Good afternoon. As I mentioned previously, it is our goal to reach an amicable settlement with you.*

*Please see the responses to your previous requests below -*

Per your previous email you are requesting the following information before signing any agreement:

1. A written erosion control plan
2. Identification of the 'new permittee'
3. Written agreement by the 'new permittee' to comply with the erosion control plan
4. Identification of the utility subcontractor
5. Review of all permits

In response:

1. The attached preliminary plan from the Applicant presents a suitable and acceptable erosion control plan for the additional grading that would be required in the sanitary sewer R-O-W. It has not been submitted for review and approval as of the time of this email.
2. I do not have any information about future permittees
3. Any 'permittee' who takes ownership of the approved plan agrees to follow the approved plan, including all soil erosion and sedimentation control plans. Specifically, any approved plan must include notes that instruct the permittee to follow the plan sequence, install measures as shown on the approved plan, and continuously and diligently maintain all sediment and erosion control measures until such time that the Erosion Control Coordinator gives approval for removal. Though I do not know who the new permittee will be, no plans are approved without this (ordinance-required) condition specified on the civil site drawings.
4. I do not have any information about the utility subcontractor
5. See response note number 1.

*If you have additional questions or would like to discuss further I would be happy to coordinate a meeting at our office with the appropriate individuals at the City.*

*Thank you,*

Angela Ferguson

Real Estate Project Manager

City of Charlotte, General Services

Real Estate Division

600 E. 4<sup>th</sup> Street – 14<sup>th</sup> Floor

Charlotte, NC 28202

Office: 704-778-8724

**From:** m turner [mailto:[agerasia62@gmail.com](mailto:agerasia62@gmail.com)]

**Sent:** Wednesday, September 04, 2019 8:21 PM

**To:** Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)>; Harborne, Stuart <[Stuart.Harborne@ci.charlotte.nc.us](mailto:Stuart.Harborne@ci.charlotte.nc.us)>; Ken Cagle <[kencagle@carolinasecurity.com](mailto:kencagle@carolinasecurity.com)>; RDean@kahuna-group.com; Phipps, Gregory <[gaphipps@ci.charlotte.nc.us](mailto:gaphipps@ci.charlotte.nc.us)>; john steila <[lowcoat@yahoo.com](mailto:lowcoat@yahoo.com)>; Wilson, Jay <[jpwilson@ci.charlotte.nc.us](mailto:jpwilson@ci.charlotte.nc.us)>

**Subject:** Re: [EXT] Re: The Retreat at Rocky River\_ Parcel 2

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Angela,

Very interesting follow up.

I was aware that RD Harrell - Kahuna Group was 'selling' the property. **Who is the new 'permittee'?** I suspect RD Harrell is 'selling' the property

to one of his LLCs to deflect liability. It seems RD Harrell is the tail wagging the dog (city) to get 'easement agreements' in place so 'the developer' will be more receptive to completing the transaction. Why would I, Ken Cagle or John Steila be interested in facilitating this transaction while the **stench** of money exchanging hands @ Real Estate Acquisition is overwhelming? Seriously?

**Jay had a well rehearsed presentation.** Nice job. Problem is, you are asking me, John Steila, and Ken Cagle to 'trust you' when we have no basis to 'trust you'. **We did not ask for your remarkable services.** Frankly, WE are more familiar with the topographic - ecological disturbances the City will cause than YOU are! Were you at our meeting? NOPE. RD Harrell was there BUT Angela has just broadcasted that he is NO longer be a stakeholder - aside from the capital gains he will accrue from his transfer and or sale of property. Jay, all I need from you is a written EROSION CONTROL PLAN.

**I appreciate legal's work on the contract.** However, I have **no intention of signing anything** until an erosion control plan is presented, the new 'permittee' is identified, the new 'permittee' agrees **in writing** to comply with the erosion control plan, the utility subcontractor has been identified, and all permits have been reviewed.

*Note to RD Harrell and the new 'permittee': you may want to wait until the City finalizes a sewer system for Rocky River before moving forward*

*on projects impacting the ecology of our land*  
<http://www.charmeck.org/Planning/Land%20Use%20Planning/RockyRiverFinalPlan.pdf>.

Still a lot of work for you Angela. 😊

Mike Turner

On Wed, Sep 4, 2019 at 1:11 PM Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)> wrote:

*Mr. Turner,*

*Please see the response below from Jay Wilson, the Water Quality Administrator in the City of Charlotte's Land Development Division, regarding the elements in place to ensure responsible development on this and all development projects to protect the surface water resources. He outlines the steps in place to ensure all of*



*the City's requirements are followed during construction. His contact information is listed below and he is available to speak to if you have additional questions about the process.*

*"Our team takes our responsibilities very seriously on every project in the City's jurisdiction. Programmatically, there are several elements in place to help us ensure uniform, responsible development that protects our surface water resources to the maximum extent practicable during every phase of construction.*

*First, every (privately funded) project in the City's jurisdiction that disturbs one or more acres must have grading permit coverage as described in the Soil Erosion and Sedimentation Control Ordinance (Chapter 17 of City of Charlotte Code of Ordinances). The permittee must demonstrate on a civil site plan reviewed and approved by the City that the site meets all of the City's minimum requirements, which are significantly more stringent than the State's Sediment Pollution Control Act.*

*After plan approval, the permittee will then be required to hold an on-site preconstruction meeting with City staff prior to commencement. After that meeting, our team will allow the permittee to clear land only to the extent necessary to install all of the required soil erosion and sedimentation control devices (sediment basins, diversion ditches, construction entrance, perimeter controls). After installation of all phase one measures, the site is inspected to ensure measures are installed per the approved plan and if everything is to plan then the grading permit is issued (which allows the permittee to begin clearing the entire work area and begin mass grading the site).*

*At that time the site will be subject to regular random inspections usually in 30-45 day intervals - although that frequency may be pushed up or down depending on several factors including but not limited to: history of noncompliance, proximity to critical resources, stage of construction, and site performance. In the event of noncompliance or significant offsite sedimentation we will work through an iterative enforcement process that can result in significant civil penalty assessments to the permittee of up to \$5000 per day, to the extent allowed by State law. If there are significant impacts to the receiving stream, we may require the permittee to hire a third party consultant to assess impacts and implement a remediation/clean-up plan.*

*The Erosion Control Coordinator assigned to this project is Ms. Gina Hodges, CPESC. She has almost 17 years of experience in erosion control and has been with the City, in this geographical territory, since 2004. In addition to having 15 years of experience with this territorial area, she also was born in raised in that part of the City and still lives in the area to this day – so she is very connected to the environment and the community. All of our Coordinators are assigned 'cradle-to-grave' responsibility for their projects... they review and approve the plans, inspect the site for compliance, conduct enforcement actions as*

necessary, and guide the permittee through the permit closure process at the conclusion of development.

I would be happy to provide more details if requested, and please pass along my contact information to Mr. Turner if it will help put his mind at ease. More information about our program and requirements can be found online [here](#).

Thank you,

Jay Wilson, CPESC Water Quality Administrator

City of Charlotte - Engineering & Project Management - Land Development Division

(704) 432-0958

[jpwilson@charlottenc.gov](mailto:jpwilson@charlottenc.gov)

In regards to your request for revision to the easement document, our legal department has approved the requested changes. They have removed the language pertaining to arbitration and use of land outside of the temporary easement. (see attached revised document)

Once the easements are secured RD Harrell, the property owner, is intending to sell the property to a developer/builder who will be completing the project. For this reason, the agreements you are requesting with RD Harrel regarding the construction of the sewer line do not apply since they will not be constructing the project. The new developer will be required to follow all City requirements for construction of the project as outlined above.

I have also addressed your last comments below-

1. Erosion control meets with me on the property and a written erosion control plan is presented to me. The written erosion control plan will be part of any contract signed with the City and RD Harrell. -An erosion control plan has not been created at this time. Once the easements have been secured the developer will be required to follow all City requirements for the construction of the project, including creating an erosion control plan and obtaining necessary approvals from Land Development.
2. RD Harrell presents a WRITTEN contract addressing the issues you have summarized AND agrees to work with City erosion control specialists. - RD Harrell intends to sell the property to a developer once the easements have been secured. The new owner will be required to follow all City requirements outlined above.

3. *The City contract is written to my satisfaction. I will not agree to arbitration nor additional use of land outside of the temporary easement which the City contract allows. -Our legal department has approved your requested revisions to the easement document. The language pertaining to arbitration additional use of land outside of the temporary easement has been removed (see attached).*

*I have also attached a special provisions agreement to address your concerns regarding access to your property, limitations to work only within the easement areas, removal of debris, and notice prior to construction of the project. Please review them and let me know if they are acceptable to you.*

*It is our goal to reach an amicable settlement with you. Please let me know if you have any additional questions that were not addressed in this response or would like me to schedule a meeting to discuss further.*

*Thank you,*

Angela Ferguson

Real Estate Project Manager

City of Charlotte, General Services

Real Estate Division

600 E. 4<sup>th</sup> Street – 14<sup>th</sup> Floor

Charlotte, NC 28202

Office: 704-778-8724

**From:** m turner [mailto:[agerasia62@gmail.com](mailto:agerasia62@gmail.com)]

**Sent:** Wednesday, August 28, 2019 12:38 PM

**To:** Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)>; Harborne, Stuart <[Stuart.Harborne@ci.charlotte.nc.us](mailto:Stuart.Harborne@ci.charlotte.nc.us)>; RDean@kahuna-group.com; Ken Cagle <[kencagle@carolinasecurity.com](mailto:kencagle@carolinasecurity.com)>; john steila <[lowcoat@yahoo.com](mailto:lowcoat@yahoo.com)>; Phipps, Gregory <[gaphipps@ci.charlotte.nc.us](mailto:gaphipps@ci.charlotte.nc.us)>

**Subject:** [EXT] Re: The Retreat at Rocky River\_ Parcel 2

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*Angela,*

*You are simply repeating what has already been discussed.*

*There will be no easement granted until the following happens.*

*1. Erosion control meets with me on the property and a written erosion control plan is presented to me. The written erosion control plan will be part of any contract signed with the City and RD Harrell.*

*2. RD Harrell presents a WRITTEN contract addressing the issues you have summarized AND agrees to work with City erosion control specialists.*

*3. The City contract is written to my satisfaction. I will not agree to arbitration nor additional use of land outside*

*of the temporary easement which the City contract allows.*

*Stuart - DIRECTOR OF LAND ACQUISITION - has been informed of our issues in writing and has done nothing to address these issues. RD Harrell does not respond and there is no suggestion that he will comply with the City on anything. Yet, the City persists in moving forward. At this point, further communication is a waste of my time.*

*Have a great day Angela.*

*Mike Turner*

On Wed, Aug 28, 2019 at 10:39 AM Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)> wrote:

Mr. Turner,

Good afternoon. I believe that we have been able to address some of your questions and concerns and are still gathering additional information to provide to you. I wanted to summarize our communication to ensure that I have adequately addressed some of your concerns and restate what you are still requesting.

Your outstanding requests:

- The formal erosion control plan - during and subsequent to sewer placement
- The name of the contractor who will be chosen to perform the work and verification of their insurance policies
- Meeting with the engineer and erosion control subcontractor to discuss issues related to sewer placement
- Establishment of a trail of accountability so that the subcontractor and The City are responsible for successful erosion control measures
- Verification that the Army Corp of Engineers has approved this project
- City's erosion plan be attached to any contract as well as clearly defined recourse if said erosion plan is not implemented or found to be inadequate during the course of construction
- Revisions to the easement agreement submitted on 8/18
- 

Questions that have been addressed –

*Ingress and egress* – The developer has confirmed access to the project can be limited to the permanent and temporary easement areas only during construction. We can address this concern in a special provision.

*-Dirt removal process.* – The temporary and permanent easements along the project would be utilized, as needed, to transport any debris or soil back up to the primary project area, then redistributed there per the grading plan or moved offsite as need be through the construction entrance of the primary project on Rocky River Road.

*- Identification of trees to be cut and how debris will be removed.* – Debris will be removed in the same manner as dirt removal discussed above. All of the trees in the permanent easement area will be removed. This is necessary in order to install the sewer pipe. The contractor will remove trees in the TCE, as necessary, in order to complete the project. No trees outside of the easement areas will be removed.

*- Water and Sewer policies concerning pump stations.* – Provided to you on 8/20

- *A formal answer from City Water and Sewer with regard to, If the Sewer and Water department AND the developer are considering other options This should be a formal statement on official letterhead from the head of the Water and Sewer department.* -Provided to you on 8/23

-*Clarify what 'excise tax' means?* - An excise tax is a tax levied on an instrument by which any interest in real property is conveyed to another. This would be paid by the City of Charlotte.

- *Why we are using an outside contractor to negotiate the acquisition of the easements-* – The City of Charlotte uses independent contractors to assist in the acquisition of land for City projects. The contractors that the City utilizes are licensed real estate professionals.

-*How will we handle deficiencies outlined above.-* -If there are any concerns with erosion control after the project is completed you can contact Land Development to discuss issues you believe were caused by the project.

A Coordinator in land development has been assigned to this project and they will be the City's Land Development liaison for field inspections duties. If there are "issues" caused by the project, they will be resolved ultimately by the developer or permittee, though the liaison has the authority to influence those decisions. If the work causes significant offsite sedimentation impacts, the permittee may be liable for civil penalties as described in Chapter 17, Section 67 of City of Charlotte Code (Soil Erosion and Sedimentation Control Ordinance). (A link to the code was provided)

-*The easement will not be used as part of a 'greenspace' trail system* - The agreement we are requesting states that we are acquiring the easement for the purpose of laying, constructing, and maintaining a sanitary sewer line(s), and/or water line(s)/meter(s). The city would only be able to use the easement area for these purpose.

- *Statement from the City tax department delineating reduction in property taxes associated with said easement agreement.* - The City of Charlotte is not purchasing all rights for the land, only rights to maintain the infrastructure installed in the easement area. The land will still be owned by Ms. Turner so she would be responsible for property taxes.

- *A contractual agreement from RD Harrell concerning issues associated with Kahuna's subcontracting with another entity to complete sewer line placement.* – The agreements necessary for the installation of the sewer line will be between Ms. Turner and the City of Charlotte. We can address your concerns about the construction of the project through our agreements, which are binding.

- *Original appraisal paperwork* – Our agent sent you a copy of the appraisal on 8/16

- *Would the city be so kind as to explain to me why you are working with RD Harrell when he does not have a contractor's license in the state of NC?* - RD Harrell is not the contractor for this project, they are the owner of the property. As part of Charlotte Waters preconstruction process, they require and verify the contractor for any project is a licensed utility contractor in NC. This project has not gotten to the preconstruction process.

- *The name and contact information for the city attorney that will be addressing this issue –*  
Provided to you on 8/14

- *Why is the designation 'widow' included in this document?* We have to specify marital status (this is also the designation used in her deed for the property)

- *Clarification of easement - 'in gross' or 'appurtenant'* The easement requested is an easement in gross since there are no dominant estates associated with the easement.

-*Valuation of trees to be removed.* – Included in the appraisal.

-*Explanation of why retaining wall is not an option - options for construction of retaining wall - or other contingencies - in the event that erosion control is an issue.* Charlotte Water considers a retaining wall as a structure and we do not allow structures in our easements for maintenance purposes. They can be placed outside of our easement as long as the zone of influence doesn't impede our easement.

- *Maintenance of easement longitudinally - legal parameters of transference - ownership interest - responsibilities.* – The easement provides the City of Charlotte a legal right to use a portion of the property, as shown on the plat, for the purpose of laying, constructing, and maintaining a sanitary sewer line. The legal title to the land itself remains with the owner of the land.

Please let me know if there are additional items that I have missed. I want to ensure that I provide timely responses to your questions and concerns.

Thank you,

Angela Ferguson

Real Estate Project Manager

City of Charlotte, General Services

Real Estate Division

600 E. 4<sup>th</sup> Street – 14<sup>th</sup> Floor

Charlotte, NC 28202

Office: 704-778-8724

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**From:** Michael Vincent <mrussing@yahoo.com>  
**Sent:** Thursday, November 7, 2019 6:19 AM  
**To:** Jones, Marcus  
**Subject:** [EXT] Urgent

EXTERNAL EMAIL: This email originated from the Internet. Do not click any images, links or open any attachments unless you recognize and trust the sender and know the content is safe. Please click the Phish Alert button to forward the email to Bad.Mail.

Mr. Jones,

I need to speak with you..maybe best in person as soon as possible. I realize this is probably not the standard approach but this needs urgent attention. Please advise how this request can take place. I am a long time Charlotte resident and my family has deep roots here. My grandfather was Grady Cole of the Grady Cole Center. I tell you this only to lay some foundation for my connection to the city. Please feel free to look me up on LinkedIn for more if you like.

Michael Russing  
Regional V.P.  
Commercial Credit Group, Inc  
227 W Trade St Suite 1450  
Charlotte, NC 28202



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**From:** Michael Vincent <mrussing@yahoo.com>  
**Sent:** Thursday, November 7, 2019 4:16 PM  
**To:** Jones, Marcus  
**Subject:** [EXT] Urgent 2nd Request

EXTERNAL EMAIL: This email originated from the Internet. Do not click any images, links or open any attachments unless you recognize and trust the sender and know the content is safe. Please click the Phish Alert button to forward the email to Bad.Mail.

Mr. Jones,

This issue involves a City of Charlotte employee. It is a serious matter. If you are not the person kindly give me a name so I can forward to my attorney. It is a serious matter.

I need to speak with you..maybe best in person as soon as possible. I realize this is probably not the standard approach but this needs urgent attention. Please advise how this request can take place. I am a long time Charlotte resident and my family has deep roots here. My grandfather was Grady Cole of the Grady Cole Center. I tell you this only to lay some foundation for my connection to the city. Please feel free to look me up on LinkedIn for more if you like.

Michael Russing  
Regional V.P.  
Commercial Credit Group, Inc  
227 W Trade St Suite 1450  
Charlotte, NC 28202

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**From:** Michael Vincent <mrussing@yahoo.com>  
**Sent:** Saturday, November 9, 2019 7:08 AM  
**To:** Jones, Marcus  
**Subject:** [EXT] Urgent 3rd Request

EXTERNAL EMAIL: This email originated from the Internet. Do not click any images, links or open any attachments unless you recognize and trust the sender and know the content is safe. Please click the Phish Alert button to forward the email to Bad.Mail.

Mr. Jones,

I have a meeting with the Charlotte N&O on Monday and their investigation division. I have respectfully reached out to you 3 times by email and twice by phone. My rad dollars pay your salary.....that is not lost on me and will not be within this story and the serious issue you have in the real estate acquisition department of City of Charlotte. After Monday you and the city can speak with my attorney at James McElroy and Diehl. This matter has devastated my family and I won't go away and I will make this as public as the public needs to know who the city has employed and how they have used their position. The name of my attorney is Adam Ross. You can speak with him or me.....or both.

Mr. Jones,

I need to speak with you..maybe best in person as soon as possible. I realize this is probably not the standard approach but this needs urgent attention. Please advise how this request can take place. I am a long time Charlotte resident and my family has deep roots here. My grandfather was Grady Cole of the Grady Cole Center. I tell you this only to lay some foundation for my connection to the city. Please feel free to look me up on LinkedIn for more if you like.

Michael Russing  
Regional V.P.  
Commercial Credit Group, Inc  
227 W Trade St Suite 1450  
Charlotte, NC 28202

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**From:** m turner <agerasia62@gmail.com>  
**Sent:** Sunday, November 17, 2019 12:59 PM  
**To:** Levine, Mindy; Mitchell, James; Ajmera, Dimple; Harlow, Justin; Phipps, Gregory; Bokhari, Tariq; Eiselt, Julie; Winston, Braxton; Egleston, Larken; Mayfield, LaWana; matt.newton@charlottenc.gov; Driggs, Edmund  
**Cc:** Ferguson, Angela; Harborne, Stuart; Korolos, Tony; Russell Whitehurst; Ken Cagle; john steila; Lyles, Viola; RDean@kahuna-group.com  
**Subject:** [EXT] November 25, 2019 council meeting re CONDEMNATION of properties  
**Attachments:** COUNCILORS 11 25 2019 MTG AGENDA.docx

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Ladies and Gentlemen,

I am Mike Turner, one of the neighbors impacted by the City's attempt to condemn land in the interest developer RD Harrell.

I have attached a file for your review.

Thanks you in advance for due consideration.

Respectfully,

Mike Turner

Councilors,

Landowners at 9416 Hood Road, 9400 Hood Road, and 9334 Hood Road have been notified that Council will consider land condemnation to facilitate placement of a sanitary sewer for developer RD Harrell of Kahuna Group<sup>i</sup> (reference The Retreat @ Rocky River<sup>ii</sup>) on November 25, 2019.

The aforementioned stakeholders have been involved in discussions with **Stuart Harbourne**, Real Estate Acquisition Manager, as well *City Water and Sewer* since early 2019. Concerns addressed to Stuart et al include,

1. Topographical and ecological concerns associated with sanitary sewer placement in this location.
2. Absence of geological survey.
3. No feasibility studies from *City Water and Sewer* concerning alternative sanitary sewer routes. The landowners have provided *City Water and Sewer* with a minimally invasive option.
4. Unexplainable tax assessment of developer's property 4740 Rocky River Rd (site of The Retreat @ Rocky River), Charlotte, NC compared to similar properties adjacent thereto.
5. Stonewalling from the City and developer in providing a *chain of accountability* to ensure stakeholders' land, and associated environment, will be restored to an acceptable condition after sanitary sewer placement.

After contacting the Mayor , representatives (Tony Korolos, *City Water and Sewer* representatives, Councilman Griggs, Angela Ferguson, but not Stuart) *returned* to our property on October 9, 2019 to discuss concerns. At that time, we were assured that the City, in collaboration with Eagle Engineering<sup>iii</sup> and the developer, would provide a detailed graphical analysis illustrating how our land will appear after sewer placement. A week before your meeting to consider condemnation, **we have not received any follow up information from the City regarding land preservation - restoration of our land post sanitary sewer placement.** Presenting information to stakeholders one week or less before a council meeting is unacceptable.

In the event that you decide to move forward with condemnation, we will pursue an appropriate legal remedy at the time of our choosing. In the interim, we will continue to coordinate with State and Federal regulatory agencies regarding this matter.

Thank you in advance for your consideration.

Kind regards,

Mike Turner

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<sup>i</sup> <https://www.kahuna-group.com/listings/brokerage/under-contract>

<sup>ii</sup> [http://ww.charmeck.org/Planning/Subdivision/Approvals/2018/TheRetreatatRockyRiver\(SF\).pdf](http://ww.charmeck.org/Planning/Subdivision/Approvals/2018/TheRetreatatRockyRiver(SF).pdf)

<sup>iii</sup> <https://eagleonline.net/>

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**From:** m turner <agerasia62@gmail.com>  
**Sent:** Sunday, November 17, 2019 8:56 PM  
**To:** Korolos, Tony  
**Cc:** Levine, Mindy; Mitchell, James; Ajmera, Dimple; Harlow, Justin; Phipps, Gregory; Bokhari, Tariq; Eiselt, Julie; Winston, Braxton; Egleston, Larken; Mayfield, LaWana; matt.newton@charlottenc.gov; Driggs, Edmund; Ferguson, Angela; Harborne, Stuart; Russell Whitehurst; Ken Cagle; john steila; Lyles, Viola; Lee, Angela; Davis, Michael (E&PM); Czerr, David  
**Subject:** Re: [EXT] November 25, 2019 council meeting re CONDEMNATION of properties

**EXTERNAL EMAIL:** This email originated from the Internet. Do not click any images, links or open any attachments unless you recognize and trust the sender and know the content is safe. Please click the Phish Alert button to forward the email to Bad.Mail.

Tony,

Unfortunately, Angela from Stuart Harbourne's office sent certified notification to my elderly mother that condemnation would be discussed at the November 25th meeting. **Have you spoken with Stuart Harbourne to ensure better coordination of notifications from his office?** This is highly disturbing to my mother. Furthermore, inappropriate certified mailing is not a good use of tax payer money.

Given that Councilors are now in the loop concerning this matter, I request the developer **RD Harrell** to be present at any future meetings concerning this matter.

Thank you. I appreciate your prompt response.

Regards,

Mike Turner

On Sun, Nov 17, 2019 at 2:42 PM Korolos, Tony <[tkorolos@ci.charlotte.nc.us](mailto:tkorolos@ci.charlotte.nc.us)> wrote:  
Mr Turner,

Thanks for reaching out. The items are postponed from the 11/25 council agenda to 12/09 to further address your concerns.

Many thanks and have a great weekend.

Tony Korolos  
Real Estate Division Manager  
704-249-6148 ( cell)

Sent from my iPhone

On Nov 17, 2019, at 12:59 PM, m turner <[agerasia62@gmail.com](mailto:agerasia62@gmail.com)> wrote:

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Ladies and Gentlemen,

I am Mike Turner, one of the neighbors impacted by the City's attempt to condemn land in the interest developer RD Harrell.

I have attached a file for your review.

Thanks you in advance for due consideration.

Respectfully,

Mike Turner

<COUNCILORS 11 25 2019 MTG AGENDA.docx>

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**From:** m turner <agerasia62@gmail.com>  
**Sent:** Tuesday, November 19, 2019 4:53 PM  
**To:** Ferguson, Angela; Korolos, Tony; Harborne, Stuart; RDean@kahuna-group.com; Ken Cagle; john steila; Phipps, Gregory; Russell Whitehurst  
**Subject:** Re: [EXT] Re: The Retreat at Rocky River 11\_25 Council Agenda  
**Categories:** Green Category

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Angela,

Unfortunately, it does not appear that we have made much progress.

I have asked that the developer be present and you are **ignoring** my request. This will be addressed at the appropriate time.

The 'latest plans' are grossly insufficient. We asked for a visual presentation with regard to how the landscape will appear - not engineering drawings. If you are going to send me engineering documents, EAGLE needs to get busy over the next two weeks and combine PICTURES, GRAPHICS, and a DETAILED WRITTEN ANALYSIS concerning their proposal. **I told Stuart in early 2019 that a RETAINING WALL was required and that was IGNORED!** Only after our October 9th meeting did Eagle Engineering have the proverbial 'whoa' moment and realize that there was a problem!

I am very disappointed with your work.

Mike Turner

On Tue, Nov 19, 2019 at 3:37 PM Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)> wrote:

Mr. Turner,

Good afternoon. I will be coordinating with the relevant parties to schedule an onsite meeting with you and Mr. Cagle on December 4<sup>th</sup>.

I have attached a copy of the latest plans we received from Eagle Engineering that show the cross sections for the easement. They have considered your request and have determined that a retaining wall in sections of the easement would be the best option. When we meet with you onsite we can walk the easement area and answer questions. I wanted to give you a reasonable opportunity to review these plans prior to the meeting. Please let me know if you have any questions or concerns after reviewing them.

I have also attached the following documents for your review –

- The agreement that the City will be requesting for the easement. This document was revised after your initial comments. If you have any additional revisions requests please mark up the attached and we will review your comments.
- The proposed alternative route for the sewer line. This route was rejected because it would benefit the development only and would not serve the greater public in the area.
- The memo from Charlotte Water explaining the decision in determining the path of the proposed sewer line.
- The approved plans for the sewer project.
- The plat for your mother's property.

I understand that you have reached out to Charlotte Water and Eagle Engineering to request additional information. They have forwarded your request to me and I believe that I have attached what you are requesting. Please let me know if there is anything additional you feel has not been shared with you.

Someone will be reaching out to you soon to schedule a time for the December 4<sup>th</sup> meeting.

Please let me know if you have any additional questions.

Thank you,

Angela Ferguson

Real Estate Project Manager

City of Charlotte, General Services

Real Estate Division

600 E. 4<sup>th</sup> Street – 14<sup>th</sup> Floor

Charlotte, NC 28202

Office: 704-778-8724

**From:** m turner [mailto:[agerasia62@gmail.com](mailto:agerasia62@gmail.com)]

**Sent:** Tuesday, November 19, 2019 11:43 AM

**To:** Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)>; Ken Cagle <[kencagle@carolinasecurity.com](mailto:kencagle@carolinasecurity.com)>; john steila <[lowcoat@yahoo.com](mailto:lowcoat@yahoo.com)>; Korolos, Tony <[tkorolos@ci.charlotte.nc.us](mailto:tkorolos@ci.charlotte.nc.us)>; Harborne, Stuart <[Stuart.Harborne@ci.charlotte.nc.us](mailto:Stuart.Harborne@ci.charlotte.nc.us)>; [RDean@kahuna-group.com](mailto:RDean@kahuna-group.com); Phipps, Gregory <[gaphipps@ci.charlotte.nc.us](mailto:gaphipps@ci.charlotte.nc.us)>

**Subject:** [EXT] Re: The Retreat at Rocky River 11\_25 Council Agenda



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Angela,

I reached out to Ken and it looks like Friday November 29 would be the first possible date for meeting with City representatives and RD Harrell. The next best option is December 4.

**I am not sure that either option is going to allow adequate time for our consideration and completion of essential paperwork and contracts with stakeholders (including RD Harrell) before the Council meeting on December 9, 2019.**

**As I pointed out to the Councilors, your department has had over 1.5 months to compile necessary materials for our review. I will be following up with each Councilor in the next day or so to update them on progress.**

Kind regards,

Mike Turner

On Mon, Nov 18, 2019 at 9:06 AM Ferguson, Angela <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)> wrote:

Mr. Turner,

Good morning. We are finalizing the documentation you requested and would like to schedule a meeting to present you with the information later this week. We have deferred the item to the 12/9 council agenda.

Could you please provide a few dates and times that you would be available so that I can schedule a meeting that would accommodate your schedule?

Thank you,

Angela Ferguson

Real Estate Project Manager

City of Charlotte, General Services

Real Estate Division

600 E. 4<sup>th</sup> Street – 14<sup>th</sup> Floor

Charlotte, NC 28202

Office: 704-778-8724

---

**From:** Ferguson, Angela

**Sent:** Tuesday, November 12, 2019 4:37 PM

**To:** 'agerasia62@gmail.com' <agerasia62@gmail.com>

**Cc:** Ken Cagle <kencagle@carolinasecurity.com>; 'lowcoat@yahoo.com' <lowcoat@yahoo.com>; Harborne, Stuart <Stuart.Harborne@ci.charlotte.nc.us>; Korolos, Tony <tkorolos@ci.charlotte.nc.us>

**Subject:** The Retreat at Rocky River 11\_25 Council Agenda

Mr. Turner,

Good afternoon. I wanted to reach out to you to let you know that Charlotte Water and Eagle Engineering are working together to finalize the documentation you requested. Once it has been reviewed we would like to schedule a meeting to discuss the findings with you.

As a part of our process, our agent sent out copies of the letter explaining the process of presenting the item on the council agenda on November 25<sup>th</sup>. I wanted to assure you that we will work diligently to present you the information gathered before this date. If we are unable to present this information to you before this date, we will defer the item to the next agenda, allowing you time to review.

I will be reaching out to you as soon as the information is collected and reviewed to schedule a meeting.

Please let me know if you have any questions.

Thank you,

Angela Ferguson

Real Estate Project Manager

City of Charlotte, General Services

Real Estate Division

600 E. 4<sup>th</sup> Street – 14<sup>th</sup> Floor

Charlotte, NC 28202

Office: 704-778-8724

---

**From:** Michael Vincent <mrussing@yahoo.com>  
**Sent:** Monday, November 25, 2019 9:04 PM  
**To:** Jones, Marcus  
**Subject:** [EXT] City of Charlotte Employee Stuart Harborne

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Mr. Jones,

I kindly encourage you to reach out to me on this matter. This is your employee and I would like to avoid legal action.

Dear NCRE Commission,

On 10/16/2019 I closed on a home located at 1725 Birchcrest Dr, Charlotte, NC 28205. The sellers of this property were Stuart and Kathy Harborne. Both are licensed NC Realtors and operate under Harborne Homes, LLC. Kathy served as HH's agent with respect to this transaction, and operated for the purposes of this sale through Paracle, LLC d/b/a Better Homes and Gardens Paracle. Kathy Harborne is a Provisional Broker and under the supervision on Tony Hanson, Broker In Charge.

HH, acting through Mr. & Mrs. Harborne, purchased and sold the Property as a "flip", something I was not aware of. HH served as the construction manager or general contractor for the construction work performed on the Property, and hired out work by electricians, plumbers and other trades. Mr. & Mrs. Harborne were not licensed or permitted to serve as the construction manager or general contractor on this project and did not intend to occupy the Property as their primary residence. It now also appears Mr. & Mrs. Harborne attempted to circumvent these laws by later having various trades pull their own permits, and performing almost all work without proper permits. Various permits were pulled and multiple permits never passed a final inspection and no Certificate of Competition has ever been issued.

At the time I signed the Offer to Purchase contract, I specifically asked if all permitted work had been completed and the house had passed a final inspection from the city of Charlotte and Mecklenburg Co. I was told yes and presented with a Disclosure Statement that you will find attached. As you will note there is no mention of the FAILED inspection report from the City of Charlotte or Mecklenburg Co. The failed inspection was reported to Mr. & Mrs. Harborne by the county on 8/9/2019. I signed the Offer to Purchase on 9/20/2019. The statement that was made to me was false and was made with the intent that I would rely upon it in purchasing the Property. As you will see, the Disclosure Statement ( also attached ), makes "No Representation" as to essentially every item. Every person reading this compliant knows Realtors, when personally interested in a transaction in NC, must disclose all material facts related to a transaction or the

Property in question. Realtor's may not hide behind "no representation" statements in disclosure forms. That is exactly what Mr. & Mrs. Harborne did.

They also failed to disclose a second material fact. The main sewer line from the house to the city line is not connected legally as no tap fee has ever been paid. Stuart Harborne works for the City of Charlotte as a Real Estate Acquisition Program Manager and also has a team that acquires easements for water and sewer improvements. As you will see in section 16 of the Disclosure Statement, the box "city/county system available" is marked as well as "no representation". This is a clear intent to deceive as Mr. Harborne clearly knew the condition of the sewer system as his position with the City of Charlotte would avail him of this information. This is a major material fact and yet again was not disclosed at any point. On the very first night I moved in the house the sewer system back up and it has been discovered that that main line from the house has collapsed. The Disclosure Statement is a living document and all of this information could have been updated at any point before closing. I would have never purchased the Property knowing these conditions. Repair estimates have reached some \$25,000.

These actions are clear acts of misrepresentation and fraud and I am seeking immediate action from the commission. The life of my family has been turned upside down and my investment has been damaged as the home is not able to be resold in its current condition and I will not participate in a "non-disclosure" buyer beware game as the Harborne's have attempted to play out. Consumers should NEVER have to experience this type of behavior from a NC Realtor. My family is counting on you to resolve this serious matter.

Michael V. Russing  
704-616-4101

Sent from my iPad

---

**From:** Michael Vincent <mrussing@yahoo.com>  
**Sent:** Monday, November 25, 2019 9:05 PM  
**To:** Jones, Marcus  
**Subject:** [EXT] Russing 1725 Birchcrest Dr.pdf  
**Attachments:** ATT00001.txt

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See attached



[View Permits](#) | [Links](#) | [Sign In](#)

## Building Requests Detail (public view)

Permit Number: 83541053  
 Address: 1725 BIRCHCREST DR CHARLOTTE  
 CHARLOTTE

Confirmation # 3541053005  TCO Reinspection  
 Received Date Aug 6, 2019  Charge Reinspection Fee  
 Requested Date Aug 8, 2019 TCO Reinspection Fee: \$0.00  
 Requested Through WEB  
 Email/Text Msg Addr:  
 Homeowner Priority:  
 Homeowner Name: Phone: ( ) -

Result Date Aug 9, 2019  
 Result Overall Failed  
 Inspector Knight, Joshua  
 Inspector Phone # (704) 533-3182

Requested Tasks FI

### Results

Task Performed	Result	Partial Approval Note	Billable to GC	Affects HFR
Go FI - Final Inspection	02 - Failed		<input checked="" type="checkbox"/>	1

### Inspector Comments

Last Update By Knight, Joshua  
 Inspectors Notes: Cannot have hvac supply vent on screened porch. Must have 15" from center of toilet to vanity in master bath. Will need to request plumbing final on plumbing permit.  Chargeable Failure  Affects HFR 1

RTAP Level: (None)  
 RTAP Comments:

[Submit](#) [Cancel](#)

**OFFER TO PURCHASE AND CONTRACT**  
[Consult "Guidelines" (Form 2G) for guidance in completing this form]

For valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Buyer offers to purchase and Seller upon acceptance agrees to sell and convey the Property on the terms and conditions of this Offer To Purchase and Contract and any addendum or modification made in accordance with its terms (together the "Contract").

**1. TERMS AND DEFINITIONS:** The terms listed below shall have the respective meaning given them as set forth adjacent to each term.

(a) "Seller": Harborne Homes LLC

(b) "Buyer": Michael Russing

(c) "Property": The Property shall include all that real estate described below together with all appurtenances thereto including the improvements located thereon and the fixtures and personal property listed in Paragraphs 2 and 3 below.

**NOTE:** If the Property will include a manufactured (mobile) home(s), Buyer and Seller should consider including the Manufactured (Mobile) Home provision in the Additional Provisions Addendum (Standard Form 2A11-T) with this offer.

Street Address: 1725 Birchcrest Drive  
City: Charlotte Zip: 28205  
County: Mecklenburg County North Carolina

**NOTE:** Governmental authority over taxes, zoning, school districts, utilities and mail delivery may differ from address shown.

Legal Description: (Complete ALL applicable)  
Plat Reference: Lot/Unit \_\_\_\_\_, Block/Section \_\_\_\_\_, Subdivision/Condominium \_\_\_\_\_  
as shown on Plat Book/Slide \_\_\_\_\_ at Page(s) \_\_\_\_\_

The PIN/PID or other identification number of the Property is 101-192-20

Other description: L35 B4 M7 1

Some or all of the Property may be described in Deed Book 33405 at Page 204

(d) "Purchase Price":

\$ 345,000  
\$ 500  
\$ 1,500  
  
\$ \_\_\_\_\_  
  
\$ \_\_\_\_\_  
  
\$ \_\_\_\_\_  
  
\$ \_\_\_\_\_  
  
\$ 343,000

paid in U.S. Dollars upon the following terms:  
BY DUE DILIGENCE FEE made payable and delivered to Seller by the Effective Date  
BY INITIAL EARNEST MONEY DEPOSIT made payable and delivered to Escrow Agent named in Paragraph 1(f) by  cash  personal check  official bank check  wire transfer,  electronic transfer, EITHER  with this offer OR  within five (5) days of the Effective Date of this Contract.  
BY (ADDITIONAL) EARNEST MONEY DEPOSIT made payable and delivered to Escrow Agent named in Paragraph 1(f) by cash, official bank check, wire transfer or electronic transfer no later than 5 p.m. on \_\_\_\_\_  
**TIME BEING OF THE ESSENCE.**  
BY ASSUMPTION of the unpaid principal balance and all obligations of Seller on the existing loan(s) secured by a deed of trust on the Property in accordance with the attached Loan Assumption Addendum (Standard Form 2A6-T).  
BY SELLER FINANCING in accordance with the attached Seller Financing Addendum (Standard Form 2A5-T).  
BY BUILDING DEPOSIT in accordance with the attached New Construction Addendum (Standard Form 2A3-T).  
BALANCE of the Purchase Price in cash at Settlement (some or all of which may be paid with the proceeds of a new loan)

Should Buyer fail to deliver either the Due Diligence Fee or any Initial Earnest Money Deposit by their due dates, or should any check or other funds paid by Buyer be dishonored, for any reason, by the institution upon which the payment is drawn, Buyer shall have one (1) banking day after written notice to deliver cash, official bank check, wire transfer or electronic transfer to the payee. In the event Buyer does not timely deliver the required funds, Seller shall have the right to terminate this Contract upon written notice to Buyer.



This form jointly approved by:  
North Carolina Bar Association  
North Carolina Association of REALTORS®



STANDARD FORM 2-T  
Revised 7/2019  
7/2019

Buyer's initials MR Seller's initials HL  
09/20/19 8:48 PM EDT dotloop verified | 09/21/19 1:43 PM EDT dotloop verified



(e) "Earnest Money Deposit": The Initial Earnest Money Deposit, the Additional Earnest Money Deposit and any other earnest monies paid or required to be paid in connection with this transaction, collectively the "Earnest Money Deposit", shall be deposited and held in escrow by Escrow Agent until Closing, at which time it will be credited to Buyer, or until this Contract is otherwise terminated. In the event: (1) this offer is not accepted; or (2) a condition of any resulting contract is not satisfied, then the Earnest Money Deposit shall be refunded to Buyer. In the event of breach of this Contract by Seller, the Earnest Money Deposit shall be refunded to Buyer upon Buyer's request, but such return shall not affect any other remedies available to Buyer for such breach. In the event of breach of this Contract by Buyer, the Earnest Money Deposit shall be paid to Seller. The payment of the Earnest Money Deposit to Seller and the retention of any Due Diligence Fee by Seller (without regard to their respective amounts, including zero) together shall serve as liquidated damages ("Liquidated Damages") and as Seller's sole and exclusive remedy for such breach, but without limiting Seller's rights under Paragraphs 4(d) and 4(e) for damage to the Property. It is acknowledged by the parties that the amount of the Liquidated Damages is compensatory and not punitive, such amount being a reasonable estimation of the actual loss that Seller would incur as a result of a breach of this Contract by Buyer. The payment to Seller and/or retention by Seller of the Liquidated Damages shall not constitute a penalty or forfeiture but actual compensation for Seller's anticipated loss, both parties acknowledging the difficulty determining Seller's actual damages for such breach. If legal proceedings are brought by Buyer or Seller against the other to recover the Earnest Money Deposit, the prevailing party in the proceeding shall be entitled to recover from the non-prevailing party reasonable attorney fees and court costs incurred in connection with the proceeding.

(f) "Escrow Agent" (insert name): Keller Williams Huntersville

**NOTE:** In the event of a dispute between Seller and Buyer over the disposition of the Earnest Money Deposit held in escrow, a licensed real estate broker ("Broker") is required by state law (and Escrow Agent, if not a Broker, hereby agrees) to retain the Earnest Money Deposit in the Escrow Agent's trust or escrow account until Escrow Agent has obtained a written release from the parties consenting to its disposition or until disbursement is ordered by a court of competent jurisdiction. Alternatively, if a Broker or an attorney licensed to practice law in North Carolina ("Attorney") is holding the Earnest Money Deposit, the Broker or Attorney may deposit the disputed monies with the appropriate clerk of court in accordance with the provisions of N.C.G.S. §93A-12.

THE PARTIES AGREE THAT A REAL ESTATE BROKERAGE FIRM ACTING AS ESCROW AGENT MAY PLACE THE EARNEST MONEY DEPOSIT IN AN INTEREST BEARING TRUST ACCOUNT AND THAT ANY INTEREST EARNED THEREON SHALL BE DISBURSED TO THE ESCROW AGENT MONTHLY IN CONSIDERATION OF THE EXPENSES INCURRED BY MAINTAINING SUCH ACCOUNT AND RECORDS ASSOCIATED THEREWITH.

(g) "Effective Date": The date that: (1) the last one of Buyer and Seller has signed or initialed this offer or the final counteroffer, if any, and (2) such signing or initialing is communicated to the party making the offer or counteroffer, as the case may be. The parties acknowledge and agree that the initials lines at the bottom of each page of this Contract are merely evidence of their having reviewed the terms of each page, and that the complete execution of such initials lines shall not be a condition of the effectiveness of this Agreement.

(h) "Due Diligence": Buyer's opportunity to investigate the Property and the transaction contemplated by this Contract, including but not necessarily limited to the matters described in Paragraph 4 below, to decide whether Buyer, in Buyer's sole discretion, will proceed with or terminate the transaction.

(i) "Due Diligence Fee": A negotiated amount, if any, paid by Buyer to Seller with this Contract for Buyer's right to terminate the Contract for any reason or no reason during the Due Diligence Period. It shall be the property of Seller upon the Effective Date and shall be a credit to Buyer at Closing. The Due Diligence Fee shall be non-refundable except in the event of a material breach of this Contract by Seller, or if this Contract is terminated under Paragraph 8(n) or as otherwise provided in any addendum hereto. Buyer and Seller each expressly waive any right that they may have to deny the right to conduct Due Diligence or to assert any defense as to the enforceability of this Contract based on the absence or alleged insufficiency of any Due Diligence Fee, it being the intent of the parties to create a legally binding contract for the purchase and sale of the Property without regard to the existence or amount of any Due Diligence Fee.

(j) "Due Diligence Period": The period beginning on the Effective Date and extending through 5:00 p.m. on 09/25/2019 TIME BEING OF THE ESSENCE.

(k) "Settlement": The proper execution and delivery to the closing attorney of all documents necessary to complete the transaction contemplated by this Contract, including the deed, settlement statement, deed of trust and other loan or conveyance documents, and the closing attorney's receipt of all funds necessary to complete such transaction.

(l) "Settlement Date": The parties agree that Settlement will take place on 10/16/2019 (the "Settlement Date"), unless otherwise agreed in writing, at a time and place designated by Buyer.

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(m) "Closing": The completion of the legal process which results in the transfer of title to the Property from Seller to Buyer, which includes the following steps: (1) the Settlement (defined above); (2) the completion of a satisfactory title update to the Property following the Settlement; (3) the closing attorney's receipt of authorization to disburse all necessary funds; and (4) recordation in the appropriate county registry of the deed(s) and deed(s) of trust, if any, which shall take place as soon as reasonably possible for the closing attorney after Settlement. Upon Closing, the proceeds of sale shall be disbursed by the closing attorney in accordance with the settlement statement and the provisions of Chapter 45A of the North Carolina General Statutes. If the title update should reveal unexpected liens, encumbrances or other title defects, or if the closing attorney is not authorized to disburse all necessary funds, then the Closing shall be suspended and the Settlement deemed delayed under Paragraph 12 (Delay in Settlement/Closing).

**WARNING:** The North Carolina State Bar has determined that the performance of most acts and services required for a closing constitutes the practice of law and must be performed only by an attorney licensed to practice law in North Carolina. State law prohibits unlicensed individuals or firms from rendering legal services or advice. Although non-attorney settlement agents may perform limited services in connection with a closing, they may not perform all the acts and services required to complete a closing. A closing involves significant legal issues that should be handled by an attorney. Accordingly, it is the position of the North Carolina Bar Association and the North Carolina Association of REALTORS® that all buyers should hire an attorney licensed in North Carolina to perform a closing.

(n) "Special Assessments": A charge against the Property by a governmental authority in addition to ad valorem taxes and recurring governmental service fees levied with such taxes, or by an owners' association in addition to any regular assessment (dues), either of which may be a lien against the Property. A Special Assessment may be either proposed or confirmed.

"Proposed Special Assessment": A Special Assessment that is under formal consideration but which has not been approved prior to Settlement.



"Confirmed Special Assessment": A Special Assessment that has been approved prior to Settlement whether payable in a lump sum or future installments.

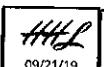

**NOTE:** Any Proposed and Confirmed Special Assessments must be identified by Seller in paragraph 7(c), and Buyer's and Seller's respective responsibilities for Proposed and Confirmed Special Assessments are addressed in paragraphs 6(a) and 8(k).

**2. FIXTURES AND EXCLUSIONS:**

(a) **Specified Items:** Unless identified in subparagraph (d) below, the following items, including all related equipment and remote control devices, if any, are deemed fixtures and shall convey, included in the Purchase Price free of liens:

- Alarm and security systems (attached) for security, fire, smoke, carbon monoxide or other toxins with all related access codes, sensors, cameras, dedicated monitors, hard drives, video recorders, power supplies and cables; doorbells/chimes
- All stoves/ranges/ovens; built-in appliances; attached microwave oven; vent hood
- Antennas; satellite dishes and receivers
- Basketball goals and play equipment (permanently attached or in-ground)
- Ceiling and wall-attached fans; light fixtures (including existing bulbs)
- Fireplace insert; gas logs or starters; attached fireplace screens; wood or coal stoves
- Floor coverings (attached)
- Fuel tank(s) whether attached or buried and including any contents that have not been used, removed or resold to the fuel provider as of Settlement. **NOTE:** Seller's use, removal or resale of fuel in any fuel tank is subject to Seller's obligation under Paragraph 8(c) to provide working, existing utilities through the earlier of Closing or possession by Buyer.
- Garage door openers with all controls
- Generators that are permanently wired
- Invisible fencing with power supply, controls and receivers
- Landscape and outdoor trees and plants (except in moveable containers); raised garden; landscape and foundation lighting; outdoor sound systems; permanent irrigation systems and controls; rain barrels; landscape water features; address markers
- Mailboxes; mounted package and newspaper receptacles
- Mirrors attached to walls, ceilings, cabinets or doors; all bathroom wall mirrors
- Storage shed; utility building
- Swimming pool (excluding inflatable); spa; hot tub
- Solar electric and solar water heating systems
- Sump-pumps, radon fans and crawlspace ventilators; de-humidifiers that are permanently wired
- Surface-mounting brackets for television and speakers; recess-mounted speakers; mounted intercom system
- Water supply equipment, including filters, conditioning and softener systems; re-circulating pumps; well pumps and tanks
- Window/Door blinds and shades, curtain and drapery rods and brackets, door and window screens and combination doors, awnings and storm windows

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(b) **Items Leased or Not Owned:** Any item which is leased or not owned by Seller, such as fuel tanks, antennas, satellite dishes and receivers, appliances, and alarm and security systems must be identified here and shall not convey:

(c) **Other Fixtures/Unspecified items:** Unless identified in subparagraph (d) below, any other item legally considered a fixture is included in the Purchase Price free of liens.

(d) **Other Items That Do Not Convey:** The following items shall not convey (*identify those items to be excluded under subparagraphs (a) and (c)*):

Seller shall repair any damage caused by removal of any items excluded above.

3. **PERSONAL PROPERTY:** The following personal property shall be transferred to Buyer at no value at closing: refrigerator

**NOTE:** Buyer is advised to consult with Buyer's lender to assure that the Personal Property items listed above can be included in this Contract.

4. **BUYER'S DUE DILIGENCE PROCESS:**

**WARNING: BUYER IS STRONGLY ENCOURAGED TO CONDUCT DUE DILIGENCE DURING THE DUE DILIGENCE PERIOD.** If Buyer is not satisfied with the results or progress of Buyer's Due Diligence, Buyer should terminate this Contract, PRIOR TO THE EXPIRATION OF THE DUE DILIGENCE PERIOD, unless Buyer can obtain a written extension from Seller. SELLER IS NOT OBLIGATED TO GRANT AN EXTENSION. Although Buyer may continue to investigate the Property following the expiration of the Due Diligence Period, Buyer's failure to deliver a Termination Notice to Seller prior to the expiration of the Due Diligence Period will constitute a waiver by Buyer of any right to terminate this Contract based on any matter relating to Buyer's Due Diligence. Provided however, following the Due Diligence Period, Buyer may still exercise a right to terminate if Seller fails to materially comply with any of Seller's obligations under Paragraph 8 of this Contract or for any other reason permitted under the terms of this Contract or North Carolina law.

(a) **Loan:** Buyer, at Buyer's expense, shall be entitled to pursue qualification for and approval of the Loan if any.

**NOTE:** Buyer's obligation to purchase the Property is not contingent on obtaining a Loan. Therefore, Buyer is advised to consult with Buyer's lender prior to signing this offer to assure that the Due Diligence Period allows sufficient time for the appraisal to be completed and for Buyer's lender to provide Buyer sufficient information to decide whether to proceed with or terminate the transaction.

(b) **Property Investigation:** Buyer or Buyer's agents or representatives, at Buyer's expense, shall be entitled to conduct all desired tests, surveys, appraisals, investigations, examinations and inspections of the Property as Buyer deems appropriate, including but NOT limited to the following:

(i) **Inspections:** Inspections to determine the condition of any improvements on the Property, the presence of unusual drainage conditions or evidence of excessive moisture adversely affecting any improvements on the Property, the presence of asbestos or existing environmental contamination, evidence of wood-destroying insects or damage therefrom, and the presence and level of radon gas on the Property.


(ii) **Review of Documents:** Review of the Declaration of Restrictive Covenants, Bylaws, Articles of Incorporation, Rules and Regulations, and other governing documents of any applicable owners' association and/or subdivision. If the Property is subject to regulation by an owners' association, it is recommended that Buyer review the completed Residential Property and Owners' Association Disclosure Statement provided by Seller prior to signing this offer. It is also recommended that the Buyer determine if the owners' association or its management company charges fees for providing information required by Buyer's lender or confirming restrictive covenant compliance.


(iii) **Insurance:** Investigation of the availability and cost of insurance for the Property.

(iv) **Appraisals:** An appraisal of the Property.

(v) **Survey:** A survey to determine whether the property is suitable for Buyer's intended use and the location of easements, setbacks, property boundaries and other issues which may or may not constitute title defects.

(vi) **Zoning and Governmental Regulation:** Investigation of current or proposed zoning or other governmental regulation that may affect Buyer's intended use of the Property, adjacent land uses, planned or proposed road construction, and school attendance zones.

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- (vii) **Flood Hazard:** Investigation of potential flood hazards on the Property, and/or any requirement to purchase flood insurance in order to obtain the Loan
- (viii) **Utilities and Access:** Availability, quality, and obligations for maintenance of utilities including water, sewer, electric, gas, communication services, stormwater management, and means of access to the Property and amenities.
- (ix) **Streets/Roads:** Investigation of the status of the street/road upon which the Property fronts as well as any other street/road used to access the Property, including: (1) whether any street(s)/road(s) are public or private, (2) whether any street(s)/road(s) designated as public are accepted for maintenance by the State of NC or any municipality, or (3) if private or not accepted for public maintenance, the consequences and responsibility for maintenance and the existence, terms and funding of any maintenance agreements.
- (x) **Fuel Tank:** Inspections to determine the existence, type and ownership of any fuel tank located on the Property.

**NOTE:** Buyer is advised to consult with the owner of any leased fuel tank regarding the terms under which Buyer may lease the tank and obtain fuel.

(c) **Sale/Lease of Existing Property:** As noted in paragraph 5(b), unless otherwise provided in an addendum, this Contract is not conditioned upon the sale/lease or closing of other property owned by Buyer. Therefore, if Buyer must sell or lease other real property in order to qualify for a new loan or to otherwise complete the purchase of the Property, Buyer should seek to close on Buyer's other property prior to the end of the Due Diligence Period or be reasonably satisfied that closing on Buyer's other property will take place prior to the Settlement Date of this Contract.

(d) **Repair/Improvement Negotiations/Agreement:** Buyer acknowledges and understands that unless the parties agree otherwise, THE PROPERTY IS BEING SOLD IN ITS CURRENT CONDITION. Buyer and Seller acknowledge and understand that they may, but are not required to, engage in negotiations for repairs/improvements to the Property. Buyer is advised to make any repair/improvement requests in sufficient time to allow repair/improvement negotiations to be concluded prior to the expiration of the Due Diligence Period. Any agreement that the parties may reach with respect to repairs/improvements shall be considered an obligation of the parties and is an addition to this Contract and as such, must be in writing and signed by the parties in accordance with Paragraph 19.

**NOTE:** See Paragraph 8(c), Access to Property and Paragraph 8(m), Negotiated Repairs/Improvements.

(e) **Buyer's Obligation to Repair Damage:** Buyer shall, at Buyer's expense, promptly repair any damage to the Property resulting from any activities of Buyer and Buyer's agents and contractors, but Buyer shall not be responsible for any damage caused by accepted practices either approved by the N.C. Home Inspector Licensure Board or applicable to any other N.C. licensed professional performing reasonable appraisals, tests, surveys, examinations and inspections of the Property. This repair obligation shall survive any termination of this Contract.

(f) **Indemnity:** Buyer will indemnify and hold Seller harmless from all loss, damage, claims, suits or costs, which shall arise out of any contract, agreement, or injury to any person or property as a result of any activities of Buyer and Buyer's agents and contractors relating to the Property except for any loss, damage, claim, suit or cost arising out of pre-existing conditions of the Property and/or out of Seller's negligence or willful acts or omissions. This indemnity shall survive this Contract and any termination hereof.

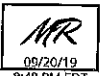
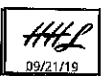
(g) **Buyer's Right to Terminate:** Buyer shall have the right to terminate this Contract for any reason or no reason, by delivering to Seller written notice of termination (the "Termination Notice") during the Due Diligence Period (or any agreed-upon written extension of the Due Diligence Period), *TIME BEING OF THE ESSENCE*. If Buyer timely delivers the Termination Notice, this Contract shall be terminated and the Earnest Money Deposit shall be refunded to Buyer.

(h) **CLOSING SHALL CONSTITUTE ACCEPTANCE OF THE PROPERTY IN ITS THEN EXISTING CONDITION UNLESS PROVISION IS OTHERWISE MADE IN WRITING.**

**5. BUYER REPRESENTATIONS:**

(a) **Loan:** Buyer  does  does not intend to obtain a new loan in order to purchase the Property. If Buyer is obtaining a new loan, Buyer intends to obtain a loan as follows:  FHA  VA (attach FHA/VA Financing Addendum)  Conventional  Down Payment Assistance Program  Other: \_\_\_\_\_ loan at a  Fixed Rate  Adjustable Rate in the principal amount of \$343,000 plus any financed VA Funding Fee or FHA MIP for a term of 30 \_\_\_\_\_ year(s), at an initial interest rate not to exceed 5 \_\_\_\_\_ % per annum (the "Loan").

**NOTE:** Buyer's obligations under this Contract are not conditioned upon obtaining or closing any loan. Some mortgage loan programs and Down Payment Assistance programs selected by Buyer may impose additional repair obligations, conditions or costs upon Seller or Buyer, and more information may be needed.

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**NOTE:** If Buyer does not intend to obtain a new loan, Seller is advised, prior to signing this offer, to obtain documentation from Buyer which demonstrates that Buyer will be able to close on the Property without the necessity of obtaining a new loan.

(b) **Other Property:** Buyer  DOES  DOES NOT have to sell or lease other real property in order to qualify for a new loan or to complete the purchase. (Complete the following only if Buyer DOES have to sell or lease other real property:)

Other Property Address: \_\_\_\_\_

(Check if applicable) Buyer's other property IS under contract as of the date of this offer, and a copy of the contract has either been previously provided to Seller or accompanies this offer. (Buyer may mark out any confidential information, such as the purchase price and the buyer's identity, prior to providing a copy of the contract to Seller.) Failure to provide a copy of the contract shall not prevent this offer from becoming a binding contract; however, SELLER IS STRONGLY ENCOURAGED TO OBTAIN AND REVIEW THE CONTRACT ON BUYER'S PROPERTY PRIOR TO ACCEPTING THIS OFFER.

(Check if applicable) Buyer's other property IS NOT under contract as of the date of this offer. Buyer's property (check only ONE of the following options):

- is listed with and actively marketed by a licensed real estate broker.
- will be listed with and actively marketed by a licensed real estate broker.
- Buyer is attempting to sell/lease the Buyer's Property without the assistance of a licensed real estate broker.

**NOTE:** This Contract is NOT conditioned upon the sale/lease or closing of Buyer's other property. If the parties agree to make this Contract conditioned on a sale/lease or closing of Buyer's other property, an appropriate contingency addendum should be drafted by a North Carolina real estate attorney and added to this Contract.

(c) **Performance of Buyer's Financial Obligations:** To the best of Buyer's knowledge, there are no other circumstances or conditions existing as of the date of this offer that would prohibit Buyer from performing Buyer's financial obligations in accordance with this Contract, except as may be specifically set forth herein.

(d) **Residential Property and Owners' Association Disclosure Statement (check only one):**

- Buyer has received a signed copy of the N.C. Residential Property and Owners' Association Disclosure Statement prior to the signing of this offer.
- Buyer has NOT received a signed copy of the N.C. Residential Property and Owners' Association Disclosure Statement prior to the signing of this offer and shall have the right to terminate or withdraw this Contract without penalty (including a refund of any Due Diligence Fee) prior to WHICHEVER OF THE FOLLOWING EVENTS OCCURS FIRST: (1) the end of the third calendar day following receipt of the Disclosure Statement; (2) the end of the third calendar day following the Effective Date; or (3) Settlement or occupancy by Buyer in the case of a sale or exchange.
- Exempt from N.C. Residential Property and Owners' Association Disclosure Statement because (SEE GUIDELINES): \_\_\_\_\_

(e) **Mineral and Oil and Gas Rights Mandatory Disclosure Statement (check only one):**

- Buyer has received a signed copy of the N.C. Mineral and Oil and Gas Rights Mandatory Disclosure Statement prior to the signing of this offer.
- Buyer has NOT received a signed copy of the N.C. Mineral and Oil and Gas Rights Mandatory Disclosure Statement prior to the signing of this offer and shall have the right to terminate or withdraw this Contract without penalty (including a refund of any Due Diligence Fee) prior to WHICHEVER OF THE FOLLOWING EVENTS OCCURS FIRST: (1) the end of the third calendar day following receipt of the Disclosure Statement; (2) the end of the third calendar day following the Effective Date; or (3) Settlement or occupancy by Buyer in the case of a sale or exchange.
- Exempt from N.C. Mineral and Oil and Gas Rights Mandatory Disclosure Statement because (SEE GUIDELINES): \_\_\_\_\_


Buyer's receipt of a Mineral and Oil and Gas Rights Mandatory Disclosure Statement does not modify or limit the obligations of Seller under Paragraph 8(g) of this Contract and shall not constitute the assumption or approval by Buyer of any severance of mineral and/or oil and gas rights, except as may be assumed or specifically approved by Buyer in writing.


**NOTE:** The parties are advised to consult with a NC attorney prior to signing this Contract if severance of mineral and/or oil and gas rights has occurred or is intended.

**6. BUYER OBLIGATIONS:**

(a) **Responsibility for Proposed Special Assessments:** Buyer shall take title subject to all Proposed Special Assessments.

(b) **Responsibility for Certain Costs:** Buyer shall be responsible for all costs with respect to:

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- (i) any loan obtained by Buyer, including charges by an owners association and/or management company as agent of an owners' association for providing information required by Buyer's lender;
- (ii) charges required by an owners' association declaration to be paid by Buyer for Buyer's future use and enjoyment of the Property, including, without limitation, working capital contributions, membership fees, or charges for Buyer's use of the common elements and/or services provided to Buyer, such as "move-in fees";
- (iii) determining restrictive covenant compliance;
- (iv) appraisal;
- (v) title search;
- (vi) title insurance;
- (vii) any fees charged by the closing attorney for the preparation of the Closing Disclosure, Seller Disclosure and any other settlement statement;
- (viii) recording the deed; and
- (ix) preparation and recording of all instruments required to secure the balance of the Purchase Price unpaid at Settlement.

(c) **Authorization to Disclose Information:** Buyer authorizes the Buyer's lender(s), the parties' real estate agent(s) and closing attorney: (1) to provide this Contract to any appraiser employed by Buyer or by Buyer's lender(s); and (2) to release and disclose any buyer's closing disclosure, settlement statement and/or disbursement summary, or any information therein, to the parties to this transaction, their real estate agent(s) and Buyer's lender(s).

**7. SELLER REPRESENTATIONS:**

- (a) **Ownership:** Seller represents that Seller:
- has owned the Property for at least one year.
  - has owned the Property for less than one year.
  - does not yet own the Property.

(b) **Lead-Based Paint** (*check if applicable*):

The Property is residential and was built prior to 1978 (Attach Lead-Based Paint or Lead-Based Paint Hazards Disclosure Addendum {Standard Form 2A9-T}).

(c) **Assessments:** To the best of Seller's knowledge there  are  are not any Proposed Special Assessments. If any Proposed Special Assessments, identify: \_\_\_\_\_

Seller warrants that there  are  are not any Confirmed Special Assessments. If any Confirmed Special Assessments, identify: \_\_\_\_\_

**NOTE:** Buyer's and Seller's respective responsibilities for Proposed and Confirmed Special Assessments are addressed in paragraphs 6(a) and 8(k).

(d) **Owners' Association(s) and Dues:** Seller authorizes and directs any owners' association, any management company of the owners' association, any insurance company and any attorney who has previously represented the Seller to release to Buyer, Buyer's agents, representative, closing attorney or lender true and accurate copies of the following items affecting the Property, including any amendments:

- Seller's statement of account
- master insurance policy showing the coverage provided and the deductible amount
- Declaration and Restrictive Covenants
- Rules and Regulations
- Articles of Incorporation
- Bylaws of the owners' association
- current financial statement and budget of the owners' association
- parking restrictions and information
- architectural guidelines

(specify name of association): \_\_\_\_\_ whose regular assessments ("dues") are \$ \_\_\_\_\_ per \_\_\_\_\_. The name, address and telephone number of the president of the owners' association or the association manager is: \_\_\_\_\_

Owners' association website address, if any: \_\_\_\_\_

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(specify name of association): \_\_\_\_\_ whose regular assessments ("dues") are \$ \_\_\_\_\_ per \_\_\_\_\_. The name, address and telephone number of the owners' association or the association manager is: \_\_\_\_\_

Owners' association website address, if any \_\_\_\_\_

**8. SELLER OBLIGATIONS:**

**(a) Evidence of Title, Payoff Statement(s) and Non Foreign Status:**

(i) Seller agrees to use best efforts to provide to the closing attorney as soon as reasonably possible after the Effective Date, copies of all title information in possession of or available to Seller, including but not limited to: title insurance policies, attorney's opinions on title, surveys, covenants, deeds, notes and deeds of trust, leases, and easements relating to the Property.

(ii) Seller shall provide to the closing attorney all information needed to obtain a written payoff statement from any lender(s) regarding any security interest in the Property as soon as reasonably possible after the Effective Date, and Seller designates the closing attorney as Seller's agent with express authority to request and obtain on Seller's behalf payoff statements and/or short-pay statements from any such lender(s).

(iii) If Seller is not a foreign person as defined by the Foreign Investment in Real Property Tax Act, Seller shall also provide to the closing attorney a non-foreign status affidavit (pursuant to the Foreign Investment in Real Property Tax Act). In the event Seller shall not provide a non-foreign status affidavit, Seller acknowledges that there may be withholding as provided by the Internal Revenue Code.

**(b) Authorization to Disclose Information:** Seller authorizes: (i) any attorney presently or previously representing Seller to release and disclose any title insurance policy in such attorney's file to Buyer and both Buyer's and Seller's agents and attorneys; (ii) the Property's title insurer or its agent to release and disclose all materials in the Property's title insurer's (or title insurer's agent's) file to Buyer and both Buyer's and Seller's agents and attorneys and (iii) the closing attorney to release and disclose any seller's closing disclosure, settlement statement and/or disbursement summary, or any information therein, to the parties to this transaction, their real estate agent(s) and Buyer's lender(s).

**(c) Access to Property:** Seller shall provide reasonable access to the Property through the earlier of Closing or possession by Buyer, including, but not limited to, allowing Buyer and/or Buyer's agents or representatives, an opportunity to (i) conduct Due Diligence, (ii) verify the satisfactory completion of negotiated repairs/improvements, and (iii) conduct a final walk-through inspection of the Property. Seller's obligation includes providing existing utilities operating at Seller's cost, including any connections and de-winterizing.


**NOTE:** See WARNING in paragraph 4 above for limitation on Buyer's right to terminate this Contract as a result of Buyer's continued investigation of the Property following the expiration of the Due Diligence Period.

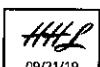
**(d) Removal of Seller's Property:** Seller shall remove, by the date possession is made available to Buyer, all personal property which is not a part of the purchase and all garbage and debris from the Property.

**(e) Affidavit and Indemnification Agreement:** Seller shall furnish at Settlement an affidavit(s) and indemnification agreement(s) in form satisfactory to Buyer and Buyer's title insurer, if any, executed by Seller and any person or entity who has performed or furnished labor, services, materials or rental equipment to the Property within 120 days prior to the date of Settlement and who may be entitled to claim a lien against the Property as described in N.C.G.S. §44A-8 verifying that each such person or entity has been paid in full and agreeing to indemnify Buyer, Buyer's lender(s) and Buyer's title insurer against all loss from any cause or claim arising therefrom.

**(f) Designation of Lien Agent, Payment and Satisfaction of Liens:** If required by N.C.G.S. §44A-11.1, Seller shall have designated a Lien Agent, and Seller shall deliver to Buyer as soon as reasonably possible a copy of the appointment of Lien Agent. All deeds of trust, deferred ad valorem taxes, liens and other charges against the Property, not assumed by Buyer, must be paid and satisfied by Seller prior to or at Settlement such that cancellation may be promptly obtained following Closing. Seller shall remain obligated to obtain any such cancellations following Closing.

**(g) Good Title, Legal Access:** Seller shall execute and deliver a GENERAL WARRANTY DEED for the Property in recordable form no later than Settlement, which shall convey fee simple marketable and insurable title, without exception for mechanics' liens, and free of any other liens, encumbrances or defects, including those which would be revealed by a current and accurate survey of the Property, except: ad valorem taxes for the current year (prorated through the date of Settlement); utility easements and unviolated

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covenants, conditions or restrictions that do not materially affect the value of the Property; and such other liens, encumbrances or defects as may be assumed or specifically approved by Buyer in writing. The Property must have legal access to a public right of way.

**NOTE:** Buyer's failure to conduct a survey or examine title of the Property, prior to the expiration of the Due Diligence Period does not relieve the Seller of their obligation to deliver good title under this paragraph.

**NOTE:** If any sale of the Property may be a "short sale," consideration should be given to attaching a Short Sale Addendum (Standard Form 2A14-T) as an addendum to this Contract.

(h) **Deed, Taxes and Fees:** Seller shall pay for preparation of a deed and all other documents necessary to perform Seller's obligations under this Contract, and for state and county excise taxes, and any deferred, discounted or rollback taxes, and local conveyance fees required by law. The deed is to be made to: Michael Russing

(i) **Agreement to Pay Buyer Expenses:** Seller shall pay at Settlement \$N/A toward any of Buyer's expenses associated with the purchase of the Property, at the discretion of Buyer and/or lender, if any, including any FHA/VA lender and inspection costs that Buyer is not permitted to pay.

**NOTE:** Parties should review the FHA/VA Addendum prior to entering an amount in Paragraph 8(i). Certain FHA/VA lender and inspection costs CANNOT be paid by Buyer at Settlement and the amount of these should be included in the blank above.

(j) **Owners' Association Fees/Charges:** Seller shall pay: (i) any fees required for confirming Seller's account payment information on owners' association dues or assessments for payment or proration; (ii) any fees imposed by an owners' association and/or a management company as agent of the owners' association in connection with the transaction contemplated by this Contract other than those fees required to be paid by Buyer under paragraph 6(b) above; and (iii) fees incurred by Seller in completing the Residential Property and Owners' Association Disclosure Statement, and resale or other certificates related to a proposed sale of the Property.

(k) **Payment of Confirmed Special Assessments:** Seller shall pay, in full at Settlement, all Confirmed Special Assessments, whether payable in a lump sum or future installments, provided that the amount thereof can be reasonably determined or estimated. The payment of such estimated amount shall be the final payment between the Parties.

(l) **Late Listing Penalties:** All property tax late listing penalties, if any, shall be paid by Seller.

(m) **Negotiated Repairs/Improvements:** Negotiated repairs/improvements shall be made in a good and workmanlike manner and Buyer shall have the right to verify same prior to Settlement.

(n) **Seller's Failure to Comply or Breach:** If Seller fails to materially comply with any of Seller's obligations under this Paragraph 8 or Seller materially breaches this Contract, and Buyer elects to terminate this Contract as a result of such failure or breach, then the Earnest Money Deposit and the Due Diligence Fee shall be refunded to Buyer and Seller shall reimburse to Buyer the reasonable costs actually incurred by Buyer in connection with Buyer's Due Diligence without affecting any other remedies. If legal proceedings are brought by Buyer against Seller to recover the Earnest Money Deposit, the Due Diligence Fee and/or the reasonable costs actually incurred by Buyer in connection with Buyer's Due Diligence, the prevailing party in the proceeding shall be entitled to recover from the non-prevailing party reasonable attorney fees and court costs incurred in connection with the proceeding.

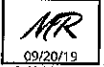

**9. PRORATIONS AND ADJUSTMENTS:** Unless otherwise provided, the following items shall be prorated, with Seller responsible for the prorated amounts through the date of Settlement, and either adjusted between the parties or paid at Settlement:



(a) **Taxes on Real Property:** Ad valorem taxes and recurring governmental service fees levied with such taxes on real property shall be prorated on a calendar year basis;

(b) **Taxes on Personal Property:** Ad valorem taxes on personal property for the entire year shall be paid by Seller unless the personal property is conveyed to Buyer, in which case, the personal property taxes shall be prorated on a calendar year basis;

(c) **Rents:** Rents, if any, for the Property;

(d) **Dues:** Owners' association regular assessments (dues) and other like charges.

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10. HOME WARRANTY: Select one of the following:

- No home warranty is to be provided by Seller.
- Buyer may obtain a one-year home warranty at a cost not to exceed \$550 which includes sales tax and Seller agrees to pay for it at Settlement.
- Seller has obtained and will provide a one-year home warranty from \_\_\_\_\_ at a cost of \$ \_\_\_\_\_ which includes sales tax and will pay for it at Settlement.

**NOTE:** Home warranties typically have limitations on and conditions to coverage. Refer specific questions to the home warranty company.

11. RISK OF LOSS/CONDITION OF PROPERTY AT CLOSING: The risk of loss or damage by fire or other casualty prior to Closing shall be upon Seller. Seller is advised not to cancel existing insurance on the Property until after confirming recordation of the deed.

Buyer's obligation to complete the transaction contemplated by this Contract shall be contingent upon the Property being in substantially the same or better condition at Closing as on the date of this offer, reasonable wear and tear excepted. If the Property is not in substantially the same or better condition at Closing as on the date of this offer, reasonable wear and tear excepted, Buyer may terminate this Contract by written notice delivered to Seller and the Earnest Money Deposit shall be refunded to Buyer. If the Property is not in such condition and Buyer does NOT elect to terminate this Contract, Buyer shall be entitled to receive, in addition to the Property, the proceeds of any insurance claim filed by Seller on account of any damage or destruction to the Property.

12. DELAY IN SETTLEMENT/CLOSING: Absent agreement to the contrary in this Contract or any subsequent modification thereto, if a party is unable to complete Settlement by the Settlement Date but intends to complete the transaction and is acting in good faith and with reasonable diligence to proceed to Settlement ("Delaying Party"), and if the other party is ready, willing and able to complete Settlement on the Settlement Date ("Non-Delaying Party") then the Delaying Party shall give as much notice as possible to the Non-Delaying Party and closing attorney and shall be entitled to a delay in Settlement. If the parties fail to complete Settlement and Closing within fourteen (14) days of the Settlement Date (including any amended Settlement Date agreed to in writing by the parties) or to otherwise extend the Settlement Date by written agreement, then the Delaying Party shall be in breach and the Non-Delaying Party may terminate this Contract and shall be entitled to enforce any remedies available to such party under this Contract for the breach.

13. POSSESSION: Possession, including all means of access to the Property (keys, codes including security codes, garage door openers, electronic devices, etc.), shall be delivered upon Closing as defined in Paragraph 1(m) unless otherwise provided below:

- A Buyer Possession Before Closing Agreement is attached (Standard Form 2A7-T)
- A Seller Possession After Closing Agreement is attached (Standard Form 2A8-T)
- Possession is subject to rights of tenant(s)

**NOTE:** Consider attaching Additional Provisions Addendum (Form 2A11-T) or Vacation Rental Addendum (Form 2A13-T)

14. ADDENDA: CHECK ALL STANDARD ADDENDA THAT MAY BE A PART OF THIS CONTRACT, IF ANY, AND ATTACH HERETO. ITEMIZE ALL OTHER ADDENDA TO THIS CONTRACT, IF ANY, AND ATTACH HERETO.


- Additional Provisions Addendum (Form 2A11-T)
- Additional Signatures Addendum (Form 3-T)
- Back-Up Contract Addendum (Form 2A1-T)
- FHA/VA Financing Addendum (Form 2A4-T)
- Lead-Based Paint Or Lead-Based Paint Hazard Addendum (Form 2A9-T)
- Loan Assumption Addendum (Form 2A6-T)
- New Construction Addendum (Form 2A3-T)
- Owners' Association Disclosure and Condominium Resale Statement Addendum (Form 2A12-T)
- Seller Financing Addendum (Form 2A5-T)
- Short Sale Addendum (Form 2A14-T)
- Vacation Rental Addendum (Form 2A13-T)

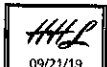
Identify other attorney or party drafted addenda: \_\_\_\_\_

**NOTE:** UNDER NORTH CAROLINA LAW, REAL ESTATE BROKERS ARE NOT PERMITTED TO DRAFT ADDENDA TO THIS CONTRACT.

15. ASSIGNMENTS: This Contract may not be assigned without the written consent of all parties except in connection with a tax-deferred exchange, but if assigned by agreement, then this Contract shall be binding on the assignee and assignee's heirs and successors.

16. TAX-DEFERRED EXCHANGE: In the event Buyer or Seller desires to effect a tax-deferred exchange in connection with the conveyance of the Property, Buyer and Seller agree to cooperate in effecting such exchange; provided, however, that the exchanging

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Seller's Initials  09/21/19 1:43 PM EDT dotloop verified

party shall be responsible for all additional costs associated with such exchange, and provided further, that a non-exchanging party shall not assume any additional liability with respect to such tax-deferred exchange. Buyer and Seller shall execute such additional documents, including assignment of this Contract in connection therewith, at no cost to the non-exchanging party, as shall be required to give effect to this provision.

17. **PARTIES:** This Contract shall be binding upon and shall inure to the benefit of Buyer and Seller and their respective heirs, successors and assigns. As used herein, words in the singular include the plural and the masculine includes the feminine and neuter genders, as appropriate.

18. **SURVIVAL:** If any provision herein contained which by its nature and effect is required to be observed, kept or performed after the Closing, it shall survive the Closing and remain binding upon and for the benefit of the parties hereto until fully observed, kept or performed.

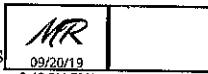
19. **ENTIRE AGREEMENT:** This Contract contains the entire agreement of the parties and there are no representations, inducements or other provisions other than those expressed herein. All changes, additions or deletions hereto must be in writing and signed by all parties. Nothing contained herein shall alter any agreement between a REALTOR® or broker and Seller or Buyer as contained in any listing agreement, buyer agency agreement, or any other agency agreement between them.

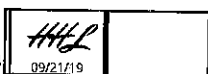
20. **CONDUCT OF TRANSACTION:** The parties agree that any action between them relating to the transaction contemplated by this Contract may be conducted by electronic means, including the signing of this Contract by one or more of them and any notice or communication given in connection with this Contract. Any written notice or communication may be transmitted to any mailing address, e-mail address or fax number set forth in the "Notice Information" section below. Any notice or communication to be given to a party herein, and any fee, deposit or other payment to be delivered to a party herein, may be given to the party or to such party's agent. Seller and Buyer agree that the "Notice Information" and "Acknowledgment of Receipt of Monies" sections below shall not constitute a material part of this Contract, and that the addition or modification of any information therein shall not constitute a rejection of an offer or the creation of a counteroffer.

21. **EXECUTION:** This Contract may be signed in multiple originals or counterparts, all of which together constitute one and the same instrument.

22. **COMPUTATION OF DAYS/TIME OF DAY:** Unless otherwise provided, for purposes of this Contract, the term "days" shall mean consecutive calendar days, including Saturdays, Sundays, and holidays, whether federal, state, local or religious. For the purposes of calculating days, the count of "days" shall begin on the day following the day upon which any act or notice as provided in this Contract was required to be performed or made. Any reference to a date or time of day shall refer to the date and/or time of day in the State of North Carolina.

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8:48 PM EDT  
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Seller's Initials   
09/21/19  
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THE NORTH CAROLINA ASSOCIATION OF REALTORS®, INC. AND THE NORTH CAROLINA BAR ASSOCIATION MAKE NO REPRESENTATION AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION OF THIS FORM IN ANY SPECIFIC TRANSACTION. IF YOU DO NOT UNDERSTAND THIS FORM OR FEEL THAT IT DOES NOT PROVIDE FOR YOUR LEGAL NEEDS, YOU SHOULD CONSULT A NORTH CAROLINA REAL ESTATE ATTORNEY BEFORE YOU SIGN IT.

This offer shall become a binding contract on the Effective Date. Unless specifically provided otherwise, Buyer's failure to timely deliver any fee, deposit or other payment provided for herein shall not prevent this offer from becoming a binding contract, provided that any such failure shall give Seller certain rights to terminate the contract as described herein or as otherwise permitted by law.

Date: \_\_\_\_\_

Buyer: Michael Russing dotloop verified 09/20/19 8:48 PM EDT VHEA-PPZ4-7RYK-PJYX

Date: \_\_\_\_\_

Buyer: \_\_\_\_\_

Entity Buyer: \_\_\_\_\_

(Name of LLC/Corporation/Partnership/Trust/etc.)

By: \_\_\_\_\_

Name: \_\_\_\_\_  
Print Name

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Seller: Harborne Homes LLC dotloop verified 09/21/19 1:43 PM EDT T5RF-Z1LX-180F-L19C

Date: \_\_\_\_\_

Seller: \_\_\_\_\_

Entity Seller: \_\_\_\_\_

Harborne Homes LLC  
(Name of LLC/Corporation/Partnership/Trust/etc.)

By: \_\_\_\_\_

Name: \_\_\_\_\_  
Print Name

Title: \_\_\_\_\_

Date: \_\_\_\_\_

### WIRE FRAUD WARNING

TO BUYERS: BEFORE SENDING ANY WIRE, YOU SHOULD CALL THE CLOSING ATTORNEY'S OFFICE TO VERIFY THE INSTRUCTIONS. IF YOU RECEIVE WIRING INSTRUCTIONS FOR A DIFFERENT BANK, BRANCH LOCATION, ACCOUNT NAME OR ACCOUNT NUMBER, THEY SHOULD BE PRESUMED FRAUDULENT. DO NOT SEND ANY FUNDS AND CONTACT THE CLOSING ATTORNEY'S OFFICE IMMEDIATELY.

TO SELLERS: IF YOUR PROCEEDS WILL BE WIRED, IT IS RECOMMENDED THAT YOU PROVIDE WIRING INSTRUCTIONS AT CLOSING IN WRITING IN THE PRESENCE OF THE ATTORNEY. IF YOU ARE UNABLE TO ATTEND CLOSING, YOU MAY BE REQUIRED TO SEND AN ORIGINAL NOTARIZED DIRECTIVE TO THE CLOSING ATTORNEY'S OFFICE CONTAINING THE WIRING INSTRUCTIONS. THIS MAY BE SENT WITH THE DEED, LIEN WAIVER AND TAX FORMS IF THOSE DOCUMENTS ARE BEING PREPARED FOR YOU BY THE CLOSING ATTORNEY. AT A MINIMUM, YOU SHOULD CALL THE CLOSING ATTORNEY'S OFFICE TO PROVIDE THE WIRE INSTRUCTIONS. THE WIRE INSTRUCTIONS SHOULD BE VERIFIED OVER THE TELEPHONE VIA A CALL TO YOU INITIATED BY THE CLOSING ATTORNEY'S OFFICE TO ENSURE THAT THEY ARE NOT FROM A FRAUDULENT SOURCE.

WHETHER YOU ARE A BUYER OR A SELLER, YOU SHOULD CALL THE CLOSING ATTORNEY'S OFFICE AT A NUMBER THAT IS INDEPENDENTLY OBTAINED. TO ENSURE THAT YOUR CONTACT IS LEGITIMATE, YOU SHOULD NOT RELY ON A PHONE NUMBER IN AN EMAIL FROM THE CLOSING ATTORNEY'S OFFICE, YOUR REAL ESTATE AGENT OR ANYONE ELSE.

NOTICE INFORMATION

NOTE: INSERT AT LEAST ONE ADDRESS AND/OR ELECTRONIC DELIVERY ADDRESS EACH PARTY AND AGENT APPROVES FOR THE RECEIPT OF ANY NOTICE CONTEMPLATED BY THIS CONTRACT. INSERT "N/A" FOR ANY WHICH ARE NOT APPROVED.

BUYER NOTICE ADDRESS:

Mailing Address: \_\_\_\_\_

Buyer Fax#: \_\_\_\_\_

Buyer E-mail: mruising@yahoo.com

SELLER NOTICE ADDRESS:

Mailing Address: \_\_\_\_\_

Seller Fax#: \_\_\_\_\_

Seller E-mail: \_\_\_\_\_

CONFIRMATION OF AGENCY/NOTICE ADDRESSES

Selling Firm Name: Keller Williams Huntersville

Acting as  Buyer's Agent  Seller's (sub)Agent  Dual Agent

Firm License #: C25051

Mailing Address: 13620 Reese Blvd Ste 130

Huntersville, NC 28078

Individual Selling Agent: Michael Diniz

Acting as a Designated Dual Agent (check only if applicable)

Selling Agent License #: 305434

Selling Agent Phone #: 704-737-9215

Selling Agent Fax #: \_\_\_\_\_

Selling Agent E-mail: michaeldiniz@kw.com

Listing Firm Name: Better Homes and Gardens Real Estate Paracle

Acting as  Seller's Agent  Dual Agent

Firm License #: C24424

Mailing Address: 1012 Market Street Set 101

Fort Mill, SC 29708

Individual Listing Agent: Kathy Harbone

Acting as a Designated Dual Agent (check only if applicable)

Listing Agent License #: 296733

Listing Agent Phone #: 704-303-4656

Listing Agent Fax #: \_\_\_\_\_

Listing Agent E-mail: kharborne@paraclerealty.com

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Seller's Initials HL  
09/21/19  
1:49 PM EDT  
dotloop verified

ACKNOWLEDGMENT OF RECEIPT OF MONIES

Seller: Harborne Homes LLC ("Seller")

Buyer: Michael Russing ("Buyer")

Property Address: 1725 Birchcrest Drive, Charlotte, NC 28205 ("Property")

LISTING AGENT ACKNOWLEDGMENT OF RECEIPT OF DUE DILIGENCE FEE

Paragraph 1(d) of the Offer to Purchase and Contract between Buyer and Seller for the sale of the Property provides for the payment to Seller of a Due Diligence Fee in the amount of \$ \_\_\_\_\_, receipt of which Listing Agent hereby acknowledges.

Date \_\_\_\_\_

Firm: Better Homes and Gardens

By: [Signature Box]

(Signature)

(Print name)

SELLER ACKNOWLEDGMENT OF RECEIPT OF DUE DILIGENCE FEE

Paragraph 1(d) of the Offer to Purchase and Contract between Buyer and Seller for the sale of the Property provides for the payment to Seller of a Due Diligence Fee in the amount of \$500, receipt of which Seller hereby acknowledges.

Date \_\_\_\_\_

Seller: Kathy Harborne [Signature Box]

dotloop verified 09/27/19 6:44 AM EDT HPOC-XRHW-31TJ-KNTB

(Signature)

Date \_\_\_\_\_

Seller: [Signature Box]

(Signature)

ESCROW AGENT ACKNOWLEDGMENT OF RECEIPT OF INITIAL EARNEST MONEY DEPOSIT

Paragraph 1(d) of the Offer to Purchase and Contract between Buyer and Seller for the sale of the Property provides for the payment to Escrow Agent of an Initial Earnest Money Deposit in the amount of \$1,500. Escrow Agent as identified in Paragraph 1(f) of the Offer to Purchase and Contract hereby acknowledges receipt of the Initial Earnest Money Deposit and agrees to hold and disburse the same in accordance with the terms of the Offer to Purchase and Contract.

Date \_\_\_\_\_

Firm: Keller Williams Huntersville

By: Michael Diniz [Signature Box]

dotloop verified 09/20/19 7:32 PM EDT DUWE-3CH-OIAB-GQFH

(Signature)

Michael Diniz

(Print name)

ESCROW AGENT ACKNOWLEDGMENT OF RECEIPT OF (ADDITIONAL) EARNEST MONEY DEPOSIT

Paragraph 1(d) of the Offer to Purchase and Contract between Buyer and Seller for the sale of the Property provides for the payment to Escrow Agent of an (Additional) Earnest Money Deposit in the amount of \$ \_\_\_\_\_. Escrow Agent as identified in Paragraph 1(f) of the Offer to Purchase and Contract hereby acknowledges receipt of the (Additional) Earnest Money Deposit and agrees to hold and disburse the same in accordance with the terms of the Offer to Purchase and Contract.

Date: \_\_\_\_\_

Firm: \_\_\_\_\_

Time: \_\_\_\_\_ AM PM

By: [Signature Box]

(Signature)

(Print name)

### AGREEMENT TO AMEND CONTRACT

**WARNING: ALL PARTIES, INCLUDING ANY LENDER AND SETTLEMENT AGENT, MUST BE PROVIDED A COPY OF THIS AGREEMENT**

Michael Russing, as Buyer, and Harborne Homes LLC, as Seller, have entered into a contract on the Offer to Purchase and Contract (form 2-T) or the Offer to Purchase and Contract – Vacant Lot/Land (form 12-T) (“Contract”) regarding the purchase and sale of the following property (insert property address): 1725 Birchcrest Drive, Charlotte, NC 28205 (“Property”).

Buyer and Seller hereby agree to amend the Contract as set forth below [check applicable box(es)]:

- Purchase Price.** The Purchase Price is hereby changed from: \$ \_\_\_\_\_ to: \$ \_\_\_\_\_
- (Additional) Earnest Money.** The (Additional) Earnest Money Deposit is hereby changed from: \$ \_\_\_\_\_ to: \$ \_\_\_\_\_
- (Additional) Earnest Money Deposit Date:** The date by which the (Additional) Earnest Money Deposit shall be paid to Escrow Agent is hereby changed to extend through 5:00 p.m. on: \_\_\_\_\_
- Building Deposit.** The Building Deposit is hereby changed from: \$ \_\_\_\_\_ to: \$ \_\_\_\_\_
- Due Diligence Fee.** The Due Diligence Fee paid to Seller is hereby changed from: \$ \_\_\_\_\_ to: \$ \_\_\_\_\_
- Due Diligence Period.** The expiration date of the Due Diligence Period is hereby changed to extend through 5:00 p.m. on 09/27/2019, **TIME BEING OF THE ESSENCE.**
- Escrow Agent.** The Escrow Agent is hereby changed to: \_\_\_\_\_

**NOTE: Use the ESCROW AGENT ACKNOWLEDGMENT OF RECEIPT OF EARNEST MONEY DEPOSIT**

- Settlement Date.** The Settlement Date is hereby changed to: \_\_\_\_\_  
 (check only if the following also will apply) Notwithstanding anything to the contrary in the Delay in Settlement/Closing paragraph in the Contract, if a Delaying Party fails to complete Settlement and Closing within four (4) days following the Settlement Date above, the Delaying Party shall be in breach and the Non-Delaying Party may terminate the Contract in accordance with the Delay in Settlement/Closing paragraph.
- Expenses.** The amount Seller shall pay at Settlement toward Buyer’s expenses associated with the purchase of the Property is hereby changed from: \_\_\_\_\_ to: \$ \_\_\_\_\_

All terms and conditions of the Contract not specifically amended herein shall remain in full force and effect.



This form jointly approved by:  
North Carolina Bar Association  
North Carolina Association of REALTORS®, Inc.



FORM 4-T  
Revised 7/2018  
© 7/2019

Buyer Initials: MR [Signature Box] Seller Initials: HL [Signature Box]  
09/24/19 8:26 PM EDT dotloop verified      09/25/19 10:22 AM EDT dotloop verified

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Buyer: Michael Rissing dotloop verified  
09/24/19 8:26 PM EDT  
9TH4-2FQJ-3KGE-H3JE Date \_\_\_\_\_

Seller: Harborne Homes LLC dotloop verified  
09/25/19 10:22 AM EDT  
KUPQ-H3OZ-3KDV-RLPQ \_\_\_\_\_

Buyer: \_\_\_\_\_ Date \_\_\_\_\_

Seller: \_\_\_\_\_

Entity Buyer  
\_\_\_\_\_  
(Name of LLC/Corporation/Partnership/Trust/etc.)

Entity Seller:  
Harborne Homes LLC  
\_\_\_\_\_  
(Name of LLC/Corporation/Partnership/Trust/etc.)

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

MICHAEL V RUSSING  
17700 PRESTON LAKE DR  
CORNELIUS, NC 28031-8757

1348

95-9035 NC  
528

9/14/19

Date

Pay To The  
Order Of

Keller Williams Realty

\$1,500.<sup>00</sup>

One Thousand Five Hundred Dollars

Dollars



Bank of America 

Bank of America Advantage®

For

*[Handwritten signature]*

Financial Center



MICHAEL V RUSSING  
17700 PRESTON LAKE DR  
CORNELIUS, NC 28031-8757

9/23/19  
Date

1322  
88-15/039 AC  
60R

Pay To The Order Of Harborcrest Homes, LLC \$ 500.<sup>00</sup>  
Five Hundred Dollars + 00/100 Dollars

Bank of America

Bank of America Advantage<sup>®</sup>

For Termination of Lease / D.M. Fee  
D.M. Fee

Vertical Climb



STATE OF NORTH CAROLINA
RESIDENTIAL PROPERTY AND OWNERS' ASSOCIATION DISCLOSURE STATEMENT

Instructions to Property Owners

- 1. The Residential Property Disclosure Act (G.S. 47E) ("Disclosure Act") requires owners of residential real estate (single-family homes, individual condominiums, townhouses, and the like, and buildings with up to four dwelling units) to furnish buyers a Residential Property and Owners' Association Disclosure Statement ("Disclosure Statement").
2. You must respond to each of the questions on the following pages of this form by filling in the requested information or by placing a check (✓) in the appropriate box.
3. If you are assisted in the sale of your property by a licensed real estate broker, you are still responsible for completing and delivering the Disclosure Statement to the buyers; and the broker must disclose any material facts about your property which he or she knows or reasonably should know, regardless of your responses on the Disclosure Statement.
4. You must give the completed Disclosure Statement to the buyer no later than the time the buyer makes an offer to purchase your property.

Note to Buyer: If the owner does not give you a Residential Property and Owners' Association Disclosure Statement by the time you make your offer to purchase the property, you may under certain conditions cancel any resulting contract without penalty to you as the buyer.

5. In the space below, type or print in ink the address of the property (sufficient to identify it) and your name. Then sign and date.

Property Address: 1725 Birchcrest Drive, Charlotte 28205

Owner's Name(s): Harborne Homes LLC

Owner(s) acknowledge(s) having examined this Disclosure Statement before signing and that all information is true and correct as of the date signed.

Owner Signature: Harborne Homes LLC Date

Owner Signature: Harborne Homes LLC Date

Buyers acknowledge receipt of a copy of this Disclosure Statement; that they have examined it before signing; that they understand that this is not a warranty by owners or owners' agents; that it is not a substitute for any inspections they may wish to obtain; and that the representations are made by the owners and not the owners' agents or subagents.

Buyer Signature: Michael Rissing Date

Buyer Signature: Date

Property Address/Description: 1725 Birchcrest Drive, Charlotte- Brick ranch

The following questions address the characteristics and condition of the property identified above about which the owner has **actual knowledge**. Where the question refers to "dwelling," it is intended to refer to the dwelling unit, or units if more than one, to be conveyed with the property. The term "dwelling unit" refers to any structure intended for human habitation.

- |   | Yes                      | No                       | No Representation                   |
|---|--------------------------|--------------------------|-------------------------------------|
| 1. In what year was the dwelling constructed? <u>1956</u><br>Explain if necessary: <u>Brick Ranch</u>   |                          |                          | <input checked="" type="checkbox"/> |
| 2. Is there any problem, malfunction or defect with the dwelling's foundation, slab, fireplaces/chimneys, floors, windows (including storm windows and screens), doors, ceilings, interior and exterior walls, attached garage, patio, deck or other structural components including any modifications to them?.....  | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3. The dwelling's exterior walls are made of what type of material? <input checked="" type="checkbox"/> Brick Veneer <input type="checkbox"/> Wood <input type="checkbox"/> Stone <input type="checkbox"/> Vinyl <input type="checkbox"/> Synthetic Stucco <input type="checkbox"/> Composition/Hardboard <input type="checkbox"/> Concrete <input type="checkbox"/> Fiber Cement <input type="checkbox"/> Aluminum <input type="checkbox"/> Asbestos <input type="checkbox"/> Other _____ (Check all that apply)   |                          |                          | <input checked="" type="checkbox"/> |
| 4. In what year was the dwelling's roof covering installed? <u>N/A</u> (Approximate if no records are available) Explain if necessary: _____  |                          |                          | <input checked="" type="checkbox"/> |
| 5. Is there any leakage or other problem with the dwelling's roof?.....   | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 6. Is there any water seepage, leakage, dampness or standing water in the dwelling's basement, crawl space, or slab?  | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 7. Is there any problem, malfunction or defect with the dwelling's electrical system (outlets, wiring, panel, switches, fixtures, generator, etc.)?.....  | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 8. Is there any problem, malfunction or defect with the dwelling's plumbing system (pipes, fixtures, water heater, etc.)?   | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 9. Is there any problem, malfunction or defect with the dwelling's heating and/or air conditioning?.....  | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 10. What is the dwelling's heat source? <input checked="" type="checkbox"/> Furnace <input type="checkbox"/> Heat Pump <input type="checkbox"/> Baseboard <input type="checkbox"/> Other _____ (Check all that apply) Age of system: <u>N/A</u>   |                          |                          | <input checked="" type="checkbox"/> |
| 11. What is the dwelling's cooling source? <input type="checkbox"/> Central Forced Air <input type="checkbox"/> Wall/Window Unit(s) <input type="checkbox"/> Other <u>N/A</u> (Check all that apply) Age of system: <u>N/A</u>  |                          |                          | <input checked="" type="checkbox"/> |
| 12. What are the dwelling's fuel sources? <input checked="" type="checkbox"/> Electricity <input checked="" type="checkbox"/> Natural Gas <input type="checkbox"/> Propane <input type="checkbox"/> Oil <input type="checkbox"/> Other _____ (Check all that apply)<br>If the fuel source is stored in a tank, identify whether the tank is <input type="checkbox"/> above ground or <input type="checkbox"/> below ground, and whether the tank is <input type="checkbox"/> leased by seller or <input type="checkbox"/> owned by seller. (Check all that apply) |                          |                          | <input checked="" type="checkbox"/> |
| 13. What is the dwelling's water supply source? <input checked="" type="checkbox"/> City/County <input type="checkbox"/> Community System <input type="checkbox"/> Private Well <input type="checkbox"/> Shared Well <input type="checkbox"/> Other _____ (Check all that apply).....   |                          |                          | <input checked="" type="checkbox"/> |
| 14. The dwelling's water pipes are made of what type of material? <input checked="" type="checkbox"/> Copper <input type="checkbox"/> Galvanized <input type="checkbox"/> Plastic <input type="checkbox"/> Polybutylene <input type="checkbox"/> Other _____ (Check all that apply).....  |                          |                          | <input checked="" type="checkbox"/> |
| 15. Is there any problem, malfunction or defect with the dwelling's water supply (including water quality, quantity, or water pressure)?.....   | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 16. What is the dwelling's sewage disposal system? <input type="checkbox"/> Septic Tank <input type="checkbox"/> Septic Tank with Pump <input type="checkbox"/> Community System <input type="checkbox"/> Connected to City/County System <input checked="" type="checkbox"/> City/County System available <input type="checkbox"/> Straight pipe (wastewater does not go into a septic or other sewer system [note: use of this type of system violates state law]) <input type="checkbox"/> Other _____ (Check all that apply).....                             |                          |                          | <input checked="" type="checkbox"/> |
| 17. If the dwelling is serviced by a septic system, do you know how many bedrooms are allowed by the septic system permit?<br>If your answer is "yes," how many bedrooms are allowed? _____ <input type="checkbox"/> No records available   | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 18. Is there any problem, malfunction or defect with the dwelling's sewer and/or septic system?.....  | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 19. Is there any problem, malfunction or defect with the dwelling's central vacuum, pool, hot tub, spa, attic fan, exhaust fan, ceiling fans, sump pump, irrigation system, TV cable wiring or satellite dish, garage door openers, gas logs, or other systems?.....  | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 20. Is there any problem, malfunction or defect with any appliances that may be included in the conveyance (range/oven, attached microwave, hood/fan, dishwasher, disposal, etc.)?.....   | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Buyer Initials and Date MR 09/18/19  
6:25 PM EDT  
dotloop verified

Owner Initials and Date HHL 07/30/19  
9:14 PM EDT  
dotloop verified

Owner Initials and Date HHL 07/30/19  
9:14 PM EDT  
dotloop verified

- |  | Yes                      | No                                  | No<br>Representation                |
|--|--------------------------|-------------------------------------|-------------------------------------|
| 21. Is there any problem with present infestation of the dwelling, or damage from past infestation of wood destroying insects or organisms which has not been repaired?.....   | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 22. Is there any problem, malfunction or defect with the drainage, grading or soil stability of the property?.....   | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 23. Are there any structural additions or other structural or mechanical changes to the dwelling(s) to be conveyed with the property?.....   | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 24. Is the property to be conveyed in violation of any local zoning ordinances, restrictive covenants, or other land-use restrictions, or building codes (including the failure to obtain proper permits for room additions or other changes/improvements)?.....   | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 25. Are there any hazardous or toxic substances, materials, or products (such as asbestos, formaldehyde, radon gas, methane gas, lead-based paint) which exceed government safety standards, any debris (whether buried or covered) or underground storage tanks, or any environmentally hazardous conditions (such as contaminated soil or water, or other environmental contamination) which affect the property?..... | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 26. Is there any noise, odor, smoke, etc. from commercial, industrial, or military sources which affects the property?   | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 27. Is the property subject to any utility or other easements, shared driveways, party walls or encroachments from or on adjacent property?.....   | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| 28. Is the property the subject of any lawsuits, foreclosures, bankruptcy, leases or rental agreements, judgments, tax liens, proposed assessments, mechanics' liens, materialmens' liens, or notices from any governmental agency that could affect title to the property?.....   | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 29. Is the property subject to a flood hazard or is the property located in a federally-designated flood hazard area?  | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 30. Does the property abut or adjoin any private road(s) or street(s)?.....  | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 31. If there is a private road or street adjoining the property, is there in existence any owners' association or maintenance agreements dealing with the maintenance of the road or street?.....  | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |

**If you answered "yes" to any of the questions listed above (1-31) please explain (attach additional sheets if necessary):**

In lieu of providing a written explanation, you may attach a written report to this Disclosure Statement by a public agency, or by an attorney, engineer, land surveyor, geologist, pest control operator, contractor, home inspector, or other expert, dealing with matters within the scope of that public agency's functions or the expert's license or expertise.

**The following questions pertain to the property identified above, including the lot to be conveyed and any dwelling unit(s), sheds, detached garages, or other buildings located thereon.**






- |  | Yes                      | No                       | No<br>Representation                |
|--|--------------------------|--------------------------|-------------------------------------|
| 32. Is the property subject to governing documents which impose various mandatory covenants, conditions, and restrictions upon the lot or unit?..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

**If you answered "yes" to the question above, please explain (attach additional sheets if necessary):**

- |  |                          |                                     |                                     |
|--|--------------------------|-------------------------------------|-------------------------------------|
| 33. Is the property subject to regulation by one or more owners' association(s) including, but not limited to, obligations to pay regular assessments or dues and special assessments? If you answer is "yes," please provide the information requested below as to each owners' association to which the property is subject [insert N/A into any blank that does not apply]: | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|-------------------------------------|-------------------------------------|

• (specify name) \_\_\_\_\_ whose regular assessments ("dues") are \$ \_\_\_\_\_ er \_\_\_\_\_ [the name, address and telephone number of the president of the owners' association or the association manager are \_\_\_\_\_




• (specify name) \_\_\_\_\_ whose regular assessments ("dues") are \$ \_\_\_\_\_ er \_\_\_\_\_ [the name, address and telephone number of the president of the owners' association or the association manager are \_\_\_\_\_

Buyer Initials and Date	 09/18/19 6:26 PM EDT dotloop verified	<div style="border: 1px solid black; width: 60px; height: 30px; margin: 0 auto;"></div>	Owner Initials and Date	 07/30/19 9:14 PM EDT dotloop verified
Buyer Initials and Date	 07/30/19 9:14 PM EDT dotloop verified	 07/30/19 9:14 PM EDT dotloop verified	Owner Initials and Date	 07/30/19 9:14 PM EDT dotloop verified

**\*If you answered "Yes" to question 33 above, you must complete the remainder of this Disclosure Statement. If you answered "No" or "No Representation" to question 33 above, you do not need to answer the remaining questions on this Disclosure Statement. Skip to the bottom of the last page and initial and date the page.**

- |   | Yes                      | No                       | No<br>Representation     |
|---|--------------------------|--------------------------|--------------------------|
| 34. Are any fees charged by the association or by the association's management company in connection with the conveyance or transfer of the lot or property to a new owner? If your answer is "yes," please state the amount of the fees: _____   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 35. As of the date this Disclosure Statement is signed, are there any dues, fees, or special assessments which have been duly approved as required by the applicable declaration or bylaws, and that are payable to an association to which the lot is subject? If your answer is "yes," please state the nature and amount of the dues, fees, or special assessments to which the property is subject: _____   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 36. As of the date this Disclosure Statement is signed, are there any unsatisfied judgments against, or pending lawsuits <i>involving the property or lot to be conveyed</i> ? If your answer is "yes," please state the nature of each pending lawsuit and the amount of each unsatisfied judgment: _____  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 37. As of the date this Disclosure Statement is signed, are there any unsatisfied judgments against, or pending lawsuits <i>involving the planned community or the association to which the property and lot are subject</i> , with the exception of any action filed by the association for the collection of delinquent assessments on lots other than the property and lot to be conveyed? If your answer is "yes," please state the nature of each pending lawsuit and the amount of each unsatisfied judgment: _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

38. Which of the following services and amenities are paid for by the owners' association(s) identified above out of the association's regular assessments ("dues")? (Check all that apply).
- |  | Yes                      | No                       | No<br>Representation     |
|--|--------------------------|--------------------------|--------------------------|
| Management Fees.....   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Exterior Building Maintenance of Property to be Conveyed.....      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Master Insurance.....  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Exterior Yard/Landscaping Maintenance of Lot to be Conveyed.....   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Common Areas Maintenance.....                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Trash Removal.....   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Recreational Amenity Maintenance (specify amenities covered) _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Pest Treatment/Extermination.....                                  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Street Lights.....   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Water.....   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Sewer.....   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Storm water Management/Drainage/Ponds.....                         | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Internet Service.....  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Cable.....   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Private Road Maintenance.....                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Parking Area Maintenance.....                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Gate and/or Security.....  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Other: (specify) _____   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Buyer Initials and Date	<div style="border: 1px solid black; padding: 2px; display: inline-block;">                   09/18/19                  6:26 PM EDT                  dotloop verified             </div>		<div style="border: 1px solid black; padding: 2px; display: inline-block;">                   07/30/19                  9:14 PM EDT                  dotloop verified             </div>
Buyer Initials and Date	<div style="border: 1px solid black; width: 60px; height: 30px; margin: 0 auto;"></div>	Owner Initials and Date	<div style="border: 1px solid black; padding: 2px; display: inline-block;">                   07/30/19                  9:14 PM EDT                  dotloop verified             </div>



# STATE OF NORTH CAROLINA MINERAL AND OIL AND GAS RIGHTS MANDATORY DISCLOSURE STATEMENT

## Instructions to Property Owners

- The Residential Property Disclosure Act (G.S. 47E) ("Disclosure Act") requires owners of certain residential real estate such as single-family homes, individual condominiums, townhouses, and the like, and buildings with up to four dwelling units, to furnish purchasers a Mineral and Oil and Gas Rights Disclosure Statement ("Disclosure Statement"). This form is the only one approved for this purpose.
- A disclosure statement is not required for some transactions. For a complete list of exemptions, see G.S. 47E-2(a). **A DISCLOSURE STATEMENT IS REQUIRED FOR THE TRANSFERS IDENTIFIED IN G.S. 47E-2(b)**, including transfers involving the first sale of a dwelling never inhabited, lease with option to purchase contracts where the lessee occupies or intends to occupy the dwelling, and transfers between parties when both parties agree not to provide the Residential Property and Owner's Association Disclosure Statement.
- You must respond to each of the following by placing a check  in the appropriate box.

## MINERAL AND OIL AND GAS RIGHTS DISCLOSURE

Mineral rights and/or oil and gas rights can be severed from the title to real property by conveyance (deed) of the mineral rights and/or oil and gas rights from the owner or by reservation of the mineral rights and/or oil and gas rights by the owner. If mineral rights and/or oil and gas rights are or will be severed from the property, the owner of those rights may have the perpetual right to drill, mine, explore, and remove any of the subsurface mineral and/or oil or gas resources on or from the property either directly from the surface of the property or from a nearby location. With regard to the severance of mineral rights and/or oil and gas rights, Seller makes the following disclosures:

	Yes	No	No Representation
<div style="display: flex; align-items: center;"> <div style="border: 1px solid black; padding: 2px; margin-right: 5px;"> <small>MR</small>  <small>09/27/19</small>  <small>10:33 AM EDT</small>  <small>dotloop verified</small> </div> <div style="border: 1px solid black; padding: 2px; margin-right: 5px;"> <small>MR</small>  <small>09/27/19</small>  <small>10:33 AM EDT</small>  <small>dotloop verified</small> </div> <div> <b>1. Mineral rights were severed from the property by a previous owner.</b> </div> </div>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<div style="display: flex; align-items: center;"> <div style="border: 1px solid black; padding: 2px; margin-right: 5px;"> <small>MR</small>  <small>09/27/19</small>  <small>10:33 AM EDT</small>  <small>dotloop verified</small> </div> <div style="border: 1px solid black; padding: 2px; margin-right: 5px;"> <small>MR</small>  <small>09/27/19</small>  <small>10:33 AM EDT</small>  <small>dotloop verified</small> </div> <div> <b>2. Seller has severed the mineral rights from the property.</b> </div> </div>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<div style="display: flex; align-items: center;"> <div style="border: 1px solid black; padding: 2px; margin-right: 5px;"> <small>MR</small>  <small>09/27/19</small>  <small>10:33 AM EDT</small>  <small>dotloop verified</small> </div> <div style="border: 1px solid black; padding: 2px; margin-right: 5px;"> <small>MR</small>  <small>09/27/19</small>  <small>10:33 AM EDT</small>  <small>dotloop verified</small> </div> <div> <b>3. Seller intends to sever the mineral rights from the property prior to transfer of title to the Buyer.</b> </div> </div>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<div style="display: flex; align-items: center;"> <div style="border: 1px solid black; padding: 2px; margin-right: 5px;"> <small>MR</small>  <small>09/27/19</small>  <small>10:33 AM EDT</small>  <small>dotloop verified</small> </div> <div style="border: 1px solid black; padding: 2px; margin-right: 5px;"> <small>MR</small>  <small>09/27/19</small>  <small>10:33 AM EDT</small>  <small>dotloop verified</small> </div> <div> <b>4. Oil and gas rights were severed from the property by a previous owner.</b> </div> </div>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<div style="display: flex; align-items: center;"> <div style="border: 1px solid black; padding: 2px; margin-right: 5px;"> <small>MR</small>  <small>09/27/19</small>  <small>10:33 AM EDT</small>  <small>dotloop verified</small> </div> <div style="border: 1px solid black; padding: 2px; margin-right: 5px;"> <small>MR</small>  <small>09/27/19</small>  <small>10:33 AM EDT</small>  <small>dotloop verified</small> </div> <div> <b>5. Seller has severed the oil and gas rights from the property.</b> </div> </div>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<div style="display: flex; align-items: center;"> <div style="border: 1px solid black; padding: 2px; margin-right: 5px;"> <small>MR</small>  <small>09/27/19</small>  <small>10:33 AM EDT</small>  <small>dotloop verified</small> </div> <div style="border: 1px solid black; padding: 2px; margin-right: 5px;"> <small>MR</small>  <small>09/27/19</small>  <small>10:33 AM EDT</small>  <small>dotloop verified</small> </div> <div> <b>6. Seller intends to sever the oil and gas rights from the property prior to transfer of title to Buyer.</b> </div> </div>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### Note to Purchasers

If the owner does not give you a Mineral and Oil and Gas Rights Disclosure Statement by the time you make your offer to purchase the property, or exercise an option to purchase the property pursuant to a lease with an option to purchase, you may under certain conditions cancel any resulting contract without penalty to you as the purchaser. To cancel the contract, you must personally deliver or mail written notice of your decision to cancel to the owner or the owner's agent within three calendar days following your receipt of this Disclosure Statement, or three calendar days following the date of the contract, whichever occurs first. However, in no event does the Disclosure Act permit you to cancel a contract after settlement of the transaction or (in the case of a sale or exchange) after you have occupied the property, whichever occurs first.

Property Address: 1725 Birchcrest Drive, Charlotte, NC 28205

Owner's Name(s): Harborne Homes LLC

Owner(s) acknowledge having examined this Disclosure Statement before signing and that all information is true and correct as of the date signed.

Owner Signature: Harborne Homes LLC dotloop verified  
07/30/19 9:29 PM EDT  
GAFZ-D095-WDAR-EUQG Date \_\_\_\_\_

Owner Signature: \_\_\_\_\_ Date \_\_\_\_\_

Purchaser(s) acknowledge receipt of a copy of this Disclosure Statement; that they have examined it before signing; that they understand that this is not a warranty by owner or owner's agent; and that the representations are made by the owner and not the owner's agent(s).

Purchaser Signature: Michael Russing dotloop verified  
09/27/19 10:33 AM EDT  
JLIX-DLQO-HSTD-OVZS

Purchaser Signature: \_\_\_\_\_ Date \_\_\_\_\_

### LEAD-BASED PAINT OR LEAD-BASED PAINT HAZARD ADDENDUM

Property: 1725 Birchcrest Drive, Charlotte, NC 28205

Seller: Harborne Homes LLC

Buyer: Michael Russing

This Addendum is attached to and made a part of the Offer to Purchase and Contract ("Contract") between Seller and Buyer for the Property.

During the Due Diligence Period, Buyer shall have the right to obtain a risk assessment or inspection of the Property for the presence of lead-based paint and/or lead-based paint hazards\* at Buyer's expense. Buyer may waive the right to obtain a risk assessment or inspection of the Property for the presence of lead-based paint and/or lead-based paint hazards at any time without cause.

\*Intact lead-based paint that is in good condition is not necessarily a hazard. See EPA pamphlet "Protect Your Family From Lead in Your Home" for more information.

#### Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards

##### Lead Warning Statement

Every Buyer of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The Seller of any interest in residential real property is required to provide the Buyer with any information on lead-based paint hazards from risk assessments or inspections in the Seller's possession and notify the Buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based hazards is recommended prior to purchase.

##### Seller's Disclosure (initial)

HL  
07/30/19  
9:01 PM EDT  
dotloop verified

- (a) Presence of lead-based paint and/or lead-based paint hazards (check one below):
  - Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).

Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

HL  
07/30/19  
9:01 PM EDT  
dotloop verified

- (b) Records and reports available to the Seller (check one)
  - Seller has provided the Buyer with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).

Seller has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

##### Buyer's Acknowledgement (initial)

MR  
09/18/19  
MR  
09/18/19  
MR  
09/18/19  
6:26 PM EDT  
dotloop verified

- (c) Buyer has received copies of all information listed above.
- (d) Buyer has received the pamphlet *Protect Your Family from Lead in Your Home*.
- (e) Buyer has (check one below):

- Received the opportunity during the Due Diligence Period to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards; or
- Waived the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.



This form jointly approved by:  
North Carolina Bar Association  
North Carolina Association of REALTORS®, Inc.



STANDARD FORM 2A9-T  
Revised 7/2015  
© 7/2017

Buyer Initials

MR  
09/18/19  
6:26 PM EDT  
dotloop verified

[ ]

Seller Initials

HL  
07/30/19  
9:01 PM EDT  
dotloop verified

[ ]

Agent's Acknowledgment (initial)

*KH*  
07/30/19  
9:30 PM EDT  
dotloop verified

(f) Agent has informed the Seller of the Seller's obligations under 42 U.S.C. 4852d and is aware of his/her responsibility to ensure compliance.

Certification of Accuracy

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information provided by the signatory is true and accurate.

IN THE EVENT OF A CONFLICT BETWEEN THIS ADDENDUM AND THE CONTRACT, THIS ADDENDUM SHALL CONTROL, EXCEPT THAT IN THE CASE OF SUCH A CONFLICT AS TO THE DESCRIPTION OF THE PROPERTY OR THE IDENTITY OF THE BUYER OR SELLER, THE CONTRACT SHALL CONTROL.

THE NORTH CAROLINA ASSOCIATION OF REALTORS®, INC. AND THE NORTH CAROLINA BAR ASSOCIATION MAKE NO REPRESENTATION AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION OF THIS FORM IN ANY SPECIFIC TRANSACTION. IF YOU DO NOT UNDERSTAND THIS FORM OR FEEL THAT IT DOES NOT PROVIDE FOR YOUR LEGAL NEEDS, YOU SHOULD CONSULT A NORTH CAROLINA REAL ESTATE ATTORNEY BEFORE YOU SIGN IT.

Buyer: *Michael Rissing* dotloop verified 09/18/19 6:26 PM EDT CSQO-UPN7-XS2Z-F1TB Date: \_\_\_\_\_

Buyer: \_\_\_\_\_ Date: \_\_\_\_\_

Entity Buyer: \_\_\_\_\_  
(Name of LLC/Corporation/Partnership/Trust/etc.)

By: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Agent: *Michael Dinta* dotloop verified 09/24/19 9:14 PM EDT 7UQ8-BUQ8-0VCM-WGMN Date: \_\_\_\_\_

Seller: *Harborne Homes LLC* dotloop verified 07/30/19 9:01 PM EDT WNJP-ECVF-SOKX-OBGE Date: \_\_\_\_\_

Seller: \_\_\_\_\_ Date: \_\_\_\_\_

Entity Seller: \_\_\_\_\_  
(Name of LLC/Corporation/Partnership/Trust/etc.)

By: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_


Agent: *Kathy Harborne* dotloop verified 09/25/19 4:57 PM EDT EKYU-MWJT-7JL-1870 Date: \_\_\_\_\_



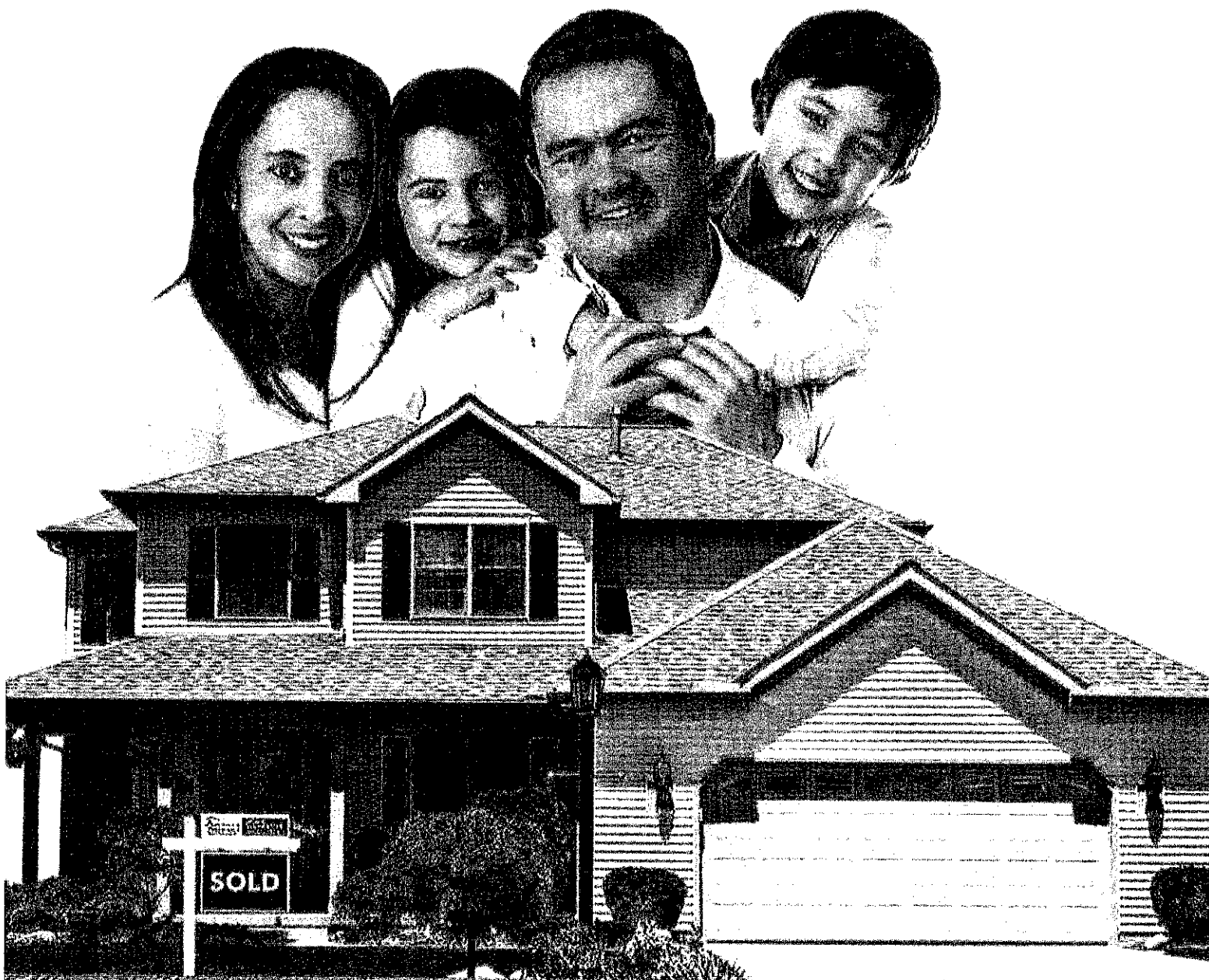


**CHOOSE YOUR OWN LICENSED CONTRACTOR** for all covered repairs!

BP 465G



**AMERICA'S PREFERRED<sup>®</sup>**  
**Home Warranty, Inc.**



⚡ **SUPREME Home Warranty Protection Plan** ⚡

Certain items and events are not covered by this contract. Please refer to limitations, restrictions and exclusions in this contract brochure.

# How Important Is CHOOSING Your Own Licensed Contractor?

We asked our Homeowners to rate the importance of Choosing Their Own Licensed Contractor and how satisfied they were with the results:

1. How important is the ability to Choose Your Own Licensed Contractor?

89%

2. Would you rate your Contractor as "Professional?"

90%

3. Were you "Satisfied" with the work your Contractor did?

90%

Source: 2019 APHW Satisfaction Survey

## REMEMBER

Please write your contract number, deductible amount and start date here so you have them readily accessible when you call to file a claim or renewal:

Contract Number

Deductible

Contract Start Date

**AMERICA'S PREFERRED**  
Home Warranty, Inc.

1.800.648.5006

# 3 Step Easy Claims Process

## 1. Call:

First, make sure the item is covered by your plan.

If the item is listed as covered, call our customer service department. An APHW service representative will take your information and assign you a claim number. You may then call a local licensed contractor of your choice to diagnose the problem.

## 2. Schedule:

Once your contractor arrives, they must first diagnose your problem.

**Important:** Before the contractor does any work, have the contractor call APHW with the diagnosis.

An APHW customer service representative will speak with you and your contractor to determine the approved dollar amount covered by your warranty. Your contractor may then make the necessary repairs.

## 3. Payment:

Your APHW customer service representative will make sure that arrangements for payments are made. You will be required to pay the contractor a deductible for each trade call, or the actual cost, whichever is less.

An APHW customer service representative will follow up with you after the repairs are made to make sure you are completely satisfied with the work that was done.

For service call:

**1.800.648.5006**

▶ You must have telephone approval before having any work done. Reimbursement for services will not be made without prior approval.



**24/7/365**  
**Person-to-Person**  
**Claims Service**

We will make every effort to expedite service in case of emergencies.

# What Items are Covered?



## ATTIC AND EXHAUST FANS

Plans that cover this item: Buyer | Seller Upgrade

**Covered:** Switches, controls, motors, bearings and blades.

**Not Covered:** Shutters, belts and filters, circulation or paddle-type fans.



## CENTRAL AIR CONDITIONING

Plans that cover this item:

Buyer | Seller Upgrade

**Covered:** (Electric refrigerant central air conditioning units only). Coils and compressor, capacitor, motors, thermostat valves, dial and non-programmable digital thermostat, leaks in refrigerant lines, liquid suction line dryers, fuses, breakers, disconnect boxes (contactor), wiring, condensing units, evaporative coolers.

**Not Covered:** Window units, free-standing room units, water cooled units, portable units, any type of gas, lithium/glycol, outside and/or underground components and piping for geothermal including condenser fins, drain pans, cleaning, duct work associated with any gas units, electronic air filters or cleaners, filters, water towers, evaporative cooling pads, energy management systems, or recovery of refrigerant and chillers. Zone controls, zone motors, dampers, and leak tests.



## ELECTRICAL

Plans that cover this item: Buyer | Seller Upgrade

**Covered:** Electrical breakers, wiring, panels and sub-panels, plugs, fuses, switches, conduit, junction box, central vacuum systems.

**Buyer Plan only:** Garage door openers (motors, push buttons, control boards, drive mechanisms, chains).

**Not Covered:** Service entrance cables, garage doors, meter boxes, counter balance mechanisms, rollers and remote sensing units, tracks, infrared sensors, any loss due to water seepage along service cable, any loss from overload or power failure, any electrical items or wiring located outside the perimeter of the principal dwelling and attached garage.



## HEATING SYSTEM

Plans that cover this item:

Buyer | Seller Upgrade

**Covered:** (Must be centrally ducted) Central heating system including electric, gas, oil, gravity (centrally ducted only), steam or hot water heat systems, ductwork, interior gas lines, dial and non-programmable digital thermostats, relays and wiring. Heat exchanger and/or combustion chamber, electric heat pump, burners, circuit board, igniter, flame sensor, transformer, gas valves, baseboard convectors, pumps, motors, switches, heating element.

**Boiler systems only:** Zone valves, geothermal and/or water source heat pump components and parts located within the foundation of the home or attached garage which cool and/or heat the home.

**Not Covered:** Outside and/or underground components and piping for geothermal and/or water source heat pumps, well pump and well pump components for geothermal and/or water source heat pumps. Free-standing or portable heating units, through-wall units, coal or wood burning equipment, fuel oil or propane gas storage tanks, fuel oil lines, registers, electronic air filters and cleaners, vents, space heaters, registers, grills, filters, solar heating systems, radiators, fireplaces, clocks, chimneys and chimney liners, recovery of refrigerant and cleaning and energy management systems. Leak tests. Zone controls, zone motors and dampers.



## HUMIDIFIER

Plans that cover this item: Buyer

**Covered:** Permanently mounted furnace humidifier including pans, housing, motors, fans, humidistats, transformers, valves and lines.

**Not Covered:** Humidifier pads, media elements, brushes, atomizers or back flush units.



## KITCHEN APPLIANCES

Plans that cover this item: Buyer | Seller Upgrade

Coverage is limited to primary kitchen area.

**Covered:** (Note: All appliances must be part of the contract to purchase for the purchaser at the time of the sale of the home or be built-in). Free-standing range, built-in oven, cooktop, built-in dishwasher (pump, motor, timers, gaskets, spray arm, seals, air gap, latches, switches and heating element, control board), built-in microwave, garbage disposal, refrigerator compressor (only).

**Not Covered:** Water dispenser, cracked or broken thermal shells, any loss or damage of a cosmetic nature such as denting, chipping, the cost of attaining access, replacement or repair of countertops or cabinets, racks, baskets, clocks, timers, rollers, glass or ceramic cooktops, self-cleaning mechanisms, cooking accessories, doors, door hinges, knobs, keypads, interior lining, door glass, latches, meat probes, rotisseries, shelves, ice makers, ice crushers, soap dispensers, beverage dispensers, broken interior, loss due to rust-out and food spoilage, recovery of refrigerant, and freezers which are not an integral part of refrigerator.



## PLUMBING SYSTEMS

Plans that cover this item: Buyer | Seller Upgrade

**Covered:** Drains and standard faucets, leaks and breaks to water, vent, gas or sewer lines, waste lines, assembly parts within the toilet tank, valves to shower, tub diverter, interior hose bibs, stoppage in drain, vent and sewer lines; angle stops and risers. Clearing of stoppages with rotary machine (cleaning same lines after 14 days has elapsed shall be considered a new claim and is subject to a new deductible). The foregoing is covered only within the perimeter of the main foundation of the home including attached garage.

**Buyer only:** Permanently installed sump pumps (ground water only).

**Not Covered:** Sinks, bathtubs, fixtures, exterior hose bibs, filters, sewage ejector pumps, shower-base pans, shower enclosures, tub enclosures, toilet wax ring seals, toilet bowl and tank, caulking, grouting, tile fields, lawn sprinklers, leach beds, root damage, any loss arising out of a condition of chemical or mineral deposits, water residue, rust-out, or insufficient capacity drain, low or high pressure, loss arising from porcelain cracking, chipping, dents or other externally caused physical damages, storage or holding tanks, auxiliary sump pumps. Sewage lines located outside the main foundation of the home and blockages from tree roots and foreign objects.



## ROOF

Plans that cover this item: Buyer

**Covered:** Rolled roofing, asphalt shingles and flashing from water leaks only, and must occur during coverage period for coverage to apply.

**Not Covered:** Roof mount installations, gutters, drain lines, pre-existing leaks, leaks in any deck or balcony, leaks due to ice damming. Leaks which are caused by, or which result from, any of the following: damage due to persons walking or standing on the roof, missing and/or broken tiles or shingles, repairs or construction not performed in a workmanlike manner, failure to perform normal roof maintenance, replacement of entire roof, rotten wood, flat and/or hot tar roof, or acts of God such as tornado, hurricane, earthquake, fire, and lightning. Water damage must occur in the roof located over the primary living area excluding attached garage.



## SEPTIC

Plans that cover this item: Buyer

Coverage for septic systems begins thirty (30) days from date of closing.

**Covered:** Septic tank and line from house, baffles, sewage ejector pump and switches.

**Not Covered:** Drain field, tile fields and leach beds, clean out, insufficient capacity, and blockages from tree roots and foreign objects.

(Continued next page)

## TRASH COMPACTOR

Plans that cover this item: Buyer | Seller Upgrade

**Covered:** All parts and components excluding lock-key assembly.

**Not Covered:** Removable buckets.

## WATER HEATER

Plans that cover this item: Buyer | Seller Upgrade

**Covered:** Electric, gas and tankless. Control thermostat and thermocouple, gas valves, pressure and temperature relief valve, heating elements, drain valve and instant hot water dispensers, dip tubes, blower motor, heat exchanger, burners, igniter, temperature sensor.

**Not Covered:** Oil hot water tanks, and loss arising as a result of chemical, mineral deposits, sediments, insufficient capacity, water residue or rust-out.

## WATER WELL PUMP

Plans that cover this item: Buyer

**Must be primary water source.**

**Coverage begins thirty (30) days after closing.**

**Covered:** Well pumps, valves and regulators.

**Not Covered:** Pressure tanks, piping or electrical lines leading to or connecting pressure tank and primary dwelling, well casings, holding or storage tanks and re-drilling of well, screens, points, well pump if used for lawn sprinkler system or other like system.

Some coverage is subject to additional limitations as provided in the Terms and Conditions Section of the Supreme Home Warranty Service Agreement.

# Optional Coverage

## CLOTHES WASHER & DRYER

**Covered:** All parts and components except: soap dispensers, filter screens, plastic mini-tub, dials and knobs, lint screen, venting, and damage to clothing.

**Not Covered:** Soap dispensers, filter screens, plastic mini-tub, dials and knobs, lint screen, venting, and damage to clothing.

## INGROUND POOLS, SPAS

**Covered:** All components and parts of the heating, pumping, and filtration system. A spa, including an exterior whirlpool and hot tub is also covered along with a swimming pool, if the units utilize common equipment. If they do not, coverage is limited to the option selected for either the spa or the pool. Premium/Salt Water/Spa add salt water components and cells.

**Not Covered:** Skimmers, pool sweeps, pool sweep motors, lights, liners, jets, concrete-encased, underground electrical, gas or plumbing lines, cleaning equipment, solar equipment, structural defects, all above ground pools.

## JETTED BATHTUBS

**Covered:** Mechanical parts and components as follows: accessible electrical controls, accessible plumbing lines, air pumps, drains, gaskets, and primary circulation pump motor.

**Not Covered:** Bathtub shell, caulking and grout, failures due to dry operation of equipment, gaining access to piping, jets, electrical and component parts, tiles and marble, and tub enclosure.

## WATER SOFTENER

**Covered:** Domestic Water Softener, brine tank and connecting water lines.

**Not Covered:** Insufficient or excessive water pressure, color or purity of water, filters, resin beds, salt replacement, rust or corrosion, normal maintenance, purification systems, and all rented/leased water softeners.



# Buyer Preferred Upgrade Items

## CEILING FAN

Must be located in main dwelling.

## CENTRAL AIR (ADDS)

Refrigerant recovery, registers and grills, cost for crane to install roof mounted covered replacement air conditioner unit \$200 maximum.

## CENTRAL HEAT (ADDS)

Registers, grills and heat lamps.

## CODE VIOLATIONS

When the correction of code violation(s) is required to affect a covered repair or replacement of a heating, plumbing or electrical "Component Part", APHW will pay up to \$250 aggregate to correct the code violation(s). APHW will not simply pay to remove the violation.

## KITCHEN APPLIANCES (ADDS)

Refrigerator control board, refrigerator recovery and recharge, ice maker and ice/beverage dispenser and their respective equipment; trash compactor lock and key assembly, buckets; built-in dishwasher racks, baskets and rollers; built-in microwave interior lining, glass door, clocks and shelves; oven/range interior lining, clocks, rotisseries, racks, handles, knobs and dials.

## SPECIAL ELECTRICAL PACKAGE

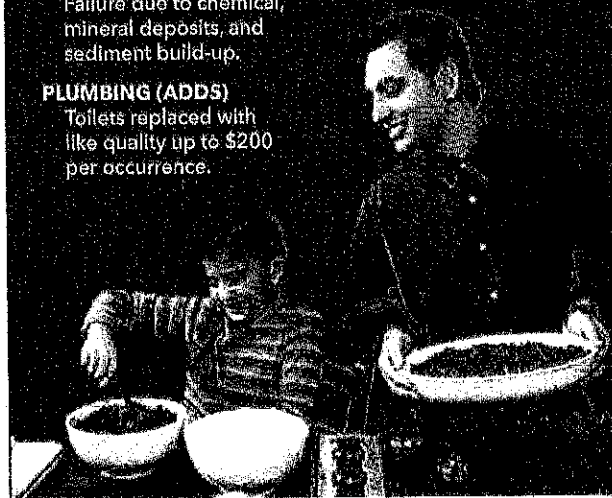
Fire/Burglar alarm, lighting fixtures, doorbell, garage door opener - hinges, springs, keypads and remote transmitters.

## WATER HEATER (ADDS)

Failure due to chemical, mineral deposits, and sediment build-up.

## PLUMBING (ADDS)

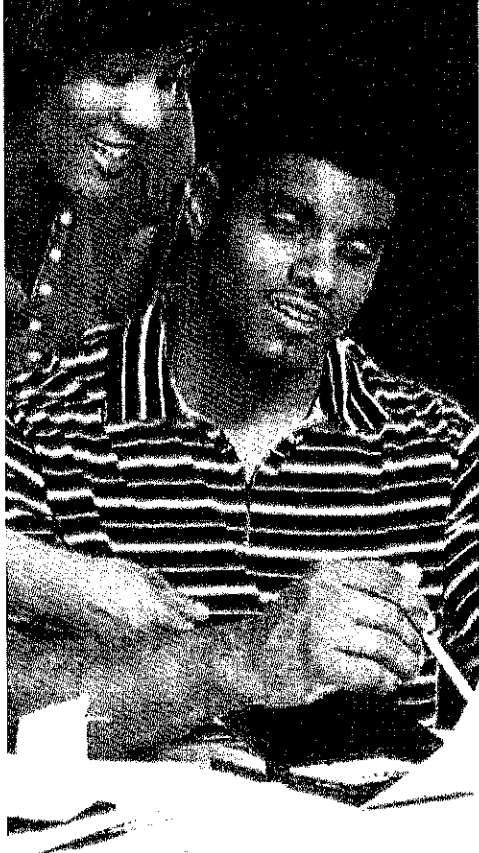
Toilets replaced with like quality up to \$200 per occurrence.



# Supreme Home Warranty Agreement

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## Terms and Conditions



► **IMPORTANT:**

Please read these terms and conditions carefully. They describe the terms of your coverage and how to obtain service.

### PERFORMANCE OF SERVICE

Please read your coverage carefully. Should you need service, telephone the Customer Service department at 1-800-648-5006. Service is available 24 hours a day, seven days a week; you must have telephone approval before having any work done. The Customer Service department will make every effort to expedite service in emergencies. You will be required to pay a deductible per trade call, or the actual cost, whichever is less. If any additional repairs have been made during a service call to items not covered by this agreement, you will be required to pay those expenses.

### PAYMENT

Payment is due at closing and is derived from closing costs and must be received within seven (7) business days to ensure coverage.

### DEFINITIONS

1. Agreement, Contract, Service Contract, Home Warranty means this Agreement which You have purchased from Us and which includes the completed agreement on page 11 of this document
2. "Company" means America's Preferred Home Warranty, Inc. (APHW), 5775 Ann Arbor Rd, Jackson MI 49201 1-800-648-5006
3. "Component Part" means covered item as listed on the "What Items are Covered?" page.
4. Contract Fee means the amount you paid for this Agreement, as shown on the Supreme Home Warranty Agreement Page
5. Deductible means the amount You are required to pay, as shown on pages 10 and 11, per repair for covered Breakdowns.
6. Breakdown means a failure of a covered item that is due to normal wear and tear.
7. Provider means the party obligated to perform or arrange to perform services pursuant to the terms of this Agreement and is also known as the **Obligor, Extended Service Contract Provider, Service Contract Provider and Service Contract Maker**. The Provider of this Agreement is America's Preferred Home Warranty, Inc., 5775 Ann Arbor Rd, Jackson MI 49201 1-800-648-5006
8. Agreement Page (page 11 of this document) means the document which must be attached to and becomes part of this Agreement. It lists information regarding You, Your Covered Property, Plan selected, and other vital information.
9. We, Us, Ours means the Provider of this Agreement.
10. You and Your means the Agreement holder as shown on the Agreement Page (page 11), or the person to whom this Agreement was properly transferred.

### CONTRACT COVERAGE

This contract provides protection, at a reasonable cost, against breakdown of specific items you have due to normal wear and tear. This agreement is not intended to shift responsibility for minor repairs or normal maintenance. It does not cover everything. It may not cover the entire cost of repair or replacement of a covered item. A deductible is required for each APHW covered repair. Please read the following terms and conditions carefully. They describe the terms of your coverage and how to obtain service.

### THIS CONTRACT COVERS ONLY THOSE ITEMS WHICH ARE:

1. Located in a single-family residence and/or condo.
2. In place, operative and located within the main perimeter of the main foundation of the home, including any attached garage, located at the address shown, on the effective date of this contract.
3. Not located in rooms or buildings used for commercial or business purposes.
4. Specified as "Covered" in the section of the Agreement titled "What Items are Covered?"  
If a system and/or item is not listed as covered, then it is NOT COVERED.

### CUSTOMER SERVICE

1. Telephone service is available 24 hours a day, 7 days a week. You must call the Company to place a claim. No claim forms are used. When service is required call APHW at 1.800.648.5006 to open a claim. After receiving a claim number you may call the licensed contractor of your choice. After your contractor has diagnosed the situation, you must call one of our customer service representatives so they can speak to the contractor while they are at your home to approve the repair and set up payment with the contractor. Please remember, there is no payment or reimbursement without prior approval. In case of furnace failure during periods of freezing temperatures, service will be initiated immediately and will be completed as soon as reasonably possible. If service cannot be initiated immediately due to conditions beyond the control of the Company and the homeowner must leave the home, upon prior authorization by the Company, the Company will pay up to \$75.00 per night for no more than a three-night hotel stay.
2. A deductible is required for each APHW covered repair. If repairs are made to parts of additional systems, a separate deductible will apply to each system repaired.
3. It is the discretion of the Company to determine whether a covered system or component is to be replaced or repaired. Replacement is based on like kind or of better efficiency. For air conditioning or heating equipment, like kind includes equal or a better energy efficiency rating. For air conditioning equipment, this is the SEER rating. When replacement systems of exact dimensions are not available, the Company will be responsible for installation of like kind equipment, but not for the cost of carpentry or construction to necessitate the different dimensions. The Company is not responsible for upgrade or matching color or brand and is not limited to brand names. Determination of the operating condition as of the agreement effective date and the nature of any failure will be made by us based upon the professional opinion of our claim staff reflecting, but not limited to, your approved contractor's diagnosis.

4. APHW allows the homeowner to choose their own licensed contractor. You must call APHW first. APHW requires that the service provider diagnose your problem, and then contact APHW for approval of the proposed work. APHW will recommend a licensed contractor for you if you do not have an approved licensed contractor in your area, or if you would rather have APHW recommend the licensed contractor. The contractor must be licensed and bonded.
5. If no covered defects are discovered or repaired during a service call, the homeowner is responsible for the entire cost of the service call.
6. No additional deductible will be required where service work fails within 30 days after the service call.

#### LIMITATIONS OF COVERAGE

A. Seller. The maximum aggregate liability of the Service to the Seller, regardless of the number of claims for repairs or replacement, **for the life of the listing is \$1,000**. Payment by APHW for any claim for repair or replacement for Seller does not affect the amount of coverage for the Buyer.

1. Seller Preferred Upgrade (must be chosen at time of listing): Includes Heating systems (including heat pumps or steam or hot water heating systems) Hot water heat system boiler must have auto boiler feed; steam heat must have low water cut-off valve. Geothermal and/or water source heat pump components and parts located within the foundation of the home or attached garage which cool and/or heat the home. Central air conditioning, refrigerator, built-in dishwasher, free-standing range, built-in oven, cooktop, built-in microwave, garbage disposal. The Company covers multiple systems for heating and air conditioning (Hot water, steam and geothermal systems are not covered for multiple systems). EXCEPT: Not Covered: outside or underground piping and components for geothermal and/or water source heat pumps, well pump and well pump components for geothermal and/or water heat pumps.
2. Seller's ListSecure® Program: As part of this APHW home warranty contract, if Seller(s) contracted for coverage when listing the home through a registered APHW broker, and it is fully funded, and not cancelled, after closing, Seller(s) may be eligible to participate in APHW's ListSecure® Program (the "Program"). The Program will be funded by APHW with credits from each fully paid non-cancelled home warranty. Reimbursements shall not exceed funding credits except in APHW's sole discretion. The Program provides a **maximum reimbursement of \$1,000** for post sale attorney fees incurred by Seller(s) defending a lawsuit by buyer arising directly out of the transaction for which this home warranty was purchased. The program does not cover settlement payments, or attorney fees for alternative dispute resolution required by the buy/sell agreement or a local, regional or state Board of Realtors or equivalent, which process(es) are a condition precedent to Program eligibility. To be eligible, Seller must also provide APHW a copy of the lawsuit for which reimbursement may be later sought within 21 days of being served with the lawsuit. Eligible Sellers can request reimbursement from the Program for up to 2 years after the date of closing. The Program is not an assignable benefit of the Seller, and is terminable at will by any successor in interest to APHW.

B. The **maximum aggregate liability of the Warranty is \$25,000**.

C. Commercial-like or Ultra-Premium Appliances or Combination Appliances: **\$1,000 maximum** (e.g. Viking, Wolf, Dacor, and all commercial-like or ultra-premium appliances).

D. Buyer (Seller where applicable). The maximum aggregate liability for repairs or replacement, regardless of the number of claims for repairs or replacement, or the number of systems/units:

1. Heating systems including heat pumps are **\$2,250 (\$1,500** for steam or hot water heating systems): hot water heat system boiler must have auto boiler feed; steam heat must have low water cut-off valve. **\$1,500** for geothermal and/or water source heat pump components and parts located within the foundation of the home or attached garage which cool and/ or heat the home. The Company covers multiple systems for heating and air conditioning (Hot water, steam and geothermal systems are not covered for multiple systems.) EXCEPT: Not Covered: outside or underground piping and components for geothermal and/or water source heat pumps, well pump and well pump components for geothermal and/or water source heat pumps.
2. The air conditioning system is **\$2,250**.

3. Roof leak repair, **\$550; roof vent not covered**.
4. Concealed plumbing or enclosed wiring (drains, vent piping, leaks and breaks in plumbing or wiring) duct work, **\$500**. This limit includes access, diagnosis, repair or replacement and restoring or resurfacing to a rough finish.
5. Pool/spa (must be built-in) heater and filtration system & jetted bathtub is **limited to \$600**. Premium/saltwater pool/spa upgrade is **\$1,200**.
6. Washer and dryer, water well pump (must be primary source of water), and septic is **\$400** (water well and septic coverage begin 30 days after closing).
7. Water softener is **\$600**.
8. Humidifier is **\$500**.
9. The special electrical package is **limited to \$1,000** per contract. (See "Limitations of Coverage," D13, Special Electric Coverage).
10. Sump Pump: Primary sump pump only. Auxiliary pump not covered.
11. Water heater is **\$500** (chemical, mineral deposits, and sediments are covered with Buyers Preferred Upgrade only).
12. Refrigerator is **\$1,000**.
13. Buyer Preferred Upgrades: Central Heat adds: registers, grills and heat lamps. Central Air adds: refrigerant recovery, reclaim and disposal, registers and grills. Cost for crane to install roof mounted covered replacement air conditioner unit **\$200 maximum**. Plumbing adds: toilets replaced with like quality up to **\$200 per occurrence**. Water Heater adds: sediment build-up. Special Electrical Package includes: fire/burglar alarm, lighting fixtures, doorbell, garage door opener - hinges, springs, keypads and remote transmitters, ceiling fans. Appliances adds: refrigerator control board, refrigerator refrigerant recovery, ice maker and ice/beverage dispenser and their respective equipment; trash compactor lock and key assembly, buckets; built-in dishwasher racks, baskets and rollers; built-in microwave interior lining, glass door, clocks and shelves; oven/range interior lining, clocks, rotisseries, racks, handles, knobs and dials. Ceiling Fan: must be located in main dwelling. Code violations: when the correction of code violation(s) is required to affect a covered repair or replacement of a heating, plumbing or electrical "Component Part", APHW will pay up to **\$250 aggregate** to correct the code violation(s). APHW will not simply pay to remove the violation. IMPORTANT: If the Buyer Preferred Upgrade has been selected and the property is a multiple family dwelling, the upgrade package must be purchased for each unit, if it is not selected for each unit, any shared systems and or appliances will not be covered.

#### LIMITS OF LIABILITY

1. The Company will not reimburse you for services performed without Company authorization. You must call APHW at 1-800-648-6006 for service. No claims will be honored after coverage period. You must have prior telephone approval from APHW before calling a contractor.
2. The Company will not pay for any additional costs or related expenses which may be required to complete repairs, nor will the Company upgrade equipment or improve due to lack of capacity, previous improper installation, previous repair or or design of appliances, systems and components; or problems occurring because of modifications or alterations to appliances, systems or components, or failure to meet building or zoning code requirements or violations, city, county, state, federal, or any utility regulations or upgrades required by law.
3. Common areas or facilities of mobile home parks and condominiums are not covered.
4. Company is not responsible for repairs or replacements required as a result of: missing parts, fire, war, flood, smoke, water damage, lightning, freeze-up, earthquake, theft, storms, accidents, nuclear explosions, reaction, radiation or radioactive contamination, insurrection, extreme or unusual climate conditions, rust-out, corrosion, riots, vandalism, code violations, improper installation, acts of God, pest damage or misuse, structural changes, water failure and/or electrical surges, soil movement or mud, or failure to clean or maintain as instructed by the equipment manufacturer. Nor is the Company responsible for repairs of any cosmetic defects or cost of cleaning of equipment or parts.

5. Company is not liable for consequential or secondary damage from any covered item for property damage or personal injury, nor for service relating to any toxic materials or asbestos.
6. Company has the sole responsibility in determining whether to repair or replace.
7. Company's liability is limited to systems failure due to normal wear and tear. Approval amounts for systems beyond manufacturer's/industry standard life expectancy are the sole discretion of the Company.
8. Company is not responsible for any computerized or electronic energy management, lighting, or appliance management systems.
9. Company is not responsible for failure to provide reasonable service due to conditions beyond its control; including but not limited to, delays in obtaining equipment, parts, or labor difficulties.
10. Items not covered for the home seller or for the first 30 days after the close of sale for the homebuyer are: any improper operation or malfunction due to rust for any system or component, appliance or pools/spas, and collapsed duct work.
11. Company is not responsible for additional charges to install or remove non-related equipment or systems in order to make a covered repair.
12. Vacant or unoccupied homes are covered during the listing period as long as they are maintained and not abandoned.
13. This contract is non-cancellable except for non-payment of contract fees, deductibles and/or service call fees, fraud or misrepresentation of facts, material to the issuance of this contract.
14. Company will not be obligated to service any system or appliance classified by manufacturer as commercial, leased equipment, stolen, vandalized, not properly maintained or connected, misused, neglected, consequential damages, abnormal use or damages due to inadequate capacity as determined/diagnosed by a licensed service contractor in the specific field and/or Company.
15. The type of service, repair or replacement and/or second opinion, will be at the Company's sole discretion. APHW is not responsible for any costs due to repair, replacement, installation and labor of any covered system or part while under existing manufacturer's warranty or third party service plan/agreement. Any inspections, reports, findings and/or disclosures will be made available to APHW upon request.
16. Anyone doing work on covered items is in no way a representative or agent of Company.
17. Coverage will not be provided if APHW is not notified when a problem is discovered and in all events prior to the expiration of this contract. All repairs under this Contract must be completed within 30 days of the date Company is first notified or the claim will be permanently closed unless, for good cause shown by the homeowner, Company agrees in writing to permit consideration of the claim at a later time.

#### GENERAL

1. Any dispute arising under this Agreement shall be submitted for binding arbitration under the auspices of the American Arbitration Association's local office. Each party shall pay for its own representative and shall bear arbitration cost equally. The Arbitrator's Award shall be final and binding and may be enforced by any Court and law.
2. Coverage for Lease Purchase Agreement is available for the Lessee only. This coverage begins upon payment of the contract fee and the acceptance of the Agreement by the Company.
3. This Agreement may be renewed at the option of the Company and where permitted by State Law. Prior to renewal, the Company will notify the homeowner of the proposed renewal terms and costs.
4. The Company reserves the right to seek a second opinion for any service call.
5. The Company reserves the right to purchase back the warranty program if the party is not satisfied with the Home Warranty Plan. APHW will return the pro-rated purchase price of this Agreement, less any fees and/or costs incurred for repairs, to the party that purchased this Agreement.
6. This Agreement may be terminated by either party upon written notice to the other for any of the following reasons:
  - a. Misrepresentation concerning any covered item or any other fact related to the Agreement;
  - b. Non-payment of initial or service fees;
  - c. If the listing agreement for the covered property terminates or expires without sale of the property, or upon mutual agreement of the parties;

- d. Abuse, threatening or harming, or endangering the safety and/or well being of any APHW employee.
7. America's Preferred Home Warranty, Inc. is bonded.
8. The buyers and/or sellers, by signing this contract, give authorization to APHW to contact you by phone, mail and/or electronically.
9. If the home is a foreclosure or a repossessed home, there is no coverage for the seller. Coverage for the buyer begins 30 days after closing, provided all proper paper work is signed and submitted to APHW.
10. This is not an insurance policy; our obligations under this agreement are backed by its Full Faith of credit.
11. If ownership of the covered premises changes during the contract term, you must notify APHW at 1.800.648.5006, within 30 days of property transfer for the contract to be transferred to the new owner of the covered premises.

#### MULTIPLE UNITS

1. If this contract is for a duplex, triplex, or fourplex dwelling, all units within such dwelling must be covered by an APHW warranty agreement for coverage to apply to common systems and appliances (e.g. Triplex = 3 warranty agreements).
2. If this contract is for a unit within a multiple unit of 5 or more, then only items contained within the confines of each individual unit are covered. Common systems and appliances are excluded. Listing coverage is not available to seller.
3. Except as otherwise provided in this section, common systems and appliances are not covered.

#### MANUFACTURED HOMES

1. Manufactured homes must have a permanent address.
2. Manufactured homes over 20 years old have a **\$500 limit on heating**. There is also a **\$500 limit on air conditioning**.
3. Manufactured homes during the moving of location from one to another will not be covered from the time of disconnect until 30 days after hook-up (by an approved contractor) to the second location. Notice must be given to the warranty company of the moving and address change of the home.

#### SPECIAL STATE REQUIREMENTS:

Regulation of Home Warranty Agreements may vary widely from state to state. Any provision within this Agreement which conflicts with the laws of the state where the covered home is located shall automatically be considered to be modified in conformity with applicable state laws and regulations as set forth below. The following state specific requirements apply if Your Agreement was purchased in one of the following states and supersede any other provision within Your Agreement terms and conditions to the contrary.

#### ALABAMA RESIDENTS ONLY:

##### Cancellation and Refunds

You may cancel this Agreement by informing Us of Your cancellation request within 30 days of the purchase of the Agreement and You will receive a 100% refund of the full Agreement Fee of Your Agreement, provided no claims have been paid. If Your cancellation request is made more than 30 days from the date of purchase, or if a claim has been paid within the first 30 days, You will receive a pro-rata refund of the Contract Fee, minus any paid claims and less an administrative fee not to exceed 10% of the Contract Fee.

If You request cancellation of this Agreement within thirty (30) days of the purchase date of the Agreement and the refund is not paid or credited within forty-five (45) days after return of the Agreement to Us, a ten percent (10%) penalty will be added to the refund for every thirty (30) days the refund is not paid. This provision applies only to the original purchaser of the Agreement. If You cancel this Agreement, the administrative fee shall not exceed the lesser of 10% of the Contract Fee or twenty-five dollars (\$25.00). Any refund may be credited to any outstanding balance of Your account and the excess, if any, returned to You.

If We cancel this Agreement We must provide You with a written notice at least 5 days prior to cancellation at Your last known address, with the effective date for the cancellation and the reason for cancellation. Prior notice is not required if the reason for cancellation is nonpayment of the Contract Fee, or a material misstatement by You relating to the covered property or its use. If We cancel this Agreement, You will receive a refund based upon one-hundred percent (100%) of the unearned pro-rata Contract Fee of this Agreement.

**Transfer of Coverage/Agreement**

If ownership of the covered premises changes during the contract term, you must notify APHW at 1.800.648.5006, within 30 days of property transfer for the contract to be transferred to the new owner of the covered premises.

**Use of Non-Original Manufacturer Parts**

We will approve the use of non-original manufacturer parts in providing the services we are required to perform under this Agreement.

**ARKANSAS RESIDENTS ONLY:****Cancellations and Refunds**

You may cancel this Agreement by informing Us of Your cancellation request within 30 days of the purchase of the Agreement and You will receive a 100% refund of the full Contract Fee of Your Agreement, provided no claims have been paid. If Your cancellation request is made more than 30 days from the date of purchase, or if a claim has been paid within the first 30 days, You will receive a pro-rata refund of the Contract Fee, minus any paid claims and less an administrative fee not to exceed 10% of the Contract Fee.

If You request cancellation of this Agreement within thirty (30) days of the purchase date of the Agreement and the refund is not paid or credited within forty-five (45) days after return of the Agreement to Us, a ten percent (10%) penalty will be added to the refund for every thirty (30) days the refund is not paid. This provision applies only to the original purchaser of the Agreement.

If We cancel this Agreement We must provide You with a written notice at least 15 days prior to cancellation at Your last known address, with the effective date for the cancellation and the reason for cancellation. Prior notice is not required if the reason for cancellation is nonpayment of the Contract Fee or a material misrepresentation or substantial breach of duties by You relating to the covered property or its use. If We cancel this Agreement, You will receive a refund based upon one-hundred percent (100%) of the unearned pro-rata Contract Fee of this Agreement.

**Transfer of Coverage/Agreement**

If ownership of the covered premises changes during the contract term, you must notify APHW at 1.800.648.5006, within 30 days of property transfer for the contract to be transferred to the new owner of the covered premises.

**Use of Non-Original Manufacturer Parts**

We will approve the use of non-original manufacturer parts in providing the services we are required to perform under this Agreement.

**FLORIDA RESIDENTS ONLY:**

A home warranty may not provide listing period coverage free of charge. If Seller Upgrade Plan is selected all fees are due and payable and will be invoiced accordingly upon termination of the listing or at closing. Seller Upgrade Plan is only available with the purchase of a Buyer Coverage Plan.

**NEVADA RESIDENTS ONLY:**

If you are not satisfied with the manner in which APHW is handling your claim, you may contact the Commissioner at 888-872-3234.

**SOUTH CAROLINA RESIDENTS ONLY:**

This is not a contract of insurance.

You may cancel this Agreement by informing Us of Your cancellation request within 30 days of the purchase of the Agreement and You will receive a 100% refund of the full Contract Fee of Your Agreement, provided no claims have been paid. If Your cancellation request is made more than 30 days from the date of purchase, or if a claim has been paid within the first 30 days, You will receive a pro-rata refund of the Contract Fee, minus any paid claims.

If You request cancellation of this Agreement within thirty (30) days of the purchase date of the Agreement and the refund is not paid or credited within forty-five (45) days after return of the Agreement to Us, a ten percent (10%) penalty will be added to the refund for every thirty (30) days the refund is not paid. This provision applies only to the original purchaser of the Agreement.

If We cancel this Agreement We must provide You with a written notice at least 15 days prior to cancellation at Your last known address, with the effective date for the cancellation and the reason for cancellation. Prior notice is not required if the reason for cancellation is nonpayment of the Contract Fee or a material misrepresentation or substantial breach of duties by You relating to the covered property or its use. If We cancel this Agreement, You will receive a refund based upon one-hundred percent (100%) of the unearned pro-rata Contract Fee of this Agreement.

If you have any questions regarding this Contract, or a complaint against the provider, you may contact the South Carolina Department of Insurance, 1201 Main St. Ste. 1000, Columbia, SC 29201 or Post Office Box 100105, Columbia, SC 29202-3105, or (800) 768-3467.

**Transfer of Coverage/Agreement**

If ownership of the covered premises changes during the contract term, you must notify APHW at 1.800.648.5006, within 30 days of property transfer for the contract to be transferred to the new owner of the covered premises.

**Use of Non-Original Manufacturer Parts**

We will approve the use of non-original manufacturer parts in providing the services we are required to perform under this Agreement.

**TEXAS RESIDENTS ONLY:**

Anyplace in the contract where the term "deductible" appears Texas Residents should read this as a "Plan Fee". The Plan Fee varies in amount, as shown on pages 10 and 11, depending on the Plan you selected when you purchased the Warranty, and is the amount You are responsible to pay per repair for covered Breakdowns.

**NOTICE: YOU THE BUYER HAVE OTHER RIGHTS AND REMEDIES UNDER THE TEXAS DECEPTIVE TRADE PRACTICES-CONSUMER PROTECTION ACT WHICH ARE IN ADDITION TO ANY REMEDY WHICH MAY BE AVAILABLE UNDER THIS CONTRACT.**

**FOR MORE INFORMATION CONCERNING YOUR RIGHTS, CONTACT THE CONSUMER PROTECTION DIVISION OF THE ATTORNEY GENERAL'S OFFICE, YOUR LOCAL DISTRICT OR COUNTY ATTORNEY OR THE ATTORNEY OF YOUR CHOICE.**

This contract is issued by a Residential Service Company licensed by the Texas Real Estate Commission. Complaints about this contract or company may be directed to the Texas Real Estate Commission at P.O. Box 12188, Austin, TX 78711-2188, (512) 936-3049. The purchase of a residential service contract or home warranty contract is optional and similar coverage may be purchased from other residential service companies or insurance companies authorized to conduct business in Texas.



## Enjoy Living in Your Home



## Privacy Policy

APHW will not sell your information to third parties. Any third parties who perform services for us are required to protect any customer information and may only use it in connection with performing those services. We extensively secure and limit access to your information. We protect information about potential, current, and former APHW customers.

Information about our customers or former customers will only be disclosed as permitted or required by law. Information about you that has been collected is maintained in our home warranty Agreement records. We use this information to process and service your Agreement; to service claims; with your consent; or as directed by you.

We restrict access to your information to only APHW employees who we have determined need it in order to provide services to you. We train our employees to safeguard customer information, and we require them to sign confidentiality and non-disclosure agreements. We maintain strict physical, electronic, and procedural safeguards to protect your information from unauthorized access by third parties.

If you have a concern about privacy or security at America's Preferred Home Warranty please let us know. Email us at [aphwoffice@aphw.com](mailto:aphwoffice@aphw.com) or call us: 1.800.648.5006.

## Supreme Home Warranty Agreement Information

**Seller's coverage** for the listing period starts the date the application is received and accepted by APHW and continues until closing or until the listing is cancelled, whichever occurs first.

**Buyer's coverage** begins at the close of sale and continues for One (1) year from that date (or 2 years if the 2 year plan is chosen), provided payment has been received by APHW within seven (7) business days after close of sale in order for coverage to be in force. **See terms, conditions, and limitations within this agreement, located on pages 5-8 of this contract.**

**The charges shown for principal dwelling and additional dwellings include the full amount of all fees, if any, payable to the real estate Broker and its agents for administering, processing and advertising.**

**This agreement does not cover any pre-existing defects. In order to qualify for coverage, potentially covered items must be fully operational and in satisfactory working condition upon occupancy of the home.**

Seller acknowledges by signature and/or payment, that he or she has read, understands and accepts this Supreme Home Warranty Agreement, including all Service Agreement Terms & Conditions on pages 5-8 and that the obligation of APHW to perform hereunder is conditional upon the truth and accuracy of statements made in these declarations and upon full performance of this Agreement by the Seller. The seller further acknowledges that any known pre-existing defects have been declared and that all systems for which coverage is provided are fully functional and in good, satisfactory operating condition and will be in good operating condition on the transfer date of coverage to the buyer and upon occupancy of the home and is obligated to pay the cost of this home warranty protection at closing. **Seller Preferred Upgrade fee is due at closing. Seller understands and agrees that APHW reserves the right to request payment of the Seller Preferred Upgrade if service has been performed on an upgraded system or appliance in the event of listing expiration or cancellation of coverage.**

**Buyer acknowledges by signature and/or payment, that he or she has read, understands and accepts this Supreme Home Warranty Agreement, including all Service Agreement Terms and Conditions on pages 5-8 and the obligation of this Agreement by the seller and buyer that all systems are in good and satisfactory, operating condition on the transfer date of coverage to the buyer and upon occupancy of the home.**

# Pricing Information

**\$465**  
Base Price

Single Family Home with \$100 Deductible

## Single Family Home - One Year:

\$100 Deductible ..... \$465  
\$50 Deductible ..... \$499

Single Family Home - Two Year:  
\$100 Deductible ..... \$850

Condo/Townhouse - One Year:  
\$75 Deductible ..... \$440

New Construction - Three Years:  
\$75 Deductible ..... \$550  
Coverage begins 366 days after closing and continues for three years.

## Multi-family Unit Plans - One Year (\$75 Deductible):

Duplex  
(2 warranty agreements) ..... \$870  
Triplex  
(3 warranty agreements) ..... \$1,215  
Fourplex  
(4 warranty agreements) ..... \$1,580

## Buyer Coverage Plans


STANDARD COVERAGE ITEMS	
Attic & Exhaust Fans	•
Built-In Dishwasher	•
Built-In Microwave	•
Built-In Oven	•
Central Air Conditioning	•
Central Vacuum	•
Duct Work	•
Electrical System	•
Free Standing Range/Cooktop	•
Garage Door Opener	•
Garbage Disposal	•
Heating System	•
Hotel Benefits	•
Humidifier	•
Instant Hot Water Dispenser	•
Permanently Installed Sump Pump	•
Plumbing	•
Refrigerator	•
Roof Leak Repair	•
Septic System	•
Stoppages	•
Trash Compactor (built-in)	•
Water Heater	•
Water Well Pump	•

BUYER PREFERRED UPGRADE (Optional)   \$140	
Built-In Dishwasher (Adds): Racks, Baskets and Rollers	•
Built-In Microwave (Adds): Interior Lining, Glass Door, Clocks and Shelves	•
Central Air (Adds): Refrigerant Recovery, Cost of Crane, Registers & Grills	•
Ceiling Fan	•
Central Heat (Adds): Registers, Grills and Heat Lamps	•
Garage Door Opener (Adds): Hinges, Springs, Keypads and Remote Transmitters	•
Refrigerator (Adds): Refrigerant Recovery, Control Board, Ice Maker, and Ice/Beverage Dispenser	•
Special Electrical Package (Adds): Fire/Burglar Alarm, Lighting Fixtures, Doorbell	•
Toilets (Adds): Replaced With Like Quality	•
Trash Compactor (Adds): Lock and Key Assembly, Buckets	•
Oven/Range (Adds): Interior Lining, Clocks, Rotisseries, Racks, Handles, Knobs and Dials	•
Water Heater (Adds): Sediment Buildup	•
\$250 towards Code Violations	•

**BUYER'S PREMIER COVERAGE PLAN**

Standard Coverage Items  
+  
Buyer Preferred Upgrade  
+  
Washer and Dryer Coverage

**\$724**  
w/ \$50 Deductible



**IMPORTANT:** If the Buyer Preferred Upgrade has been selected and the property is a multiple family dwelling, the upgrade package must be purchased for each unit.

## Seller Coverage Plans

\*Florida Only: Customers must purchase the Seller Preferred Upgrade to receive listing coverage, which will include the Standard Coverage Items.

STANDARD COVERAGE ITEMS*	
ListSecure®	•
Attic & Exhaust Fans	•
Central Vacuum	•
Duct Work	•
Electrical System	•
Instant Hot Water Dispenser	•
Plumbing	•
Stoppages	•
Trash Compactor (built-in)	•
Water Heater	•

SELLER PREFERRED UPGRADE (Optional)*   \$75	
Built-In Dishwasher	•
Built-In Microwave	•
Built-In Oven	•
Central Air Conditioning	•
Free Standing Range/Cooktop	•
Garbage Disposal	•
Heating System	•
Refrigerator	•

## Optional Coverages

Buyer Preferred Upgrade ..... \$140  
Seller Upgrade Plan.....\$75

Pool/Spa..... \$185  
Premium/Salt Water Pool/Spa ..... \$345  
Jetted Bathtubs..... \$125  
Clothes Washer & Dryer .....\$85  
Water Softener .....\$85

Contract No: \_\_\_\_\_



# Supreme Home Warranty Agreement/Invoice

To obtain a Contract Number or to order a Warranty - P: 1.800.648.5006 | F: 1.888.479.2652 | APHW • 5775 Ann Arbor Rd. • Jackson, MI 49201 | APHW.COM | aphwoffice@aphw.com |

**IMPORTANT: FOR SERVICE CALL: 1.800.648.5006. NO PAYMENT OR REIMBURSEMENT FOR SERVICES PERFORMED WITHOUT PRIOR APPROVAL.**

~ Please be sure to fill in all applicable areas of information. ~

Seller's Name \_\_\_\_\_

Property Address No. & Street \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ County \_\_\_\_\_ Zip \_\_\_\_\_

Phone # \_\_\_\_\_

Seller's E-mail \_\_\_\_\_

Buyer's Name \_\_\_\_\_

Phone # \_\_\_\_\_

Buyer's E-mail \_\_\_\_\_

Real Estate Office \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone # \_\_\_\_\_ Fax # \_\_\_\_\_

Real Estate Agent \_\_\_\_\_ Agent's E-mail \_\_\_\_\_

Closing Date \_\_\_\_\_ Listing date \_\_\_\_\_

**BOTH PARTIES AGREE THAT THE OBLIGATIONS FOR REPAIR OR SERVICE UNDER THIS AGREEMENT ARE SOLELY THOSE OF THE SERVICE PROVIDER AND ARE NOT THE OBLIGATION OF ANY REAL ESTATE FIRM. SEE ADDITIONAL TERMS AND CONDITIONS ON THE PREVIOUS PAGES.**

**SELLER AND BUYER ACKNOWLEDGE BY SIGNATURE OR PAYMENT THAT HE OR SHE HAS READ, UNDERSTANDS AND ACCEPTS THIS SUPREME HOME WARRANTY AGREEMENT INCLUDING ALL SERVICE AGREEMENT TERMS AND CONDITIONS.**

Seller(s) Signature(s) X \_\_\_\_\_ Date \_\_\_\_\_

X \_\_\_\_\_ Date \_\_\_\_\_

Buyer(s) Signature(s) X \_\_\_\_\_ Date \_\_\_\_\_

X \_\_\_\_\_ Date \_\_\_\_\_

### WAIVER

Applicant has reviewed the Supreme Home Warranty Agreement and hereby declines coverage. Applicant agrees to hold the real estate broker and agent harmless in the event of a significant mechanical failure which otherwise would have been covered under the Supreme Home Warranty Agreement.

Seller(s) Signature(s) X \_\_\_\_\_ Date \_\_\_\_\_

Buyer(s) Signature(s) X \_\_\_\_\_ Date \_\_\_\_\_

### HOUSING TYPE (Please Check One)

- Single/Family
  - Duplex (2 warranties)
  - Fourplex (4 warranties)
  - Manufactured Home Year Manufactured: \_\_\_\_\_
  - Foreclosed/Repossessed Home\*\*
  - Condo/Townhouse
  - Triplex (3 warranties)
  - New Home Construction
- \*\*See Terms and Conditions "General #9"

### PLAN OPTIONS (Please Check One)

- Buyer's Premier Coverage Plan..... \$724  
Standard Coverage Items + Buyer Preferred Upgrade + Washer & Dryer Coverage + \$50 Deductible
- Single Family - One Year:
  - \$100 Deductible..... \$465
  - \$50 Deductible..... \$499
- Single Family - Two Year:
  - \$100 Deductible..... \$850
- Condo/Townhouse Plan - One Year:
  - \$75 Deductible..... \$440
- New Construction Plan for Buyers - Three Years:
  - \$75 Deductible..... \$550  
Coverage begins 366 days after closing and continues for three years.
- Multi-family Unit Plans (\$75 Deductible):
  - Duplex (2 warranty agreements) ..... \$870
  - Triplex (3 warranty agreements) ..... \$1,215
  - Fourplex (4 warranty agreements) ..... \$1,580

### BUYER COVERAGE OPTIONS (Check All That Apply)

- Buyer Preferred Upgrade.....\$140 x \_\_\_ yrs. = \$ 0  
*Important: If the Buyer Preferred Upgrade has been selected and the property is a multiple family dwelling, the upgrade package must be purchased for each unit.*
- Pool/Spa .....\$185 x \_\_\_ yrs. = \$ 0
- Premium Salt Water/Pool/Spa.....\$345 x \_\_\_ yrs. = \$ 0
- Jetted Bathtub .....\$125 x \_\_\_ yrs. = \$ 0
- Clothes Washer & Dryer .....\$85 x \_\_\_ yrs. = \$ 0
- Water Softener.....\$85 x \_\_\_ yrs. = \$ 0

### SELLER'S COVERAGE

- Seller Preferred Upgrade ..... \$75
- Plan Cost(s) ..... \$ \$ 0.00
- Option Cost(s) ..... \$ \$ 0.00
- Total..... \$ \$ 0.00**

### PLEASE REMIT PAYMENT TO:

**AMERICA'S PREFERRED HOME WARRANTY  
PO BOX 772150 | DETROIT, MI 48277-2150**

**SUBMIT**

---

**From:** Michael Vincent <mrussing@yahoo.com>  
**Sent:** Monday, November 25, 2019 9:12 PM  
**To:** Lyles, Viola  
**Subject:** [EXT] City employee Stuart Harborne

**EXTERNAL EMAIL:** This email originated from the Internet. Do not click any images, links or open any attachments unless you recognize and trust the sender and know the content is safe. Please click the Phish Alert button to forward the email to Bad.Mail.

Dear Mayor,

I would appreciate your attention in having the proper leadership reach out to me on this serious matter.

Dear NCRE Commission,

On 10/16/2019 I closed on a home located at 1725 Birchcrest Dr, Charlotte, NC 28205. The sellers of this property were Stuart and Kathy Harborne. Both are licensed NC Realtors and operate under Harborne Homes, LLC. Kathy served as HH's agent with respect to this transaction, and operated for the purposes of this sale through Paracle, LLC d/b/a Better Homes and Gardens Paracle. Kathy Harborne is a Provisional Broker and under the supervision on Tony Hanson, Broker In Charge.

HH, acting through Mr. & Mrs. Harborne, purchased and sold the Property as a "flip", something I was not aware of. HH served as the construction manager or general contractor for the construction work performed on the Property, and hired out work by electricians, plumbers and other trades. Mr. & Mrs. Harborne were not licensed or permitted to serve as the construction manager or general contractor on this project and did not intend to occupy the Property as their primary residence. It now also appears Mr. & Mrs. Harborne attempted to circumvent these laws by later having various trades pull their own permits, and performing almost all work without proper permits. Various permits were pulled and multiple permits never passed a final inspection and no Certificate of Competition has ever been issued.

At the time I signed the Offer to Purchase contract, I specifically asked if all permitted work had been completed and the house had passed a final inspection from the city of Charlotte and Mecklenburg Co. I was told yes and presented with a Disclosure Statement that you will find attached. As you will note there is no mention of the FAILED inspection report from the City of Charlotte or Mecklenburg Co. The failed inspection was reported to Mr. & Mrs. Harborne by the county on 8/9/2019. I signed the Offer to Purchase on 9/20/2019. The statement that was made to me was false and was made with the intent that I would rely upon it in purchasing the Property. As you will see, the Disclosure Statement ( also attached ), makes "No Representation" as to essentially every item. Every person reading this compliant knows Realtors, when personally interested in a transaction in NC, must disclose all material facts related to a transaction or

the Property in question. Realtor's may not hide behind "no representation" statements in disclosure forms. That is exactly what Mr. & Mrs. Harborne did.

They also failed to disclose a second material fact. The mainsewer line from the house to the city line is not connected legally as no tap fee has ever been paid. Stuart Harborne works for the City of Charlotte as a Real Estate Acquisition Program Manager and also has a team that acquires easements for water and sewer improvements. As you will see in section 16 of the Disclosure Statement, the box "city/county system available" is marked as well as "no representation". This is a clear intent to deceive as Mr. Harborne clearly knew the condition of the sewer system as his position with the City of Charlotte would avail him of this information. This is a major material fact and yet again was not disclosed at any point. On the very first night I moved in the house the sewer system back up and it has been discovered that that main line from the house has collapsed. The Disclosure Statement is a living document and all of this information could have been updated at any point before closing. I would have never purchased the Property knowing these conditions. Repair estimates have reached some \$25,000.

These actions are clear acts of misrepresentation and fraud and I am seeking immediate action from the commission. The life of my family has been turned upside down and my investment has been damaged as the home is not able to be resold in its current condition and I will not participate in a "non-disclosure" buyer beware game as the Harborne's have attempted to play out. Consumers should NEVER have to experience this type of behavior from a NC Realtor. My family is counting on you to resolve this serious matter.

Michael V. Russing  
704-616-4101

---

**From:** Michael Russing <[mrussing@commercialcreditgroup.com](mailto:mrussing@commercialcreditgroup.com)>  
**Sent:** Tuesday, November 26, 2019 4:43 PM  
**To:** Jones, Marcus  
**Subject:** [EXT] Stuart Harborne, Real Estate Division  
**Attachments:** COPY\_ONLY\_A9437-706998-191126141838\_rec401.pdf; Harborne Plumber.pdf; Harborne Complaint.pdf

**EXTERNAL EMAIL:** This email originated from the Internet. Do not click any images, links or open any attachments unless you recognize and trust the sender and know the content is safe. Please click the Phish Alert button to forward the email to Bad.Mail.

Mr. Jones,

This is a city employee that has used his position for misdealing. I would appreciate your attention.

**Michael V. Russing** | Regional V.P. | **Commercial Credit Group Inc.**

227 West Trade Street, Suite 1450 | Charlotte, NC 28202 | O (704) 731-0031 | M (404)-670-6248

[mrussing@commercialcreditgroup.com](mailto:mrussing@commercialcreditgroup.com) | [www.commercialcreditgroup.com](http://www.commercialcreditgroup.com)



**Commercial Credit Group**

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10:11 AM  
@ [unreadable]

[unreadable]

Dumb ass  
nuthersucker bought a  
fucked up house trying  
to blame everybody  
else for it. Fucking  
Rechenwood!

I'm getting ready to  
call my buddy Justice  
from Crown City  
plumbing and tell them  
to pull off your fucking  
job.

[unreadable]

You pulled the wrong

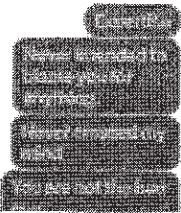
[Social media sharing icons: Facebook, Twitter, Email, Print, etc.]

10:44 AM  
1 (204) 531-6152

You picked the wrong bear



What the fuck are you dialing me for then?



10:44 AM  
1 (204) 531-6152  
A row of social media sharing icons including WhatsApp, Telegram, Facebook, Messenger, Email, Print, and a share icon.





OFFICE USE	
File #	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
Order ID	A9437-706998-191126141838

NORTH CAROLINA REAL ESTATE COMMISSION  
P.O. Box 17100 Raleigh, N.C. 27619-7100  
Phone (919) 875-3700 • Email: ra@ncrec.gov  
Website: www.ncrec.gov

## COMPLAINT

### INSTRUCTIONS

1. This form should be used when filing a complaint with the North Carolina Real Estate Commission against a real estate broker or a time share project (hereinafter "licensee").
2. Please fill in the information requested below. Then answer the questions and state your complaint on page two of this form.
3. **Your complaint will become a public record, and a copy of it will be given to the real estate licensee complained against.**
4. Persons who file complaints must be willing to appear as a witness, be sworn, testify and be cross-examined concerning the allegations made in their complaints..

### IMPORTANT

The Real Estate Commission investigates complaints against real estate licensees accused of misconduct. If the Commission finds that real estate licensees have violated the Real Estate License Law or Commission rules, it can suspend or revoke their licenses.

The Real Estate Commission cannot give legal advice or act as your attorney. The Commission cannot assist in resolving disputes involving such matters as quality of workmanship of construction or the payment of real estate brokerage fees. The Commission cannot order monies to be paid or refunded to you or contracts to be canceled. If you have these types of problems, you should consult your attorney.

#### TYPE OR PRINT CLEARLY IN INK

Michael Russing	mrussing@yahoo.com
<small>Your full name (Identifies you as Complaining Witness)</small>	<small>Email Address</small>
1725 Birchcrest Dr Charlotte NC 28205-4907	704-616-4101
<small>Mailing Address (Street, City, State, Zip code)</small>	<small>Home Phone</small>
	704-616-4101
	<small>Cell Phone</small>

#### REAL ESTATE LICENSEE(S) COMPLAINED AGAINST

#### BROKER #1

Licensee's Name Stuart Harborne

Company Name Harborne Homes LLC

Company Address 4319 Links Dr

City, State, Zip Charlotte NC 28277-4504

#### BROKER #2 (IF ANY)

Licensee's Name Kathy Harborne

Company Name Harborne Homes LLC

Company Address 4319 Links Dr

City, State, Zip Charlotte NC 28277-4504

DO NOT WRITE IN THIS SPACE

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Have you hired or consulted an attorney regarding your complaint?  Yes  No

If "Yes" give name Adam Ross 704-348-5013

Is there a pending or completed lawsuit regarding your complaint?  Yes  No

When did this event occur? 09/20/2019

Where did this event occur? Charlotte NC

Provide a detailed written statement of the full essentials of your complaint. Be factual. **Furnish copies of all documents pertaining to your complaint (contracts, letters, etc.), retaining the originals for your files.** Include the name, address, and telephone number of any witness(es) to the transaction in question. Attach additional sheets if necessary. PLEASE TYPE OR PRINT LEGIBLY.

on 10/16/19 I closed on a home located at 1725 Birchcrest Dr Charlotte NC 28205. The sellers of this property were Stuart and Kathy Harborne. Both are licensed NC Realtors. Kathy Harborne represented herself as a Better homes & Gardens agent. Kathy is a provisional broker and is supervised by BIC Anthony Joseph Hanson Paracle LLC d/b/a Better Homes and Gardens Real Estate Paracle 1012 Market Street Set 101 Fort Mill SC 29708. Kathy is also under the supervision of Lucas Mudrey of Better Homes and Gardens located at 6230 Fairview Rd Suite 105 Charlotte NC 28210. HH acting through Mr. & Mrs. Harborne purchased and sold the Property as a flip something I was not aware of. HH served as the construction manager or general contractor for the construction work performed on the Property and hired out by electricians plumbers and other trades. Mr. & Mrs. Harborne were not licensed or permitted to serve as the construction manager or general contractor on this project and did not intend to occupy the Property as their primary residence. It now also appears Mr. & Mrs. Harborne attempted to circumvent these laws by later having various trades pull their own permits and performing almost all work without proper permits. At the time of this complaint there is still an open and failed inspection from the city/county and no Certificate of Completion has ever been issued. At the time I signed the Offer To Purchase and Contract I specifically asked the sellers if any permits or inspections were open and asked if all work had passed its final inspections with the city/county. I was told yes and presented with a Disclosure Statement that you will find attached. On 8/9/2019 Mr. & Mrs. Harborne received a Failed Inspection report on permit#83541053 from the city/county. I signed the Offer To Purchase on 9/20/19 and was never informed of this material fact. The statement made to me was false and was made with the intent that I would rely upon it in purchasing the Property. As you will see the Disclosure Statement makes No Representation as to essentially every item. Every person on the Commission knows Realtors when personally interested in a transaction in NC must disclose all material facts related to a transaction or the Property in question. Realtors may not hide behind no representation statements in disclosure forms. That is exactly what Mr. & Mrs. Harborne did. They also failed to disclose a second major material fact. The main sewer line from the Property to the city line is damaged and is not connected to the city legally as no TAP fee has ever been paid. Stuart Harborne works for the City of Charlotte as a Real Estate Acquisition Program Manager and also has a team that acquires easements for water and sewer improvements. As you will see on item# 16 of the Disclosure Statement City/County System Available is marked along with no representation. Items #8 and item #18 are also gross in their misrepresentation of the majors plumbing issues. On the very first night in the home the entire sewer system back up and has 3 times since. Mr. Mr. & Mrs. Harbone clearly knew the condition of the sewer system as his position with the City of Charlotte would avail him of this information. Clearly I would have never purchased the Property knowing this material fact. The Disclosure Statement is a living document and this information could have been updated at any point during the buying process but the Mr. & Mrs. Harborne chose fraud and misdealing rather than give an honest homebuyer the material facts as required by law. Repairs for this system will reach \$25000. Given the gravity of deception here and the damage to me financially and the distress on my family I seek to rescind this transaction and ask you take the appropriate steps to revoke the licenses of Mr. & Mrs. Harborne as well as fine them along with the supervising Brokers In Charge. Shame on all parties. NC Realtors are held to a higher standard. I cannot imagine this meets any version of higher or ever basic standard. I respectfully ask for your assistance. We have even been threatened by her plumber that failed to do what work he did correctly. I have attached his text message to me when I attempted to ask him questions surrounding the plumbing and sewer system. He is the owner of Even Flow Plumbing here is the Charlotte area. He appears to be well aware of the issues. He did call the plumbing company we hired to help us. Queen City Plumbing confirmed his contact to them. This is the character of the people she hired.

The undersigned hereby swears or affirms that the foregoing statement and the attachments hereto are true.

Michael V Russing

Signature of Complaining Witness

11-26-2019

Date



[View Permits](#) | [Links](#) | [Sign In](#)

### Building Requests Detail (public view)

Permit Number: 83541053  
Address: 1725 BIRCHCREST DR CHARLOTTE  
CHARLOTTE

Confirmation #: 83541053005  
Received Date: Aug 6, 2019  
Requested Date: Aug 8, 2019  
Requested Through: WEB

TCO Reinspection  
 Charge Reinspection Fee  
TCO Reinspection Fee: \$0.00

Homeowner Priority:  
Homeowner Name:

Phone: ( ) -

Result Date: Aug 9, 2019  
Result Overall: Failed  
Inspector: Knight, Joshua  
Inspector Phone #: (704) 533-8182

Requested Tasks: FI

#### Results

Task Performed	Result	Partial Approval Note	Billable to GC	Affects HFR
<input checked="" type="checkbox"/> FI - Final Inspection	02 - Failed		<input checked="" type="checkbox"/>	1

#### Inspector Comments

Last Update By	Inspectors Notes	Chargeable Failure	Affects HFR
Knight, Joshua	Cannot have hvac supply vent on screened porch. Must have 15" from center of toilet to vanity in master bath. Will need to request plumbing final on plumbing permit.	<input checked="" type="checkbox"/>	1

RTAP Level: (None)  
RTAP Comments:

[Submit](#) [Cancel](#)



# STATE OF NORTH CAROLINA RESIDENTIAL PROPERTY AND OWNERS' ASSOCIATION DISCLOSURE STATEMENT


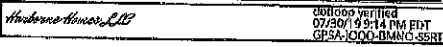
## Instructions to Property Owners

- The Residential Property Disclosure Act (G.S. 47E) ("Disclosure Act") requires owners of residential real estate (single-family homes, individual condominiums, townhouses, and the like, and buildings with up to four dwelling units) to furnish buyers a Residential Property and Owners' Association Disclosure Statement ("Disclosure Statement"). This form is the only one approved for this purpose. A disclosure statement must be furnished in connection with the sale, exchange, option, and sale under a lease with option to purchase where the tenant does not occupy or intend to occupy the dwelling. A disclosure statement is not required for some transactions, including the first sale of a dwelling which has never been inhabited and transactions of residential property made pursuant to a lease with option to purchase where the lessee occupies or intends to occupy the dwelling. For a complete list of exemptions, see G.S. 47E-2.
- You must respond to each of the questions on the following pages of this form by filling in the requested information or by placing a check (✓) in the appropriate box. In responding to the questions, you are only obligated to disclose information about which you have actual knowledge.
  - If you check "Yes" for any question, you must explain your answer and either describe any problem or attach a report from an attorney, engineer, contractor, pest control operator or other expert or public agency describing it. If you attach a report, you will not be liable for any inaccurate or incomplete information contained in it so long as you were not grossly negligent in obtaining or transmitting the information.
  - If you check "No," you are stating that you have no actual knowledge of any problem. If you check "No" and you know there is a problem, you may be liable for making an intentional misstatement.
  - If you check "No Representation," you are choosing not to disclose the conditions or characteristics of the property, even if you have actual knowledge of them or should have known of them.
  - If you check "Yes" or "No" and something happens to the property to make your Disclosure Statement incorrect or inaccurate (for example, the roof begins to leak), you must promptly give the buyer a corrected Disclosure Statement or correct the problem.
- If you are assisted in the sale of your property by a licensed real estate broker, you are still responsible for completing and delivering the Disclosure Statement to the buyers; and the broker must disclose any material facts about your property which he or she knows or reasonably should know, regardless of your responses on the Disclosure Statement.
- You must give the completed Disclosure Statement to the buyer no later than the time the buyer makes an offer to purchase your property. If you do not, the buyer can, under certain conditions, cancel any resulting contract (See "Note to Buyers" below). You should give the buyer a copy of the Disclosure Statement containing your signature and keep a copy signed by the buyer for your records.

**Note to Buyer:** If the owner does not give you a Residential Property and Owners' Association Disclosure Statement by the time you make your offer to purchase the property, you may under certain conditions cancel any resulting contract without penalty to you as the buyer. To cancel the contract, you must personally deliver or mail written notice of your decision to cancel to the owner or the owner's agent within three calendar days following your receipt of the Disclosure Statement, or three calendar days following the date of the contract, whichever occurs first. However, in no event does the Disclosure Act permit you to cancel a contract after settlement of the transaction or (in the case of a sale or exchange) after you have occupied the property, whichever occurs first.

- In the space below, type or print in ink the address of the property (sufficient to identify it) and your name. Then sign and date.  
 Property Address: 1725 Birchcrest Drive, Charlotte 28205  
 Owner's Name(s): Harborne Homes LLC

Owner(s) acknowledge(s) having examined this Disclosure Statement before signing and that all information is true and correct as of the date signed.

Owner Signature: Harborne Homes LLC  Date \_\_\_\_\_  
 Owner Signature: Harborne Homes LLC  Date \_\_\_\_\_

Buyers acknowledge receipt of a copy of this Disclosure Statement; that they have examined it before signing; that they understand that this is not a warranty by owners or owners' agents; that it is not a substitute for any inspections they may wish to obtain; and that the representations are made by the owners and not the owners' agents or subagents. Buyers are strongly encouraged to obtain their own inspections from a licensed professional. *Buyers are strongly encouraged to obtain their own inspections from a licensed professional. Buyers are strongly encouraged to obtain their own inspections from a licensed professional. Buyers are strongly encouraged to obtain their own inspections from a licensed professional.*

Buyer Signature: Michael P. Rosling  Date \_\_\_\_\_  
 Buyer Signature: \_\_\_\_\_ Date \_\_\_\_\_

Property Address/Description: 1725 Birchcrest Drive, Charlotte- Brick ranch

The following questions address the characteristics and condition of the property identified above about which the owner has actual knowledge. Where the question refers to "dwelling," it is intended to refer to the dwelling unit, or units if more than one, to be conveyed with the property. The term "dwelling unit" refers to any structure intended for human habitation.

- |   | Yes                      | No                       | No Representation                   |
|---|--------------------------|--------------------------|-------------------------------------|
| 1. In what year was the dwelling constructed? <u>1956</u><br>Explain if necessary: <u>Brick Ranch</u>   |                          |                          | <input checked="" type="checkbox"/> |
| 2. Is there any problem, malfunction or defect with the dwelling's foundation, slab, fireplaces/chimneys, floors, windows (including storm windows and screens), doors, ceilings, interior and exterior walls, attached garage, patio, deck or other structural components including any modifications to them?.....  | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3. The dwelling's exterior walls are made of what type of material? <input checked="" type="checkbox"/> Brick Veneer <input type="checkbox"/> Wood <input type="checkbox"/> Stone <input type="checkbox"/> Vinyl <input type="checkbox"/> Synthetic Stucco <input type="checkbox"/> Composition/Hardboard <input type="checkbox"/> Concrete <input type="checkbox"/> Fiber Cement <input type="checkbox"/> Aluminum <input type="checkbox"/> Asbestos <input type="checkbox"/> Other _____ (Check all that apply)   |                          |                          | <input checked="" type="checkbox"/> |
| 4. In what year was the dwelling's roof covering installed? <u>N/A</u> (Approximate if no records are available) Explain if necessary: _____  |                          |                          | <input checked="" type="checkbox"/> |
| 5. Is there any leakage or other problem with the dwelling's roof?.....   | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 6. Is there any water seepage, leakage, dampness or standing water in the dwelling's basement, crawl space, or slab?  | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 7. Is there any problem, malfunction or defect with the dwelling's electrical system (outlets, wiring, panel, switches, fixtures, generator, etc.)?.....  | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 8. Is there any problem, malfunction or defect with the dwelling's plumbing system (pipes, fixtures, water heater, etc.)?   | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 9. Is there any problem, malfunction or defect with the dwelling's heating and/or air conditioning?.....  | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 10. What is the dwelling's heat source? <input checked="" type="checkbox"/> Furnace <input type="checkbox"/> Heat Pump <input type="checkbox"/> Baseboard <input type="checkbox"/> Other _____ (Check all that apply) Age of system: <u>N/A</u>   |                          |                          | <input checked="" type="checkbox"/> |
| 11. What is the dwelling's cooling source? <input type="checkbox"/> Central Forced Air <input type="checkbox"/> Wall/Window Unit(s) <input type="checkbox"/> Other <u>N/A</u> (Check all that apply) Age of system: <u>N/A</u>  |                          |                          | <input checked="" type="checkbox"/> |
| 12. What are the dwelling's fuel sources? <input checked="" type="checkbox"/> Electricity <input checked="" type="checkbox"/> Natural Gas <input type="checkbox"/> Propane <input type="checkbox"/> Oil <input type="checkbox"/> Other _____ (Check all that apply)<br>If the fuel source is stored in a tank, identify whether the tank is <input type="checkbox"/> above ground or <input type="checkbox"/> below ground, and whether the tank is <input type="checkbox"/> leased by seller or <input type="checkbox"/> owned by seller. (Check all that apply) |                          |                          | <input checked="" type="checkbox"/> |
| 13. What is the dwelling's water supply source? <input checked="" type="checkbox"/> City/County <input type="checkbox"/> Community System <input type="checkbox"/> Private Well <input type="checkbox"/> Shared Well <input type="checkbox"/> Other _____ (Check all that apply).....   |                          |                          | <input checked="" type="checkbox"/> |
| 14. The dwelling's water pipes are made of what type of material? <input checked="" type="checkbox"/> Copper <input type="checkbox"/> Galvanized <input type="checkbox"/> Plastic <input type="checkbox"/> Polybutylene <input type="checkbox"/> Other _____ (Check all that apply).....  |                          |                          | <input checked="" type="checkbox"/> |
| 15. Is there any problem, malfunction or defect with the dwelling's water supply (including water quality, quantity, or water pressure)?.....   | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 16. What is the dwelling's sewage disposal system? <input type="checkbox"/> Septic Tank <input type="checkbox"/> Septic Tank with Pump <input type="checkbox"/> Community System <input type="checkbox"/> Connected to City/County System <input checked="" type="checkbox"/> City/County System available <input type="checkbox"/> Straight pipe (wastewater does not go into a septic or other sewer system [note: use of this type of system violates state law]) <input type="checkbox"/> Other _____ (Check all that apply).....                             |                          |                          | <input checked="" type="checkbox"/> |
| 17. If the dwelling is serviced by a septic system, do you know how many bedrooms are allowed by the septic system permit?<br>If your answer is "yes," how many bedrooms are allowed? _____ <input type="checkbox"/> No records available   | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 18. Is there any problem, malfunction or defect with the dwelling's sewer and/or septic system?.....  | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 19. Is there any problem, malfunction or defect with the dwelling's central vacuum, pool, hot tub, spa, attic fan, exhaust fan, ceiling fans, sump pump, irrigation system, TV cable wiring or satellite dish, garage door openers, gas logs, or other systems?.....  | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 20. Is there any problem, malfunction or defect with any appliances that may be included in the conveyance (range/oven, attached microwave, hood/fan, dishwasher, disposal, etc.)?.....   | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Buyer Initials and Date MR 07/18/19 6:26 PM EDT dotloop verified

Owner Initials and Date HHL 07/30/19 8:14 PM EDT dotloop verified

Buyer Initials and Date \_\_\_\_\_ Owner Initials and Date HHL 07/30/19 9:14 PM EDT dotloop verified

- |  | Yes                      | No                                  | No Representation                   |
|--|--------------------------|-------------------------------------|-------------------------------------|
| 21. Is there any problem with present infestation of the dwelling, or damage from past infestation of wood destroying insects or organisms which has not been repaired?.....   | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 22. Is there any problem, malfunction or defect with the drainage, grading or soil stability of the property?.....   | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 23. Are there any structural additions or other structural or mechanical changes to the dwelling(s) to be conveyed with the property?.....   | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 24. Is the property to be conveyed in violation of any local zoning ordinances, restrictive covenants, or other land-use restrictions, or building codes (including the failure to obtain proper permits for room additions or other changes/improvements)?.....   | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 25. Are there any hazardous or toxic substances, materials, or products (such as asbestos, formaldehyde, radon gas, methane gas, lead-based paint) which exceed government safety standards, any debris (whether buried or covered) or underground storage tanks, or any environmentally hazardous conditions (such as contaminated soil or water, or other environmental contamination) which affect the property?..... | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 26. Is there any noise, odor, smoke, etc. from commercial, industrial, or military sources which affects the property?.....  | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 27. Is the property subject to any utility or other easements, shared driveways, party walls or encroachments from or on adjacent property?.....   | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| 28. Is the property the subject of any lawsuits, foreclosures, bankruptcy, leases or rental agreements, judgments, tax liens, proposed assessments, mechanics' liens, materialmen's liens, or notices from any governmental agency that could affect title to the property?.....   | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 29. Is the property subject to a flood hazard or is the property located in a federally-designated flood hazard area?.....   | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 30. Does the property abut or adjoin any private road(s) or street(s)?.....  | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 31. If there is a private road or street adjoining the property, is there in existence any owners' association or maintenance agreements dealing with the maintenance of the road or street?.....  | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |

If you answered "yes" to any of the questions listed above (1-31) please explain (attach additional sheets if necessary):

In lieu of providing a written explanation, you may attach a written report to this Disclosure Statement by a public agency, or by an attorney, engineer, land surveyor, geologist, pest control operator, contractor, home inspector, or other expert, dealing with matters within the scope of that public agency's functions or the expert's license or expertise.

The following questions pertain to the property identified above, including the lot to be conveyed and any dwelling unit(s), sheds, detached garages, or other buildings located thereon.

- |  | Yes                      | No                       | No Representation                   |
|--|--------------------------|--------------------------|-------------------------------------|
| 32. Is the property subject to governing documents which impose various mandatory covenants, conditions, and restrictions upon the lot or unit?..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

If you answered "yes" to the question above please explain (attach additional sheets if necessary):

- |  |                          |                                     |                                     |
|--|--------------------------|-------------------------------------|-------------------------------------|
| 33. Is the property subject to regulation by one or more owners' association(s) including, but not limited to, obligations to pay regular assessments or dues and special assessments? If you answer is "yes," please provide the information requested below as to each owners' association to which the property is subject [insert N/A into any blank that does not apply]: | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|-------------------------------------|-------------------------------------|

- (specify name) \_\_\_\_\_ whose regular assessments ("dues") are \$ \_\_\_\_\_ per \_\_\_\_\_ the name, address and telephone number of the president of the owners' association or the association manager are \_\_\_\_\_

- (specify name) \_\_\_\_\_ whose regular assessments ("dues") are \$ \_\_\_\_\_ per \_\_\_\_\_ the name, address and telephone number of the president of the owners' association or the association manager are \_\_\_\_\_

Buyer Initials and Date  
Buyer Initials and Date

MR  
02/28/19  
6:26 PM EDT  
dotloop verified

Owner Initials and Date  
Owner Initials and Date

HL  
07/30/19  
9:14 PM EDT  
dotloop verified

HL  
07/30/19  
9:14 PM EDT  
dotloop verified

\*If you answered "Yes" to question 33 above, you must complete the remainder of this Disclosure Statement. If you answered "No" or "No Representation" to question 33 above, you do not need to answer the remaining questions on this Disclosure Statement. Skip to the bottom of the last page and initial and date the page.

34. Are any fees charged by the association or by the association's management company in connection with the conveyance or transfer of the lot or property to a new owner? If your answer is "yes," please state the amount of the fees: \_\_\_\_\_
35. As of the date this Disclosure Statement is signed, are there any dues, fees, or special assessments which have been duly approved as required by the applicable declaration or bylaws, and that are payable to an association to which the lot is subject? If your answer is "yes," please state the nature and amount of the dues, fees, or special assessments to which the property is subject: \_\_\_\_\_
36. As of the date this Disclosure Statement is signed, are there any unsatisfied judgments against, or pending lawsuits involving the property or lot to be conveyed? If your answer is "yes," please state the nature of each pending lawsuit and the amount of each unsatisfied judgment: \_\_\_\_\_
37. As of the date this Disclosure Statement is signed, are there any unsatisfied judgments against, or pending lawsuits involving the planned community or the association to which the property and lot are subject, with the exception of any action filed by the association for the collection of delinquent assessments on lots other than the property and lot to be conveyed? If your answer is "yes," please state the nature of each pending lawsuit and the amount of each unsatisfied judgment: \_\_\_\_\_
38. Which of the following services and amenities are paid for by the owners' association(s) identified above out of the association's regular assessments ("dues")? (Check all that apply).
- |  | Yes                      | No                       | No Representation        |
|--|--------------------------|--------------------------|--------------------------|
| Management Fees.....   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Exterior Building Maintenance of Property to be Conveyed.....      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Master Insurance.....  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Exterior Yard/Landscaping Maintenance of Lot to be Conveyed.....   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Common Areas Maintenance.....                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Trash Removal.....   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Recreational Amenity Maintenance (specify amenities covered) _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Pest Treatment/Extermination.....                                  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Street Lights.....   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Water.....   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Sewer.....   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Storm water Management/Drainage/Ponds.....                         | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Internet Service.....  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Cable.....   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Private Road Maintenance.....                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Parking Area Maintenance.....                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Gate and/or Security.....  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Other: (specify) _____   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Buyer Initials and Date

MR  
02/18/19  
6:25 PM EDT  
dotloop verified

\_\_\_\_\_

Owner Initials and Date

HL  
07/20/19  
5:14 PM EDT  
dotloop verified

HL  
02/20/19  
9:14 PM EDT  
dotloop verified

Real Estate Professional.

Western Sydney University

Charlotte, North Carolina Area · 488 

MESSAGE

CONNECT

An experienced corporate real estate professional with a proven track record for exceptional service delivery, profitability augmentations, team performance, process improvements and innovation.

Practical, efficient and a strategic thinker and enjoys working in a team environment.

## Activity

491 followers



### What's Next for Sydney

Stuart Harborne liked this

SEE ALL



# Experience



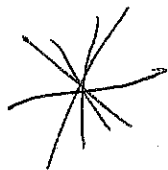
## Real Estate Acquisition Program Manager

City of Charlotte

Jan 2017 - Present • 2 yrs 11 mos

Charlotte, North Carolina Area

My team acquire land for right-of-ways, easements and encroachment agreements necessary for the successful completion of public projects such as roads, sidewalks, police and fire stations.



My team also acquires easements for water and sewer improvements.

- Overall responsibility for the Real Estate Acquisition services and a team of 10 staff.
- Initiating several major process improvement initiatives to improve operational efficiencies, project delivery timeframes and inter departmental efficiencies.
- Enhancing key stakeholder collaboration amongst the different City

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**From:** m turner <agerasia62@gmail.com>  
**Sent:** Thursday, November 28, 2019 8:47 AM  
**To:** Korolos, Tony; Ken Cagle; john steila; m turner  
**Cc:** RDean@kahuna-group.com; Mitchell, James; Ajmera, Dimple; Harlow, Justin; Phipps, Gregory; Bokhari, Tariq; Eiselt, Julie; Winston, Braxton; Egleston, Larken; Mayfield, LaWana; matt.newton@charlottenc.gov; Driggs, Edmund; Russell Whitehurst; Lyles, Viola; Harborne, Stuart; Ferguson, Angela  
**Subject:** Fwd: [EXT] Re: The Retreat at Rocky River 11\_25 Council Agenda

**EXTERNAL EMAIL:** This email originated from the Internet. Do not click any images, links or open any attachments unless you recognize and trust the sender and know the content is safe. Please click the Phish Alert button to forward the email to Bad.Mail.

Tony and Councilors,

Happy Thanksgiving to all!

After **affirming** our desire to participate in meeting with the City to review materials **REQUESTED** (EXHIBIT ONE), we received notification from the Real Estate Acquisition department that '*negotiations had failed*' and the City intended to move forward with *condemnation* proceedings.

**I expect an answer by 12 noon Monday** concerning (a) whether you have compiled materials as requested per our October 9, 2019 meeting (EXHIBIT TWO) and (b) a formal *confirmation of cancellation* of the meeting scheduled on December 4, 2019 for the City to present information requested by landowners of 9334, 9400, and 9416 Hood Road.

Kind regards,

Mike Turner

**EXHIBIT ONE:** ANGELA FERGUSON COMMUNICATION RE 'TENTATIVE' MEETING ON DECEMBER 4, 2019.

----- Forwarded message -----

From: **Ferguson, Angela** <[Angela.Ferguson@ci.charlotte.nc.us](mailto:Angela.Ferguson@ci.charlotte.nc.us)>  
Date: Wed, Nov 20, 2019 at 10:46 AM  
Subject: RE: [EXT] Re: The Retreat at Rocky River 11\_25 Council Agenda  
To: m turner <[agerasia62@gmail.com](mailto:agerasia62@gmail.com)>, Korolos, Tony <[tkorolos@ci.charlotte.nc.us](mailto:tkorolos@ci.charlotte.nc.us)>, Harborne, Stuart <[Stuart.Harborne@ci.charlotte.nc.us](mailto:Stuart.Harborne@ci.charlotte.nc.us)>, [RDean@kahuna-group.com](mailto:RDean@kahuna-group.com) <[RDean@kahuna-group.com](mailto:RDean@kahuna-group.com)>, Ken Cagle <[kencagle@carolinasecurity.com](mailto:kencagle@carolinasecurity.com)>, john steila <[lowcoat@yahoo.com](mailto:lowcoat@yahoo.com)>, Phipps, Gregory <[gaphipps@ci.charlotte.nc.us](mailto:gaphipps@ci.charlotte.nc.us)>, Russell Whitehurst <[rwhitehurst@eagleonline.net](mailto:rwhitehurst@eagleonline.net)>

Mr. Turner,

Good morning. We have a tentative meeting scheduled to visit onsite Wednesday December 4<sup>th</sup> at 3:30. This meeting will include Tony Korolos, myself, RD Harrell, and representative from Charlotte Water and Land Development.

Please confirm if this time will work for you.

Angela Ferguson

Real Estate Project Manager

City of Charlotte, General Services

Real Estate Division

600 E. 4<sup>th</sup> Street – 14<sup>th</sup> Floor

Charlotte, NC 28202

Office: 704-778-8724

**EXHIBIT TWO:** EMAIL TO RUSSELL WHITEHURST (EAGLE ENGINEERING) REGARDING LANDOWNER REQUEST FOR INFORMATION ON OCTOBER 9, 2019.

NO RESPONSE from RUSSELL WHITEHURST.

**m turner** <[agerasia62@gmail.com](mailto:agerasia62@gmail.com)> Tue, Nov 19, 6:15 PM (9 days ago)

to Russell, Angela, Tony, Stuart, Ken, john



Russell,

I have been trying to explain to the CITY Land Acquisition Department for over one year that a **RETAINING WALL** will be necessary to control erosion given the slope of the mountain through which the sanitary sewer will pass.

It seems Eagle Engineering had a 'whoa' moment on their SECOND visit October 9<sup>th</sup> to the property.

**Now that we have the recommendation that a retaining wall is necessary, we need more details.**

1. Who will build the retaining wall?
2. Who pays for retaining wall construction?
3. Dimensions : Length? Width? Height?
4. Materials?
5. Design and pictures (3-D)?
6. How much land will you use temporarily and permanently to construct this retaining wall?
7. Logistics.

Since Eagle Engineering is the entity contracted by the current developer – RD Harrell – to develop an engineering plan for this sanitary sewer, **I need a landscape 3 D illustration of how the sewer easement will appear AFTER**

**completion.** I thought we made this clear on October 9<sup>th</sup>. I want to know how the sewer easement will look like from north -> south, south -> north, and west -> east. I want a 3 D illustration that provides me to visualize aesthetics, slope, and how the retaining wall will be woven into the sewer path.

**I need a written proposal with drawings and 3-D landscape pictures prior to December 9<sup>th</sup>.** I am enclosing two links that might provide guidance on 3-D landscape 3-D illustrations.

<https://www.smartdraw.com/landscape-design/>

<https://www.mygreenimpressions.com/blog/bid/318132/The-4-Elements-of-Landscape-Design-Composition>

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**From:** Michael Vincent <mrussing@yahoo.com>  
**Sent:** Friday, November 29, 2019 9:05 AM  
**To:** Jones, Marcus; shelia.simpson@charlottenc.gov  
**Subject:** [EXT] Stuart Harborne  
**Attachments:** COPY\_ONLY\_A9437-706998-191126141838\_rec401.pdf; ATT00001.txt

EXTERNAL EMAIL: This email originated from the Internet. Do not click any images, links or open any attachments unless you recognize and trust the sender and know the content is safe. Please click the Phish Alert button to forward the email to Bad.Mail.

Dear Marcus & Shelia,

Attached you you find an official compliant place with the NC Real Estate Commission. As bad as this is, it is worse this individual works for the City of Charlotte...my tax dollars pay his \$93,000 salary. I would appreciate a phone call from your office on this matter. It has wrecked my family and my investment and I expect the City and your offices to assist and cooperate in this matter. My tax dollars pay for ALL, yes your positions as well.

Michael Russing  
704-616-4101



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Order ID	A9437-706998-191126141838

NORTH CAROLINA REAL ESTATE COMMISSION  
P.O. Box 17100 Raleigh, N.C. 27619-7100  
Phone (919) 875-3700 • Email: ra@ncrec.gov  
Website: www.ncrec.gov

## COMPLAINT

### INSTRUCTIONS

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2. Please fill in the information requested below. Then answer the questions and state your complaint on page two of this form.
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4. Persons who file complaints must be willing to appear as a witness, be sworn, testify and be cross-examined concerning the allegations made in their complaints..

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#### TYPE OR PRINT CLEARLY IN INK

<u>Michael Russing</u>	<u>mrussing@yahoo.com</u>
<small>Your full name (Identifies you as Complaining Witness)</small>	<small>Email Address</small>
<u>1725 Birchcrest Dr Charlotte NC 28205-4907</u>	<u>704-616-4101</u>
<small>Mailing Address (Street, City, State, Zip code)</small>	<small>Home Phone</small>
	<u>704-616-4101</u>
	<small>Cell Phone</small>

#### REAL ESTATE LICENSEE(S) COMPLAINED AGAINST

#### BROKER #1

Licensee's Name Stuart Harborne

Company Name Harborne Homes LLC

Company Address 4319 Links Dr

City, State, Zip Charlotte NC 28277-4504

#### BROKER #2 (IF ANY)

Licensee's Name Kathy Harborne

Company Name Harborne Homes LLC

Company Address 4319 Links Dr

City, State, Zip Charlotte NC 28277-4504

DO NOT WRITE IN THIS SPACE

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Have you hired or consulted an attorney regarding your complaint?  Yes  No

If "Yes" give name Adam Ross 704-348-5013

Is there a pending or completed lawsuit regarding your complaint?  Yes  No

When did this event occur? 09/20/2019

Where did this event occur? Charlotte NC

Provide a detailed written statement of the full essentials of your complaint. Be factual. **Furnish copies of all documents pertaining to your complaint (contracts, letters, etc.), retaining the originals for your files.** Include the name, address, and telephone number of any witness(es) to the transaction in question. Attach additional sheets if necessary. PLEASE TYPE OR PRINT LEGIBLY.

on 10/16/19 I closed on a home located at 1725 Birchcrest Dr Charlotte NC 28205. The sellers of this property were Stuart and Kathy Harborne. Both are licensed NC Realtors. Kathy Harborne represented herself as a Better homes & Gardens agent. Kathy is a provisional broker and is supervised by BIC Anthony Joseph Hanson Paracle LLC d/b/a Better Homes and Gardens Real Estate Paracle 1012 Market Street Set 101 Fort Mill SC 29708. Kathy is also under the supervision of Lucas Mudrey of Better Homes and Gardens located at 6230 Fairview Rd Suite 105 Charlotte NC 28210. HH acting through Mr. & Mrs. Harborne purchased and sold the Property as a flip something I was not aware of. HH served as the construction manager or general contractor for the construction work performed on the Property and hired out by electricians plumbers and other trades. Mr. & Mrs. Harborne were not licensed or permitted to serve as the construction manager or general contractor on this project and did not intend to occupy the Property as their primary residence. It now also appears Mr. & Mrs. Harborne attempted to circumvent these laws by later having various trades pull their own permits and performing almost all work without proper permits. At the time of this complaint there is still an open and failed inspection from the city/county and no Certificate of Completion has ever been issued. At the time I signed the Offer To Purchase and Contract I specifically asked the sellers if any permits or inspections were open and asked if all work had passed its final inspections with the city/county. I was told yes and presented with a Disclosure Statement that you will find attached. On 8/9/2019 Mr. & Mrs. Harborne received a Failed Inspection report on permit#83541053 from the city/county. I signed the Offer To Purchase on 9/20/19 and was never informed of this material fact. The statement made to me was false and was made with the intent that I would rely upon it in purchasing the Property. As you will see the Disclosure Statement makes No Representation as to essentially every item. Every person on the Commission knows Realtors when personally interested in a transaction in NC must disclose all material facts related to a transaction or the Property in question. Realtors may not hide behind no representation statements in disclosure forms. That is exactly what Mr. & Mrs. Harborne did. They also failed to disclose a second major material fact. The main sewer line from the Property to the city line is damaged and is not connected to the city legally as no TAP fee has ever been paid. Stuart Harborne works for the City of Charlotte as a Real Estate Acquisition Program Manager and also has a team that acquires easements for water and sewer improvements. As you will see on item# 16 of the Disclosure Statement City/County System Available is marked along with no representation. Items #8 and item #18 are also gross in their misrepresentation of the majors plumbing issues. On the very first night in the home the entire sewer system back up and has 3 times since. Mr. Mr. & Mrs. Harbone clearly knew the condition of the sewer system as his position with the City of Charlotte would avail him of this information. Clearly I would have never purchased the Property knowing this material fact. The Disclosure Statement is a living document and this information could have been updated at any point during the buying process but the Mr. & Mrs. Harborne chose fraud and misdealing rather than give an honest homebuyer the material facts as required by law. Repairs for this system will reach \$25000. Given the gravity of deception here and the damage to me financially and the distress on my family I seek to rescind this transaction and ask you take the appropriate steps to revoke the licenses of Mr. & Mrs. Harborne as well as fine them along with the supervising Brokers In Charge. Shame on all parties. NC Realtors are held to a higher standard. I cannot imagine this meets any version of higher or ever basic standard. I respectfully ask for your assistance. We have even been threatened by her plumber that failed to do what work he did correctly. I have attached his text message to me when I attempted to ask him questions surrounding the plumbing and sewer system. He is the owner of Even Flow Plumbing here is the Charlotte area. He appears to be well aware of the issues. He did call the plumbing company we hired to help us. Queen City Plumbing confirmed his contact to them. This is the character of the people she hired.

The undersigned hereby swears or affirms that the foregoing statement and the attachments hereto are true.

Michael V Russing

Signature of Complaining Witness

11-26-2019

Date

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**From:** Michael Vincent <mrussing@yahoo.com>  
**Sent:** Friday, November 29, 2019 9:07 AM  
**To:** Jones, Marcus; shelia.simpson@charlottenc.gov  
**Subject:** [EXT] Stuart Harborne, Code of Ethics  
**Attachments:** COPY\_ONLY\_A9437-706998-191126141838\_rec401.pdf; ATT00001.htm

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Shelia,

Below is the code of ethics you post to be employed by the City of Charlotte. I am prepared to rest the validity of these concerning this matter and Stuart Harborne.

## Code of Ethics

Principle 1 - We will treat all people with respect, fairness, and courtesy.

Principle 2 - We will be honest and will neither solicit nor accept anything of value that may influence or be perceived as influencing the performance of official duties.

Principle 3 - We will be good stewards of the people's money, giving a full day's work for a full day's pay, and using city vehicles, equipment, supplies or property only for city work and as authorized by city policy.

Principle 4 - We will respect all of our elected representatives and faithfully carry out their policies and we will conduct ourselves as non-partisan professionals, keeping politics out of the workplace.

Principle 5 - We will protect and enhance the reputation of the city of Charlotte and our co-workers by what we do and say.

The Code of Ethics provides the essential expectations for us all. Additional guidance for employee conduct can be found in other city policies, as well as departmental policies and





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Website: www.ncrec.gov

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#### TYPE OR PRINT CLEARLY IN INK

Michael Russing	mrussing@yahoo.com
Your full name (Identifies you as Complaining Witness)	Email Address
1725 Birchcrest Dr Charlotte NC 28205-4907	704-616-4101
Mailing Address (Street, City, State, Zip code)	Home Phone
	704-616-4101
	Cell Phone

#### REAL ESTATE LICENSEE(S) COMPLAINED AGAINST

##### BROKER #1

Licensee's Name	Stuart Harborne
Company Name	Harborne Homes LLC
Company Address	4319 Links Dr
City, State, Zip	Charlotte NC 28277-4504

##### BROKER #2 (IF ANY)

Licensee's Name	Kathy Harborne
Company Name	Harborne Homes LLC
Company Address	4319 Links Dr
City, State, Zip	Charlotte NC 28277-4504

DO NOT WRITE IN THIS SPACE

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Have you hired or consulted an attorney regarding your complaint?  Yes  No

If "Yes" give name Adam Ross 704-348-5013

Is there a pending or completed lawsuit regarding your complaint?  Yes  No

When did this event occur? 09/20/2019

Where did this event occur? Charlotte NC

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The undersigned hereby swears or affirms that the foregoing statement and the attachments hereto are true.

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Signature of Complaining Witness

11-26-2019

Date

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**From:** Michael Vincent <mrussing@yahoo.com>  
**Sent:** Tuesday, December 17, 2019 7:41 AM  
**To:** Jones, Marcus  
**Subject:** [EXT] Stuart Harborne....I will not go away  
**Attachments:** COPY\_ONLY\_A9437-706998-191126141838\_rec401.pdf; ATT00001.txt

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<small>Your full name (Identifies you as Complaining Witness)</small>	<small>Email Address</small>
<u>1725 Birchcrest Dr Charlotte NC 28205-4907</u>	<u>704-616-4101</u>
<small>Mailing Address (Street, City, State, Zip code)</small>	<small>Home Phone</small>
	<u>704-616-4101</u>
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Company Name Harborne Homes LLC

Company Address 4319 Links Dr

City, State, Zip Charlotte NC 28277-4504

##### BROKER #2 (IF ANY)

Licensee's Name Kathy Harborne

Company Name Harborne Homes LLC

Company Address 4319 Links Dr

City, State, Zip Charlotte NC 28277-4504

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If "Yes" give name Adam Ross 704-348-5013

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The undersigned hereby swears or affirms that the foregoing statement and the attachments hereto are true.

Michael V Russing  
Signature of Complaining Witness

11-26-2019  
Date

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**From:** Michael Russing <mrussing@commercialcreditgroup.com>  
**Sent:** Friday, December 20, 2019 9:43 AM  
**To:** Jones, Marcus; Lee, Sharon  
**Cc:** action9@wsoc-tv.com  
**Subject:** [EXT] 6 Times The City Manager Has Been Contacted With No Return Call...Amazing

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[City of Charlotte](#) > [Human Resources](#) > [Culture](#)

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## Our Culture

Want to know more about what it's like to work here? The philosophies and statements below describe what we are about.

### Diversity Philosophy

We believe that diversity contributes to our performance, the services we provide, the communities in which we live and work, and the lives of our employees and customers.

By promoting an inclusive environment where everyone respects individuals and values the contributions of people of different backgrounds, experiences, and perspectives, we can enrich and strengthen the quality of the products and services we deliver.

### Non-discrimination Statement

No employee or applicant for employment shall suffer discrimination because of race, religion, color, sex, national origin, sexual orientation, age, disability, political affiliation, or on the basis of actual or perceived gender as expressed through dress, appearance or behavior.

### Code of Ethics

Principle 1 - We will treat all people with respect, fairness, and courtesy.

Principle 2 - We will be honest and will neither solicit nor accept anything of value that may influence or be perceived as influencing the performance of official duties.

Principle 3 - We will be good stewards of the people's money, giving a full day's work for a full day's pay, and using city vehicles, equipment, supplies or property only for city work and as authorized by city policy.

Principle 4 - We will respect all of our elected representatives and faithfully carry out their policies and we will conduct ourselves as non-partisan professionals, keeping politics out of the workplace.

Principle 5 - We will protect and enhance the reputation of the city of Charlotte and our co-workers by what we do and say.

The Code of Ethics provides the essential expectations for us all. Additional guidance for employee conduct can be found in other city policies, as well as departmental policies and general orders.

## **Social Media**

The Code of Ethics does not make a distinction based on social media. The Code of Ethics should be followed whether using social media, written documents, in physical behavior, spoken interaction, or other behavior. The key factor is whether an employee's actions – whatever they may be – are consistent with the Code of Ethics and do not impair the ability of the employee to do his/her work or hurt the city's reputation and its ability to perform city services.

One very important point to remember about social media and other forms of electronic communication is that there is really no such thing as private communication. Once a communication is transmitted electronically to anyone, it can be made available to everyone in an instant.

Like email, the extent of exposure on social media can significantly increase the negative impact of an ethical violation. City employees should use sound judgment in communicating anything electronically that could be perceived as an embarrassment to oneself or the city of Charlotte.

It is recognized that city employees have First Amendment rights to engage in protected speech on matters of public concern. However, those rights do not include speech that: impairs discipline by superiors or harmony among co-workers; has a detrimental impact on close working relationships where personal loyalty and confidence is necessary; interferes with the city's function or delivery/performance of city services; or affects the ability of the employee to effectively perform his/her job in the future.

## **Ethical Violations**

The expectation is that we hold ourselves to the highest ethical standards. This does not mean, however, that no one will ever make a mistake.

There has been a misperception that any violation of the social media policy will result in the dismissal of an employee, a so-called "zero tolerance" policy. While it is the expectation that employees will always conduct themselves consistent with the Code of Ethics, actions taken when violations occur rest on work-related factors such as:

Does the infraction affect the ability of the employee to do his/her work?

Does the infraction affect the City's reputation and its ability to carry out its mission?

All violations of the Code of Ethics will be evaluated individually, considering the severity of the violation, the context within which the violation occurred, the impact on the ability of the employee to do his/her work, and the impact on the city's reputation and its ability to effectively perform city services. Again, these are the standards that will be used whether a violation involves social media or not.

**Michael V. Russing** | Regional V.P. | **Commercial Credit Group Inc.**

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**Commercial Credit Group**

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**Public Information Request**

**Name** Stuart Harborne  
**Age** 51  
**Date of Original Employment** 2017-01-09  
**Current or Last Position/Title** 251400 - Real Estate Program Manager  
**Office to which employee is currently assigned** 8020000000 - EPM Real Estate  
**Current or Last Salary** \$96,224.04 per year

**Date and amount of each increase or decrease in salary**

Effective Date	Action	Salary
2017-01-09	Hire	\$90,000.00 per year
2018-01-06	Pay Rate Change	\$93,060.00 per year
2019-01-05	Pay Rate Change	\$96,224.04 per year

**Date and type of each promotion, demotion, transfer, suspension, classification, separation or other changes to position**

Effective Date	Action	Reason	Pay Rate Change %	Salary
2017-05-20	Job Reclassification	Job Reclassification	0.00%	\$90,000.00 per year
2018-06-30	Position Change	Position Status Change	0.00%	\$93,060.00 per year
2019-07-06	Position Change	Re-Organization	0.00%	\$96,224.04 per year

**Total Paid per Calendar Year**

Year	Total Paid
2017	\$86,538.50
2018	\$94,192.44
2019	\$96,352.23
2020	\$3,700.91

**Terms of Any Contract**

\*\*\* No Contract Terms Found \*\*\*