

HOWARD COUNTY, MARYLAND,
A Body Corporate and Politic
George Howard Building
3430 Courthouse Drive
Ellicott City, Maryland 21043,

Plaintiff,

v.

THE VILLAS AT CATTAIL CREEK, LLC,
5300 Dorsey Hall Drive, Suite 200
Ellicott City, Maryland 21042,

SERVE ON:

Resident Agent
J. Thomas Scrivener
5300 Dorsey Hall Drive, Suite 200
Ellicott City, Maryland 21042,

And

BRS DEVELOPERS, LLC,
5300 Dorsey Hall Drive, Suite 200
Ellicott City, Maryland 21042,

SERVE ON:

Resident Agent
J. Thomas Scrivener
5300 Dorsey Hall Drive, Suite 200
Ellicott City, Maryland 21042,

And

NVR, INC.,
7601 Lewinsville Road, Suite 300
McLean, Virginia 22102,

SERVE ON:

Resident Agent
The Prentice-Hall Corporation
System, Maryland
7 St. Paul Street, Suite 1660
Baltimore, Maryland 21202,

* IN THE
* CIRCUIT COURT
* FOR
* HOWARD COUNTY
* Case No. _____

EXHIBIT 61

And

**DONALD REUWER, JR.,
5300 Dorsey Hall Drive, Suite 200
Ellicott City, Maryland 21042,**

And

**J. THOMAS SCRIVENER,
5300 Dorsey Hall Drive, Suite 200
Ellicott City, Maryland 21042,**

Defendants.

* * * * *

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

Howard County, Maryland (the "County"), a body corporate and politic, the plaintiff in this action, by its attorneys, Margaret Ann Nolan, County Solicitor, and Cynthia G. Peltzman and Louis P. Ruzzi, Senior Assistant County Solicitors, files this Complaint for Injunctive and Other Relief and, in support thereof, states as follows:

1. The County, through its Office of Consumer Affairs ("OCA"), is authorized under the Howard County Code §§ 17.401 *et seq.*, to investigate complaints of unfair and deceptive trade practices and, if necessary, to seek injunctive and other relief, including fines, restitution and compensatory damages. Claims asserted herein are brought by the County to remedy violations of the County Consumer Affairs law.

2. The Villas at Cattail Creek (the "Community") is an age-55-and-over residential community located in western Howard County, comprised of 25 single family homes and 68 "villa" townhomes – 93 homes in total. Numerous complaints have been received by OCA from Community homebuyers.

3. Defendant Villas at Cattail Creek, LLC (“Villas LLC”), a Maryland corporation, purchased the land used for the Villas at Cattail Creek community and continues to hold title to the common areas that have not yet been turned over to the Community. Villas LLC was, and continues to be, responsible for the construction, operation, and maintenance of the well and septic systems serving the Community. Villas LLC also entered into contracts with other entities for services provided to the Villas at Cattail Creek Condominium Association (the “Condo Association”).

4. At all times relevant to the allegations set out herein, Defendant BRS Developers, LLC, (“BRS Developers”), was the managing member of Villas LLC.

5. Defendant NVR, Inc. (“NVR”) is a corporate entity engaged in the business of home building and mortgage banking. The homebuilding unit, acting under the trade names Ryan Homes and NVHomes, builds and sells homes in multiple states, including Maryland. Through a unit purchase and development agreement with Villas LLC, NVR purchased the rights to build homes in the Villas at Cattail Creek community and, through its homebuilding units Ryan Homes and NVHomes, NVR ultimately built and sold the 93 homes that make up the Villas at Cattail Creek community.

6. Defendant Donald Reuwer, Jr. (“Reuwer”) is a principal in the limited liability corporations Villas LLC and BRS Developers. Reuwer, through Villas LLC, contracted for the design and construction of the well and septic systems for the Community. Reuwer applied for and was issued applicable permits and continues to be responsible for ensuring the well and septic systems meet the requirements in the water appropriation, discharge, and construction permits issued by the Maryland Department of the Environment (“MDE”), a State agency, and comply with applicable State statutes, regulations, and County ordinances governing

condominium associations, multi-use septic systems, discharge of wastewater, and water appropriation.

7. Defendant J. Thomas Scrivener ("Scrivener") is a principal in the limited liability corporations Villas LLC and BRS Developers. Scrivener, along with Reuwer, through Villas LLC, contracted for the design and construction of the well and septic systems intended to serve the Villas at Cattail Creek community and was, and continues to be, responsible for ensuring those systems meet the requirements in the water appropriation, discharge, and construction permits issued by MDE and comply with applicable State statutes, regulations, and County ordinances governing condominium associations, multi-use septic systems, discharge of wastewater, and water appropriation.

Development of the Cattail Creek Community

8. In 1997, Villas LLC and BRS Developers planned to develop 58 acres of a 221 acre parcel of land in western Howard County near Glenwood to provide housing for senior citizens. The 58 acre parcel ultimately became the Villas at Cattail Creek community.

9. The area to be developed was not served by public water or sewer systems. Villas LLC retained Robert Sheesley, through his company, Eco-Sense, to serve as an environmental consultant on matters relating to sewage treatment for the proposed development, and contracted with McCrone, Inc., an engineering firm, to design the well and septic systems for the Community.

10. Reuwer and Scrivener submitted applications to MDE for permits allowing water appropriation from wells and discharge of sewage wastewater to septic fields based on the anticipated development of 116 two-bedroom condominium units.

11. MDE issued a water appropriation permit to Reuwer and Scrivener. Based on an anticipated use of 150 gallons per day by each of the proposed 116 condominium units, the permit authorized water to be appropriated from four wells of up to a yearly average of 17,400 gallons per day, and no more than 26,100 gallons per day during the month of maximum use. Two wells were located in the northeast corner of the property and two wells in the southwest corner of the property, near the neighboring Cattail Creek Country Club.

12. MDE issued a discharge permit authorizing the release of treated sewage from the multi-use septic system into septic fields that would serve the Villas at Cattail Creek community. The discharge permit, valid from February 1, 2000, to February 1, 2005, allowed the discharge of treated sewage from "116 housing units for the elderly" so long as the wastewater pollutants were less than 10 mg/liter of nitrogen, 30 mg/liter of dissolved oxygen, and 30 mg/liter of total suspended solids. The permit allowed a monthly average flow of 17,400 gallons per day and a maximum discharge of 34,800 gallons per day of treated sewage to be discharged into the septic fields. At Sheesley's request, MDE subsequently amended the discharge permit to allow the discharge of 34,800 gallons per day from "116 condo units or 76 single family homes for the elderly." The discharge limits were calculated based on the total number of bedrooms in the proposed development of 116 two-bedroom condominium units.

13. McCrone submitted to Reuwer and Scrivener a proposal for the design of the well and septic systems based on use by "116 two-bedroom units which will be . . . marketed to senior citizens," with an "ultimate flow of 34,800 gallons per day (116 units @ 300 gallons per day per unit)," or 150 gallons per day per bedroom for each of the proposed two-bedroom condominium units. McCrone reported that the drain fields, used for discharge of treated sewage from the septic system, would be designed for "150% of the average daily flow," a calculation also based

on an assumption of 150 gallons per day per bedroom. McCrone indicated that it would consider designing the septic system so it could be expanded to accommodate increased flow as various stages of the development were completed. McCrone also stated that it would design the well system for 116 two-bedroom units based on water from two wells.

14. Sheesley, the Villas LLC's consultant, petitioned Howard County to include the planned septic system on the County's master plan as a shared septic system. Based on MDE's interpretation of the pertinent laws and regulations, the County notified Sheesley that the proposed septic system was not a shared system that would be operated by the County but, instead, was a multi-use septic system that would be constructed under MDE's authority.

15. Under applicable State regulations, a multi-use septic system collects and treats sewage from multiple users on one lot, while a shared septic system collects and treats sewage produced by multiple users on multiple lots. In the condominium scheme planned by Reuwer and Scrivener, the condominium association would own the single lot comprising the Villas of Cattail Creek community, consisting of the land on which the houses would be built and the common areas. The multi-use septic system would serve all users on this single lot. The County informed Reuwer and Scrivener that the multi-use septic system would not be included on the County's master plan unless it received MDE approval.

16. The 58-acre tract to be developed was located in an area of the County zoned RC-DEO (Rural Conservation – Density Exchange Option) providing for low-density development. In order to build a larger number of houses than would be allowed under low-density zoning restrictions, Villas LLC applied for a special exception to build 116 homes on the 58-acre tract ("First Special Exception"). After the County approved the First Special Exception, Villas LLC submitted a site development plan proposing construction of 108 condominium units ("First Site

Development Plan”). A note on the First Site Development Plan indicated that the State had approved development of 110 two-bedroom condominium units, or 220 bedrooms total.

17. Residents of neighboring communities opposed the development and appealed the First Special Exception. Ultimately, the First Special Exception was denied, and the denial was affirmed by the Court of Special Appeals, because the plans for the community did not include a common dining facility – a County requirement for senior citizen communities with more than 25 homes.

18. While its appeal of the First Special Exception was pending, Villas LLC applied for a new special exception for the planned Villas at Cattail Creek community, this time seeking approval to develop 25 homes on 19.5 acres of the 58-acre tract. (“Second Special Exception”). The County Board of Appeals granted the Second Special Exception.

19. After the Second Special Exception was approved, Reuwer and Scrivener submitted a new site development plan for the development of 25 single family homes (“Second Site Development Plan”), consistent with the approved Second Special Exception. The Second Site Development Plan included drawings of the proposed well and septic systems. The plans for the multi-use septic system show collection of sewage from 25 homes into septic tanks, which would then be processed through fixed-film media bio-reactors to reduce the amount of nitrogen and other pollutants in the sewage to the limits set in the discharge permit. If these limits were met, the treated sewage would then be piped to the septic fields for disposal.

20. The plans in the Second Special Exception demonstrate that the size of the septic system was reduced to take into account the decreased flow expected from 25 single family homes, rather than the 116 two bedroom condominium units originally planned for the community. The plans show two blocks located in the building intended to house the bio-

reactors – one block shows installation of bio-reactors. The other block, left empty, is designated for future expansion of additional bio-reactors. In fact, though the septic system was originally planned to have eight bio-reactors to handle an average flow of 17,400 gallons per day and a maximum flow of 34,800 gallons per day, instead, consistent with the plans included in the Second Site Development Plan, the septic system constructed in the Villas at Cattail Creek community had only four bio-reactors to handle an average flow of 8,700 gallons per day of sewage and a maximum flow of 17,400 gallons per day.

21. While moving forward with the development of 25 single family homes on 19.5 acres approved by the Second Special Exception and shown in the Second Site Development Plan, Reuwer and Scrivener continued to pursue development of additional homes under the First Special Exception and First Site Development Plan, this time including plans for a community dining facility, a requirement for construction of additional homes. The First Special Exception was granted, allowing development of the entire 58-acre Villas at Cattail Creek parcel “not to exceed 116 dwelling units.”

22. After construction of the 25 single family homes shown in the Second Site Development Plan, construction of 68 “villa” townhomes proceeded under the First Site Development Plan. Though Reuwer and Scrivener sought, and were granted, the First Special Exception to construct up to 116 residences, no modifications were made to the septic system to take into account the additional flow resulting from a substantial increase in the number of homes in the community.

23. Under applicable statutes and regulations, the Howard County Health Department, a State agency, was responsible for oversight of the septic fields. Based on the notation on the Second Site Development Plan indicating that the State had approved the development of 110

two bedroom condominium units, or 220 bedrooms total, the Health Department approved the size of the septic fields based on 150% of the anticipated average daily flow of treated sewage of 150 gallons per day from 220 bedrooms, or 33,000 gallons per day. The Health Department notified Reuwer and Scrivener that the number of bedrooms in the community had to be limited.

24. Ultimately, 25 single family homes were constructed under the Second Site Development Plan and 68 townhomes were subsequently constructed under the First Site Development Plan – the 93 homes comprising the Villas at Cattail Creek community.

25. Residents began moving into the Villas at Cattail Creek community in 2003. By late 2003 or early 2004, it had become clear that the septic system was incapable of treating the sewage sufficiently to meet the discharge permit requirements – since the treated sewage could not meet the permit requirements, it could not be discharged into the septic fields. Instead, the sewage collected in the septic tanks was pumped from the septic tanks into trucks, and hauled off-site for disposal.

26. Over the next several years, engineers hired by Reuwer and Scrivener attempted numerous modifications, none of which succeeded in correcting the deficiencies in treating the sewage, and the pumping and hauling continued.

27. At no time during this period were prospective homebuyers provided information disclosing that the septic system was non-functional or that the numerous attempts to modify the system had failed to achieve MDE's discharge standards.

28. Finally acknowledging that the septic system was inadequate and incapable of meeting MDE standards, in August 2006 Reuwer and Scrivener, acting without required permission from MDE, contracted for the replacement of the four bio-reactors with two larger ones. This, too, failed to reduce pollutants to meet MDE's discharge permit requirements.

29. From 2003 to 2006, as houses were sold and residents moved into the community, Reuwer and Scrivener remained active in the development of the community and responsible for the well and septic systems.

30. During this period, Reuwer and Scrivener were aware of the problems with the septic system and the numerous, failed attempts to try to make the septic system functional, but repeatedly represented that the septic system would soon be operational. In August 2006, for instance, they communicated both to NVHomes and to homeowners in the Community that the septic system would be operational after the installation of new bio-reactors.

31. The septic system has never been operational and pump trucks continue to pump and haul sewage from the septic system every day, 365 days per year, as often as five times per day. At any hour of the day, sometimes early in the morning or late at night, a huge pump truck may be seen and heard rumbling through the Community, towards the septic system. Upon its arrival, a powerful vacuum pump is activated and the pump's booming, continuous roar commences, persisting for 15 to 20 minutes while the sewage contents of the tank is extracted. The private roads in the Community, which will ultimately be owned and maintained by Cattail Creek Condo Association, have become damaged from the thousands of trips by heavy pump trucks.

32. In August 2007, Villas LLC entered into a Consent Order with MDE to resolve allegations that Villas LLC violated state law by modifying the septic system without MDE's approval and that the Community's septic system was unable to treat sewage sufficient to meet the pollution restrictions in the discharge permit. Under the terms of the Consent Order, Villas LLC must construct a new septic system according to plans approved by MDE. Construction of the sequential batch reactor type septic system is required to be completed in November 2008.

While the sequential batch reactor septic system is a more reliable and modern technology than

the fixed film media septic system it will replace, costs associated with daily operation and routine maintenance will be substantially higher.

Establishment of the Villas at Cattail Creek Condominium Association, Inc.

33. After filing a public offering statement with the Secretary of State, Reuwer and Scrivener incorporated the Villas of Cattail Creek Condominium Association, Inc. ("Condo Association") in December 2003. The Articles of Incorporation identify the corporation's Board of Directors as Reuwer, Scrivener, and Robert Webster. Scrivener is also the corporation's resident agent. Under the condominium scheme, ownership of the community, along with responsibility for the well and septic systems, would ultimately be transferred from Villas LLC to the Condo Association.

34. Acting on behalf of the Condo Association, Reuwer and Scrivener contracted with First Real Estate Management ("FREM") to provide management services to the Condominium Association. Although not disclosed to Community residents, Reuwer is a principal of FREM.

35. Acting on behalf of the Condo Association, Reuwer and Scrivener contracted with Maryland Environmental Service ("MES") to perform required testing and necessary maintenance of the well and septic systems serving the Community. Work proposed under the contract included daily service for 1.5 hours per day, five days per week, and 24 hour on-call coverage, at an estimated initial cost of \$40,411 per year. Costs have risen yearly since the original contract was signed.

36. After it became clear that the septic system could not treat the sewage sufficient to meet the discharge permit requirements, MES provided testing, monitoring, and other services, over and above those contemplated in the contract, solely due to the nonfunctioning septic system. Despite the fact that the additional costs should have been borne by Reuwer, Scrivener,

and Villas LLC, FREM paid additional costs of \$17,000 out of the Condo Association funds. After receiving complaints from the Community residents, Scrivener represented in writing that, "we will reimburse that amount." To date, the Cattail Creek Condo Association has not been reimbursed.

37. As an incentive to purchase homes in the Villas at Cattail Creek community, home purchasers were each promised a free one-year social membership to the nearby Cattail Creek Country Club. FREM paid for the "free" social memberships out of the Condo Association funds. Those costs have not been reimbursed to the Condo Association.

Representations to Home Buyers

38. NVR contracted with Villas LLC to buy the rights to build houses in the Community. In 2003, NVR, through its Ryan Homes homebuilding division, began constructing these homes, eventually constructing the 25 single family homes included in the Second Site Development Plan. Subsequently, NVR, through its NVHomes homebuilding division, began constructing homes in the Community, eventually constructing 68 "villa" townhomes in blocks of four, as shown on the First Site Development Plan.

39. Throughout construction, NVR marketed the Community as the only 55-plus gated, golf course community located in Howard County. In the sales center, NVR displayed schematics that, in addition to showing the layout of homes, also showed a nine-hole golf course adjacent to the Community, described as the future expansion of the golf course owned by the Cattail Creek Country Club. Some home buyers paid substantial premiums for lots on the proposed nine-hole golf course. To date, the nine-hole course has never been built and none of the lot premiums have been returned.

40. NVR represented to prospective buyers that the completed community would be a “park-like setting” with gazebos and benches. One Ryan Homes sales agent encouraged a prospective buyer to visit another Ryan Homes community in Maryland to see the gazebo and landscaping, representing that the Community would have the same look. The promised gazebo has never been built. NVR sales literature also represented that the Community would have sidewalks, but none have ever been constructed.

41. Far from enjoying a “park-like setting,” residents have been forced to endure the intrusion of heavy, noisy, noxious septic pump trucks coming into the community multiple times each day, every day, on weekends and holidays, sometimes in the middle of the night, since 2003.

42. Though advertised as a “gated” community, in reality there is a single gate erected at the main entrance to the community; otherwise, the community is not closed off in any way. Moreover, the gate in place was installed incorrectly and has remained non-functional since its installation.

43. When prospective home buyers asked about the septic system, NVR agents represented that the septic system was “state of the art.” In fact, the fixed media type reactor septic system is an outdated technology incapable of de-nitrifying sewage to the degree required by the discharge permit. The fixed media type septic system is approximately one-third the cost of the more commonly used – and more reliable – sequential batch reactor type septic system.

44. Even after Reuwer and Scrivener were aware that the septic system was unable to meet MDE’s discharge permit standards, neither they nor NVR disclosed this information to prospective home buyers. To the contrary, they repeatedly represented that the system would be operational in a short time. For instance, in August 2006, Scrivener, acting on behalf of Villas

LLC, wrote to the Community homeowners stating that the system would be operational shortly after the new bio-reactors were installed. It has, in fact, never functioned properly.

45. Most prospective buyers were provided little, if any, information as to how sewage was being disposed of. Typically, home buyers did not find out that sewage was being pumped and hauled unless they happened to be present when the pump trucks came through; some did not know until after they moved in to their new homes. Those who were aware were told that pumping and hauling was only temporary and would be discontinued as soon as a specified number of houses were sold and occupied "because a certain amount of flow was necessary for the septic system to work." Others were advised that the wastewater was being pumped for a period of time because "it would be too inconvenient for residents to stop and start the septic system each time a newly sold and occupied home was brought on-line."

46. None of the Defendants disclosed to prospective buyers that, upon expiration of the five-year sewage discharge permit, MDE could require even stricter pollution standards upon renewal. MDE possesses the authority to adjust its discharge permit standards, depending on a variety of factors, including development of new or improved technologies capable of greater purification of wastewater and evolving ecological standards. In fact, though the current discharge permit for discharge of treated sewage into the Community septic fields requires nitrogen limits of 10 mg/liter or less, new discharge permits issued by MDE to other developments require nitrogen limits of 8 mg/liter or less. In the event it would have to comply with stricter current or future standards, the Condo Association will be required to either upgrade or replace the septic system, at a substantial cost to the residents.

47. When questioned by prospective buyers about the wells that would serve the community, NVR sales agents also described the water system as "state of the art." A critical

part of the water system is a Programmable Logic Controller ("PLC"), the "brains" of the system that draws water from the two northeast wells to the 93 homes in the Villas at Cattail Creek community. Contrary to the claim that the system was "state of the art," at the time it was installed, the design of the PLC was decades old and the PLC itself was no longer manufactured. Because of the unavailability of new parts, necessary repairs to the PLC have been made with rebuilt parts. On numerous occasions, the PLC shut down during power surges, effectively cutting off the water supply to the residents' homes. Eventually, the Condo Association spent approximately \$3000 to purchase an adequate and workable surge protector.

48. When questioned about the adequacy of the water supply to the community, NVR agents assured prospective buyers that the community had "plenty of water" that could be taken from four wells. Community residents complained to NVR and Villas LLC about repeated water shortages, periods of low water pressure, and water restrictions. NVR responded in writing, stating that the Community was served by four wells, two primary wells and two backup wells that "can be brought on line if needed." Likewise, Scrivener wrote to homeowners in August 2006 stating, "[a]s a backup to the two wells presently being drawn from, there are two backup wells . . . that can be brought on line if needed." None of the defendants disclosed to prospective buyers or community residents that only the two northeast wells are connected to the Community by piping and that the two southwest wells cannot possibly provide water to the Community without construction of additional infrastructure.

49. The two northeast wells that currently serve the Community have a disparity in their relative flow rates; to prevent the weaker well from running dry, the water supply system must be set to minimize the draw from the weaker well. This, as well as incorrectly sized pumps, results in slow re-filling of the water holding tank, low water pressure in some of the residents'

homes, periodic water shortages to the Community, and over-chlorination that has at times made the water unpotable.

50. Neither Reuwer, Scrivener, nor Villas LLC disclosed to prospective purchasers that the neighboring Cattail Creek Country Club, without authorization and in contravention of the water appropriation permit, pumped tens of thousands of gallons of water from the two southwest wells to irrigate the Country Club's golf course. Though Reuwer and Scrivener were aware of the residents' concerns about the water supply and Scrivener assured the residents that the two back up wells could be brought on line, Reuwer and Scrivener, acting without notice to or permission of the Condo Association, granted an easement allowing the Cattail Creek Country Club to use water from the two southwest wells to irrigate its golf course – for a total cost of \$5.

51. Not all prospective buyers were aware that the wells and septic system would ultimately be turned over to the Condo Association, which would be responsible for costs of their operation, maintenance, repairs, and possible replacement. Those who were aware that the Community would own the wells and septic system and questioned the costs were assured that the “state of the art” systems would pose few problems and that residents would simply have to pay \$202 per year for 33 years. In fact, the \$202 annual fee was assessed only to refund Villas LLC, Reuwer, and Scrivener for capital costs expended to install the well and septic systems. This \$202 fee does not cover the cost of the ongoing operation and maintenance of the wells and septic system. Thus far, the Condo Association has paid approximately \$40,000 to \$50,000 annually to MES from the residents' monthly condominium fees. None of the residents were advised of the additional capital costs the community will have to pay to replace well and septic systems when they reach the end of their expected life spans. Nor were they advised that the Community may be responsible for modifying or replacing the septic system in the event MDE

requires it to comply with current, more stringent standards, or potentially even more strict pollution standards in future permits.

52. Prospective buyers of homes in the Villas of Cattail Creek community were offered several different home designs. Purchasers interested in one of the single family homes could select from various models, including the Milford, with a large master bedroom suite on the ground floor and three bedrooms on the third floor, or the Springbrook, with three bedrooms on the main level and an option to add a fourth bedroom on the second level. Prospective buyers of the villa townhomes could choose from the Bella Via or the Severn models, both with the owner's bedroom on the first level and two additional bedrooms on the second level. Floor plans were available to prospective buyers showing the number of bedrooms for each model.

53. While floor plans and, in some cases, sales contracts, showed three or four bedroom homes, NVR sales agents told many buyers only shortly before settlement that the number of bedrooms had to be "reduced" on paper because County regulations restricted the number of bedrooms allowed in age-restricted housing. Since a bedroom was defined as a room with a closet and window, this was accomplished by removing closet doors or changing the location of doorways so that closets were located outside, rather than inside, the bedroom. In many cases, purchasers were told they could do whatever they wanted after settlement to increase the number of bedrooms, including re-hanging closet doors that had conveniently been left in garages.

54. Contrary to the representations of NVR's sales agents, there are no Howard County ordinances that restrict the number of bedrooms allowed in age-restricted housing. Instead, the total number of bedrooms is a critical factor in the calculation of the design flow of the septic system and size of the septic fields. MDE approved the septic system for a maximum of 220 bedrooms. The Howard County Health Department approved the size of the septic fields based

on 220 bedrooms and subsequently notified Reuwer and Scrivener that the total number of bedrooms in the community would have to be limited. With three or four bedrooms in each of the 25 single family homes and three bedrooms in each of the 68 townhomes, the number of actual bedrooms in the Community substantially exceeded the 220 bedroom limit used by the Health Department to calculate the capacity of the septic fields. None of the defendants disclosed to prospective home buyers that the number of bedrooms – or attempts to “decrease” that number – was in any way connected to the size or capacity of the septic systems or septic fields.

55. NVR’s advertising was designed to make potential buyers believe they were purchasing more than just a home, they were gaining a lifestyle in an active, adult, essentially maintenance-free community to enjoy leisure time with other like-minded adults. That lifestyle has not materialized – instead, residents have spent countless hours investigating the failures of the well and septic systems, negotiating with the developers and builders, meeting with lawyers, engineers, and government officials, and advocating to obtain what County residents take for granted – fully functioning water supply and sewage disposal systems. None of the residents anticipated having to go to extraordinary efforts to obtain these basic necessities. Had they known, none of the residents would have purchased homes in the Community.

56. Other advertising gimmicks and come-ons led home buyers to believe that investing their nest-eggs in the Community would be a sound financial decision – the advertising described the Villas at Cattail Creek as unique in Howard County and buyers relied on NVR’s reputation as a quality home builder, which suggested that the properties would retain their value and marketability. To the contrary, Community residents who have attempted to sell their houses have been unable to do so. In some cases, houses in the Community have been on the market for

extended periods of time with no offers. Residents fear that in the event of a job transfer, health crisis, or catastrophic event, their assets will be tied up in unmarketable real estate.

57. Between 2003 and 2005, NVR constructed, sold and warranted all 93 condominiums at the Villas through its NVHomes and Ryan Homes Divisions. In NVHomes' "Homeowner's Manual," the Builder represented that, "A Company representative will make a final review within 6 months after the pre-settlement closing. Problems which relate to the original construction, if any, should have become apparent by that time. You should keep a list of any such problems, and we will take care of them directly after the final review, in accordance with the "Homeowner's Limited Warranty" which is set forth in the back of this booklet."

58. According to the Homeowner's Manual, there is a one-year limited warranty on the basic home, a two-year limited warranty on the mechanical system, and a ten-year warranty against major structural defects.

59. NVR warranted that "[p]rivate systems shall be designed and installed in accordance with all approved building, plumbing, and health codes."

60. NVR also promised that if the septic system failed to operate properly, "[t]he builder will repair, or otherwise correct, a malfunctioning or non-operating system if failure is caused by inadequate design, faulty installation, or other causes relating to actions of the Builder, or contractors or subcontractors, under the builders control."

61. On October 31, 2006, when the community still did not have a working septic system, the Condo Association hired an attorney and filed suit against the developer and builder, in *Villas at Cattail Creek Condominium Ass'n, Inc. v. NVR, Inc., et al.*, Case No. 13-C-06-067163, in the Circuit Court for Howard County. That litigation has not yet been resolved. Community

residents have expended substantial sums over and above their monthly Condo Association dues to cover legal fees charged to the Condo Association by their private counsel.

62. According to applicable regulations, a full twelve months of testing of water samples from monitoring wells is required before any sewage can be discharged into the septic fields. In August 2008, an inspector from the Howard County Health Department was unable to locate monitoring wells, required by the discharge permit, which should have been installed in the septic fields, and discovered that the required twelve months of testing has not occurred. Treated sewage cannot be discharged into the septic fields until MDE is satisfied that adequate testing has been performed. Thus, the lack of the required twelve months of testing will result in further delays until treated wastewater can be discharged into the septic fields, with continued pumping and hauling of sewage during this time.

Impact on Villas at Cattail Creek Residents

63. As a result of the Defendants' misrepresentations, material omissions, and failure to provide basic necessities and amenities that were promised and paid for, all of the residents of the Community have suffered substantial, irreparable harm, including a substantial decrease in the value of their homes. The following allegations, in paragraphs 63 to 96 are examples, but by no means exclusive examples, of the impact on the purchasers harmed by the actions of defendants, and of the harm suffered by the community as a whole.

Janet and Bob Kiatta

64. The Kiattas, one of the earliest families to move into the Community, signed a contract on a single family home in the Spring of 2003.

65. The Kiattas specifically asked their Ryan Homes sales agent about the septic system and were assured that the system was "state of the art" and had been used successfully in other

communities with no problems. Having no engineering experience, and no problems with the well and septic systems that had served them for 18 years in their prior home, the couple took the agent at his word. Had they known of problems with the septic system, they would not have moved into the Community.

66. A large part of the Community's appeal for the Kiattas was the proposed nine hole golf course. Sales literature provided by Ryan Homes and displayed in the Cattail Creek Country Club detailed the planned extension of the neighboring Cattail Creek Country Club golf course onto land bordering the Community. The Kiattas paid a substantial premium for a lot located on the future golf course and also signed a "Golf Course Acknowledgement" warning them of potential hazards of living on a golf course. An appraisal of the property arranged for the Kiattas by their Ryan Homes sales agent noted that the presence of the nine-hole golf course would add to the appeal and value of property in the Community, particularly lots situated on the golf course. Plans to construct the nine-hole golf course have been abandoned, but the lot premiums paid by the Kiattas and other residents have not been reimbursed.

67. When the Kiattas moved to the Villas at Cattail Creek, their monthly condominium fees were \$225; they have now increased to \$360, and the Kiattas worry, as do the other residents, about the increased costs the Community will certainly have to take on for the operation and maintenance of the replacement septic system.

Robert and Harriet Einziger

68. The Einzigers moved to Cattail Creek in September 2005 after Robert was transferred to Maryland for his job. Before signing their purchase contract in May 2005, the Einzigers, who had always had public water and sewer services, asked about the well and septic systems. Their

NVHomes sales agent assured them there was plenty of water from four wells serving the community and that the "state of the art" septic system was working.

69. The Einzigers were not informed that the septic system was incapable of meeting the discharge permit requirements, though Reuwer, Scrivener, and NVHomes were already aware of that fact. Nor were they aware that untreated sewage had to be pumped and hauled out of the community. Had the Einzigers known that the septic system was not working, they would not have purchased their home in the Villas at Cattail Creek community.

70. NVHomes sales literature showed a golf course wrapping around the Villas at Cattail Creek community with one of the holes just behind the lot the Einzigers' selected. Both thought that the golf course would increase the marketability of their home in the event they needed to sell, a major consideration for them.

71. The Einzigers looked forward to engaging in social activities with other active, adult residents of their new community. Instead, community activities have primarily centered on dealing with well and septic issues and the Einzigers have not enjoyed the kind of lifestyle they believed the community would provide them.

72. Because of representations made to them by NVHomes, the Einzigers believed they were buying a three bedroom home. At their closing in September 2005, they found that the doorway to one of the upstairs bedrooms had been moved so that a closet located in an alcove was outside of the bedroom, rather than inside, as shown on the model's floor plan. The Einzigers were told that Maryland law permitted only two bedrooms in 55-plus communities and the room would not be counted as a bedroom if it did not have a closet.

73. The Einzigers' townhome is situated so that there was no view of the original septic system. The replacement system currently being constructed is larger and is visible from the

back of their house. The Einzigers would not have purchased their home had they known the septic system would be visible from their lot, a circumstance that will affect both the value and the marketability of their property.

74. Though lucrative job opportunities in Robert's field have been available in other parts of the country, he has not applied because the couple's home is unmarketable with a nonfunctioning septic system.

Knut and Eleanor Ellenes

75. Knut and Eleanor Ellenes began looking at homes in the Community in May 2005. The Ellenes asked multiple times about the septic system and each time their NVHomes representative described it as "state of the art." After they heard the noisy pump trucks during one of their visits, they again questioned whether the septic system would work and were assured that it would come on line immediately after they moved in. By May 2005, however, Scrivener, Reuwer, and NVHomes were aware that the septic system was incapable of treating sewage so that it could be pumped to the septic fields, information that was not disclosed to the Ellenes.

76. Mr. Ellenes was particularly concerned about any potential costs associated with the septic system and was assured by the agent that the charge of \$202 per year would cover all of the costs. The Ellenes were not told that the septic system would ultimately be turned over to the community, which would then be responsible for costs associated with its operation, maintenance, repairs, and possible replacement.

77. Nothing alerted the couple to investigate further and they relied on assurances from NVHomes that the septic system was "state of the art" and functional, as well as what they believed was NVHomes' "stellar reputation." Had they known that the septic system was nonfunctioning, they would not have purchased a house in the community.

78. The Ellenes' townhome model was described in NVHomes sales literature as a three bedroom house and the NVHomes sales agent was aware that the couple intended to add a fourth bedroom to their finished basement. Nevertheless, prior to settlement, they were told by the NVHomes agent that the County did not permit more than two bedrooms in age-restricted housing and the house had to be sold as a two-bedroom house. When the Ellenes pointed out that the basement room included a closet so it, too, would count as a bedroom, the NVHomes sales agent insisted that the room was an "office." The sales agent stated that they could have four bedrooms after settlement. Upstairs, NVHomes moved a bedroom door so that the closet, located in an alcove, would be located outside the bedroom, rather than inside, as shown on the floor plan. When the Ellenes, who had a septic system in their prior home, questioned whether the number of bedrooms was related to the capacity of the septic system, the NVHomes sales agent stated that she was told only that the homes had to be limited to two bedrooms.

79. The Ellenes believe that their house is substantially reduced in value while the septic system is nonfunctioning and, even if the replacement system works, the increased costs associated with the operation and maintenance of that system will be prohibitively expensive.

Paul and Denise Eden

80. In the spring of 2005, Paul and Denise Eden entered into a contract to purchase a townhome in the Community after almost a year of visiting multiple communities to find just what they wanted. Avid golfers, the Edens finally settled on the Villas at Cattail Creek, advertised as a "gated, golf course community" for active adults and were willing to give up amenities offered in other communities to live in a golf course community. Displays in the NVHomes sales office and sales literature showed a nine-hole golf course surrounding the Villas at Cattail Creek community. They were also persuaded by NVHomes' reputation as a builder.

81. Once, after signing the contract of sale and while their new home was under construction, the Edens visited the property and noticed a noxious smell coming from behind their lot, from the fenced area where the septic system was housed. They asked a worker doing excavation if it always smelled so bad and he said yes, "I feel sorry for the people who will be in that house," pointing to their lot. The Edens knew where the septic system would be located because they had seen the fence surrounding the system on their visits to the community. However, it was not until their conversation with the worker that they realized the negative impact of being so close to the septic system. When the Edens expressed their concern about the proximity of their lot to the septic system to the NVHomes sales representative, he assured them that the problem would be alleviated when the septic system became operational within a few weeks. By that time, Reuwer and Scrivener, the principals of the Villas LLC, as well as NVHomes, knew the system was nonfunctioning and incapable of meeting the limits in the discharge permit. This information was not disclosed to the Edens.

82. Concerned about living close to the septic system, the Edens insisted on another lot. After lengthy negotiations with NVHomes, the Edens settled on another townhome in November 2005. After they moved in, the noxious odor was still apparent in the community.

83. Floor plans for the townhome model bought by the Edens showed three bedrooms and the Edens signed a contract to purchase a three-bedroom house. Before settlement, the Edens were asked to sign a change order authorizing removal of the closet doors in one of the three bedrooms. According to the sales representative, Howard County limited homes in age-restricted communities to two bedrooms.

84. Though the Edens were aware that the community would be served by well and septic systems, they were not told that the systems would ultimately be turned over to the Community

and any costs associated with operation, maintenance, repair, and possible replacement would be the Community's responsibility. When they asked about costs for well and wastewater treatment services, they were told that the yearly fee of \$202 assessed to all homeowners would cover those costs. In fact, the annual \$202 assessment would not cover any of these costs, but was assessed solely to reimburse Reuwer, Scrivener, and Villas LLC for the capital costs of constructing the well and septic systems. Nor were costs associated with reserves for the well and septic systems included in the budget provided with the condominium documents to the Edens. Costs of operating and maintaining the well and septic systems, services provided by MES and paid for by the Condo Association, have risen every year and are expected to be substantially higher for the larger replacement septic system currently being constructed. A substantial increase in monthly condominium association fees is another factor that would have been material to the Edens' decision to buy a home in the Community.

85. Nor were the Edens told that sewage had to be pumped and hauled because the septic system could not treat the sewage so that it could be discharged into the septic fields. Instead, their NVHomes sales agent told them that the pumping and hauling would stop after the septic system came on-line, which would occur when a specified number of houses were occupied. Had the Edens known that there were any problems with the septic system, or that the community would have been involved in litigation to obtain a working septic system, they would not have bought a house in the Community.

Oral and Sue Folks

86. Oral and Sue Folks signed a contract on their townhome in the Community in August 2005 and moved in the following October. The septic system backs up to their property.

87. Before signing their sales contract, Mr. and Mrs. Folks specifically asked their NVHomes sales agent about the well and septic system. The sales agent told them there was plenty of water for the Community from four wells and that the septic system was "state of the art." Based on the agent's representations, the couple believed the septic system would be fully functional when all homes were occupied. They did not learn that sewage was being pumped and hauled out of the Community until after they moved in. Nor did any of the defendants disclose the fact that the septic system was incapable of meeting the permit requirements, information known to Reuwer, Scrivener, and NVHomes months before the couple signed their sales contract. Had they known, they would not have purchased their home.

88. Since moving into their home, the Folks have lived with heavy pump trucks driving past their house four to five times per day, every day. The noise and the smells from the frequent pumping are so bad that they are unable to open their windows and adding a deck onto their house, which they would have liked, would be pointless.

89. Though the couple had planned to retire, both have continued to work in part because of increased costs of living in the Community due to the nonfunctioning septic system. They worry whether increased costs for operation and maintenance of the replacement septic system will make it prohibitively expensive for them to continue living in the community; at the same time, they believe they would be unable to sell their home.

90. Since moving to the Villas at Cattail Creek, the Folks' lifestyle is not at all what they anticipated – they were promised an active adult, relatively maintenance-free, golf course community. The golf course has never been built and their "leisure time" has been consumed by the Community's three-year effort to get a working wastewater treatment system. The Folks would like to leave the Community because it has not provided them the lifestyle they sought

when moving there, but know that several houses in the Community have been on the market for long periods of time and believe their home is unmarketable.

Gerry and Bea Casner

91. The Casners purchased the house closest to the septic system. Mrs. Casner is 79 years old. Mr. Casner is 83 years old. According to Mrs. Casner, she believed she was moving to the home of her dreams, but has ended up with nothing but heartache.

92. The access road to the septic system is approximately ten feet from the side windows of their end-unit townhome and the back of their house is approximately 20 feet from where the trucks sit idling as they pump sewage out of the septic tanks. Since the Casners moved into the neighborhood in August 2005, they have had to endure the noise and noxious odors of pumped sewage and diesel fumes produced by the 20 minute pumping process four or five times a day, every day, including weekends and holidays. At times, pumping has occurred in the middle of the night. Since the pumping is unscheduled, the Casners never know when the trucks will come. They are unable to open their windows or enjoy the use of their back yard.

93. The Casners learned of the Community through a newspaper advertisement and were taken with the description as the only gated, golf course community for senior citizens in Howard County. The Casners selected their lot, which was to overlook a nine-hole golf course shown on displays in the sales office, a view Mrs. Casner thought would be "lovely." Contrary to the advertisements, no golf course has been added and the gate installed at the entrance to the community is nonfunctional. Instead of looking over a golf course with beautiful landscaping, as promised, they look onto an empty field.

94. The Casners learned when they visited the Community that it would be served by well and septic systems. When they asked about the fenced area behind the lot they had selected,

the NVHomes sales representative described it as a "water filtration system," which the Casners believed was related to the wells. They were not informed that it was, in fact, the Community's septic system, and had they known, they would not have purchased that particular home. When they asked about the septic system, the Casners were told only that everything was fine and in working order. They did not learn until after they moved in that sewage was being pumped and hauled several times a day within about 20 feet of their new home. Nor were they told that the Community would ultimately be required to take over the wells and septic system and be responsible for their operation, maintenance, repair, and possible replacement.

95. Based on NVHomes floor plans, the Casners believed they were buying a three-bedroom home. Instead, prior to settlement, their NVHomes agent told them that County regulations permitted senior citizen housing to have no more than two bedrooms. The door was removed from the closet of one of the upstairs bedrooms.

96. The replacement septic system will be located a bit further from their house, though it will also make use of some of the existing infrastructure located next to their house. The Casners worry that, even if it works, the new system, which is larger than the existing system, will be noisier.

97. Based on the fact that some houses in the community have been on the market for several years, the Casners worry that they would be unable to sell their home, or will have to sell at a decreased valuation, if they needed to do so quickly.

CAUSES OF ACTION

**COUNT ONE
VIOLATIONS OF SECTION 17.403(a)(1) – DECEPTIVE
REPRESENTATIONS AS TO REAL ESTATE**

98. The County repeats and realleges each and every allegation contained in Paragraphs 1 through 97 of this Complaint as if fully set out herein.

99. All Defendants engaged in deceptive and unfair trade practices by representing that merchandise, goods, or services have sponsorship, approval, accessories, characteristics, ingredients, uses, benefits, or quantities that they do not have, in violation of Howard County Code § 17.403(a)(1).

**COUNT TWO
VIOLATIONS OF SECTION 17.403(a)(2) – DECEPTIVE
REPRESENTATIONS CONCERNING MERCHANTS**

100. The County repeats and realleges each and every allegation contained in Paragraphs 1 through 97 of this Complaint as if fully set out herein.

101. All Defendants engaged in deceptive and unfair trade practices by representing they have a sponsorship, approval, status, affiliation, or connection they do not have, in violation of Howard County Code § 17.403(a)(2).

**COUNT THREE
VIOLATIONS OF SECTION 17.403(a)(4) – DECEPTIVE
REPRESENTATIONS OF PARTICULAR STANDARD OR QUALITY**

102. The County repeats and realleges each and every allegation contained in Paragraphs 1 through 97 of this Complaint as if fully set out herein.

103. All Defendants engaged in deceptive and unfair trade practices by representing that merchandise, goods, or services are of particular standard, quality, grade, style, or model, if they are of another, in violation of Howard County Code § 17.403(a)(4).

COUNT FOUR
VIOLATIONS OF SECTION 17.403(a)(5) –
MISREPRESENTATIONS OF MATERIAL FACT

104. The County repeats and realleges each and every allegation contained in Paragraphs 1 through 97 of this Complaint as if fully set out herein.

105. All Defendants engaged in deceptive and unfair trade practices by misrepresenting a material fact that has a tendency to mislead in violation of Howard County Code § 17.403(a)(5).

COUNT FIVE
VIOLATIONS OF SECTION 17.403(a)(6) –
FAILURE TO STATE MATERIAL FACTS

106. The County repeats and realleges each and every allegation contained in Paragraphs 1 through 97 of this Complaint as if fully set out herein.

107. All Defendants engaged in deceptive and unfair trade practices by failure to state a material fact, if such failure deceives or tends to deceive, in violation of Howard County Code § 17.403(a)(6).

COUNT SIX
VIOLATIONS OF SECTION 17.403 (a)(8) – FALSE ADVERTISING

108. The County repeats and realleges each and every allegation contained in Paragraphs 1 through 97 of this Complaint as if fully set out herein.

109. All Defendants engaged in deceptive and unfair trade practices by advertising or offering merchandise, goods, or services without intent to sell them or sell them as advertised or offered, in violation of Howard County Code § 17.403(a)(8).

COUNT SEVEN
VIOLATIONS OF SECTION 17.403 (a)(14) –
USE OF DECEPTION, FRAUD, OR KNOWING OMISSIONS

110. The County repeats and realleges each and every allegation contained in Paragraphs 1 through 97 of this Complaint as if fully set out herein.

111. All Defendants engaged in deceptive and unfair trade practices by using deception, fraud, false pretenses, misrepresentation, or the knowing concealment, suppression, or omission of any material fact with the intent that consumers rely upon such concealment, suppression, or omission in connection with the sale or advertisement of any merchandise or goods or with the subsequent performance of services, whether or not any person has, in fact, been misled, deceived, or damaged thereby, in violation of Howard County Code § 17.403(a)(14).

COUNT EIGHT
VIOLATIONS OF SECTION 17.403(a)(15) –
FALSE STATEMENTS TO MISLEAD CONSUMERS

112. The County repeats and realleges each and every allegation contained in Paragraphs 1 through 97 of this Complaint as if fully set out herein.

113. All Defendants engaged in deceptive and unfair trade practices by making false, falsely disparaging, or misleading oral or written statements, visual depictions, or other misrepresentations of any kind which have the capacity, tendency, or effect of deceiving or misleading consumers and are made with the sale, lease, rental, loan, or bailment of merchandise, goods, or services, the offering for sale, lease, rental, or bailment of merchandise, goods, or services, the extension of consumer credit or the collection of consumer debts, in violation of Howard County Code § 17.403(a)(15).

COUNT NINE
VIOLATIONS OF SECTION 17.403(a)(21) – SELLING WITH
KNOWLEDGE OF INABILITY TO RECEIVE SUBSTANTIAL BENEFITS

114. The County repeats and realleges each and every allegation contained in Paragraphs 1 through 97 of this Complaint as if fully set out herein.

115. All Defendants engaged in deceptive and unfair trade practices by selling, leasing, or providing merchandise, goods, or services with knowledge by a merchant, at the time of the transaction, of the inability of the consumer to receive substantial benefits from the merchandise, goods, or services sold or leased, in violation of Howard County Code § 17.403(a)(21).

COUNT TEN
VIOLATIONS OF SECTION 17.403(a)(22) – SELLING
WITH GROSS DISPARITY BETWEEN PRICE AND VALUE

116. The County repeats and realleges each and every allegation contained in Paragraphs 1 through 97 of this Complaint as if fully set out herein.

117. All Defendants engaged in deceptive and unfair trade practices by selling, leasing, or providing merchandise, goods, or services where there exists a gross disparity between the price of the merchandise, goods, or services sold or leased and the value of the merchandise, goods, or services are readily obtainable in transactions by like buyers or lessees, in violation of Howard County Code § 17.403(a)(22).

COUNT ELEVEN
AS TO NVR ONLY – VIOLATIONS OF SECTION 17.403(a)(5) –
BREACH OF EXPRESS WARRANTIES

118. The County repeats and realleges each and every allegation contained in Paragraphs 1 through 97 of this Complaint as if fully set out herein.

119. NVR failed to provide consumers with an operational septic system as guaranteed in the Homeowner Limited Warranty, located in the Homeowner's Manual. This failure is a

deceptive and unfair trade practice because it misrepresented a material fact that has a tendency to mislead in violation of Section 17.403(a)(5) of the Howard County Code.

RELIEF REQUESTED

WHEREFORE, Howard County respectfully requests that this Court:

- a. Order Defendants to complete the construction of a fully functioning, "state of the art" septic system meeting all applicable State and County statutory and regulatory standards, that is capable of meeting the requirements in the discharge permit, no later than November 15, 2008;
- b. Enjoin Defendants from:
 1. engaging in the deceptive or unfair acts listed above pursuant to section 17.412(c) of the Howard County Code;
 2. allowing the Cattail Creek Country Club the use of water from the two southwest wells;
 3. charging more than \$202 per year for a period of 33 years, including all payments made up to the date of the order, for reimbursement of the capital costs of installation and construction of functional, operational, and "state of the art" well and septic systems;
- c. Order Defendants to:
 1. upgrade or replace the well and water supply system, including the PLC, with current, "state of the art" technology;
 2. upgrade or replace pumps on the well and water supply system with appropriately sized pumps;
 3. install a functioning gate at the entrance to the community;

4. upgrade roads used by pump trucks, including Player's Way and the access road to the septic system;

5. connect the two southwestern wells to the community's well and water supply system so that they can be used as backups;

6. increase the size of the drain fields so they are adequate for 150% of the average daily flow of 150 gallons per day times the actual number of bedrooms in the 93 homes that make up the community and installing all required infrastructure for use of the septic fields; and

7. repurchase homes of residents at the sale price paid by the residents at the time of purchase, including all transaction fees, for all residents who choose to sell, up to a maximum of 93 homes.

d. Order Defendants to make restitution to homeowners in the Villas at Cattail Creek community by:

1. paying additional yearly costs for operation, testing, and maintenance of the replacement septic system over and above those represented as necessary for the operation, testing, and maintenance of the original septic system;

2. reimbursing Cattail Creek Condo Association for the cost of water appropriated by the Cattail Creek Country Club, during periods of unauthorized use of the wells as allowed under the easement filed in 2008;

3. reimbursing Cattail Creek Condo Association \$3,000 for the cost of an adequate surge protector for the well and water supply system;

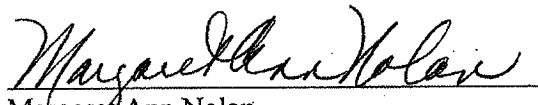
4. reimbursing Cattail Creek Condo Association \$17,000 for charges paid to MES from condominium association funds that should have been paid by Villas LLC, and which Defendant Scrivener promised would be reimbursed;
5. reimbursing residents for lot premiums paid for lots purporting to be adjacent to the planned golf course; and
- e. Demands judgment against Defendants for compensatory damages in the amount of \$250,000.00.
- f. Enter a fine in the amount of \$500 for each and every deceptive or unfair trade practice committed, pursuant to section 17.412(b);
- g. Establish a bond or surety sufficient to cover the costs of replacing the well or septic systems, should either fail within the next 15 years; and
- h. Order Defendants to reimburse the Howard County Office of Consumer Affairs for the cost of investigation of this matter pursuant to Section 17.411 of the Howard County Code.

REQUEST FOR JURY TRIAL

Plaintiff Howard County, Maryland respectfully requests a trial by jury.

Respectfully submitted,

HOWARD COUNTY OFFICE OF LAW


Margaret Ann Nolan
County Solicitor

Greg Mellon - Re: Villas at Cattail creek

From: BOB FRANCES
To: MARTIN, GEORGE; SWINDER, DAN
Date: 4/22/2003 3:12 PM
Subject: Re: Villas at Cattail creek
CC: Corbin, Avis; Evans, Michael; HOBSON, JIM; Mellon, Greg; Skinner, Frank

George/Dan:

This is an email that was forwarded to me from Avis. She received it from the Health Department.

Since all of these "villas," whether they be the townhouse or the SFD's, are on private water and sewer (albeit not well and septic), Licenses and Permits will be making sure the applications are routed to the health department. They will also be ensuring the description of work doesn't indicate more than the maximum number of bedrooms.

What we need to do is makes sure the plans we see match up with the description of work, and double check that it matches with Health Dept. maximums. If it doesn't, please bring it to my attention via email, with copies to Avis, Greg Mellon, and Frank Skinner.

Also, as a follow up on our conversation of a few minutes ago. Although we can't "officially" deny a permit issuance just because the water service pump building does not have a permit yet, you are going to contact the NV Homes people. You are going to let them know that Plan Review is not going to sign off on their next permit until we get some feed-back from them about the status of the water pumping facility. This way they are on notice that there may be a timing issue, and that they should be in contact with the developer about it. Also, you have stated that you will let NV know that if the water pumping facilities for domestic, sanitary, and/or fire protection are not available at the time of building final we will not release the home for occupancy.

Let me know if you have any questions.

Thanks,

Bob

>>> Greg Mellon 04/22/03 10:58AM >>>

We have notified the developer's representative, Bill Grau, about the following building permits that have been submitted for possibly 4 bedrooms and the restriciton that allows only 3 for this subdivision. They should be in to correct this problem.

B 00138568
 B 00141173
 B 00139419
 B 00139420
 B 00139421
 B00139422

EXHIBIT 6 2

Greg Mellon - Villas at Cattail creek

From: Greg Mellon
To: Corbin, Avis
Date: 4/22/2003 10:58 AM
Subject: Villas at Cattail creek
CC: fskinner

We have notified the developer's representative, Bill Grau, about the following building permits that have been submitted for possibly 4 bedrooms and the restriction that allows only 3 for this subdivision. They should be in to correct this problem.

B 00138568 - NV
B 00141173 - Orla
B 00139419 - NV
B 00139420
B 00139421
B00139422

paid

**FISHER, COLLINS
& CARTER, INC.**

**CIVIL ENGINEERING CONSULTANTS
and LAND SURVEYORS**

Transmittal

*Obtained 1/16/09 for file entitled
H.C.H.D. Villas & Co. "BP Cattail Villas."
Sites*

Terrell A. Fisher, P.E., L.S.
Earl D. Collins, P.E.
Ronald B. Carter, L.S.
Charles J. Crovo, Sr., P.E., L.S.

Via: Fax Mail Messenger E-Mail To Be Picked Up
 Fax (original to follow via U.S. Mail)

To: Howard County Health Department Bureau of Environmental Health 3525-H Ellicott Mills Drive Ellicott City, MD 21043	Attn: Mr. Gregory S. Mellon Fax: Phone:
---	--

From: Aldo M. Vitucci, P.E.	CC: Mr. David Deal, NV Homes
------------------------------------	-------------------------------------

Re: Villas at Cattail Creek, SDP-01-115	W.O.# 40321
Date: April 4, 2003	Pages: Page(s) including this cover

We are forwarding: <input checked="" type="checkbox"/> Prints <input type="checkbox"/> Copy of Letter <input type="checkbox"/> Specifications <input type="checkbox"/> Shop drawings <input type="checkbox"/> Other
<input type="checkbox"/> Urgent <input checked="" type="checkbox"/> For your use <input checked="" type="checkbox"/> As requested <input type="checkbox"/> For Review & Comment

Remarks:

We are sending you attached:

1 set of the approved Site Development Plans to accompany the previous Building Permit Application for Units 113-116.

Sincerely,

Aldo M. Vitucci

CONFIDENTIALITY NOTICE

This transmission contains confidential information which may be legally privileged, and is intended only for the use of the individual named above. If you are not the intended recipient, you are hereby notified that any distribution (except to the intended recipient), copying, or disclosure of this transmission is strictly prohibited.



Regulatory Administration Management Company

Telephone: 703/934-4606 3900 Jermantown Road • Suite 300 • Fairfax, Virginia 22030
Telecopier: 703/934-1660

Howard County
Department of Inspection, Licenses & Permits
3430 Courthouse Drive
Ellicott City, MD 21043

RECEIVED

APR 28 2003

LICENSES & PERMITS
DIVISION

April ~~25~~²⁸, 2003

To Whom It May Concern:

Per the Howard County Health Department request, we would like to change the bedroom count on the following permits from a four (4) bedroom house to a three (3) bedroom. This option is currently shown on our architectural drawings.

Lot 113	15117 Players Way	B00139419
Lot 114	15115 Players Way	B00139420
Lot 115	15113 Players Way	B00139421
Lot 116	15111 Players Way	B00139422

Thank you for your assistance.

Sincerely,

Joshua Unthank

cc: Health Dept

Specialists in Permits and Regulatory Management Services
Virginia • Maryland • D.C.

EXHIBIT G-4



Regulatory Administration Management Company

Telephone: 703/934-4606 3900 Jermantown Road • Suite 300 • Fairfax, Virginia 22030
Telecopier: 703/934-1660

Howard County
Department of Inspection, Licenses & Permits
3430 Courthouse Drive
Ellicott City, MD 21043

RECEIVED

APR 28 2003

LICENSES & PERMITS
DIVISION

April ~~23~~²⁸, 2003


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Lot 114	15115 Players Way	B00139420	✓ —
Lot 115	15113 Players Way	B00139421	
Lot 116	15111 Players Way	B00139422	

Thank you for your assistance.

Sincerely,


Joshua Unthank

cc: Health Dept

Specialists in Permits and Regulatory Management Services
Virginia • Maryland • D.C.

EXHIBIT G-5



Facsimile Transmittal
Telephone: 703/934-4606
Telecopier: 301/865-0877

Date: MAY 26, 2004

To: JOHN BORIS

Company: HOWARD COUNTY HEALTH DEPARTMENT

FAX #: 410-313-2648

From: JOSHUA UNTHANK

Number of Pages, Including Cover Sheet: 3

Subject: VILLAS AT CATTAIL CREEK

Special Instructions or Comments: John, Attached is a list of the lots that we would like to have released next.

We spoke with Diana London at the permit office and we are revising 6 permits at this time to reflect 2 bedrooms. Attached is a copy of that request. Thank you for your patience and assistance in this matter. Josh 240-793-5750 - Cell

Copy to: _____ FAX #: _____

_____ FAX #: _____

_____ FAX #: _____


Senders Initials

Note: Should any pages require re-transmission, please contact FAX sender.

EXHIBIT 6-6

VILLAS AT CATAIL CREEK

<u>PERMITS #</u>	<u>ADDRESS</u>	<u>LOT</u>
B00146910	15140 PLAYERS WAY	13
B00146911	15142 PLAYERS WAY	14
B00146912	15144 PLAYERS WAY	15
B00146913	15146 PLAYERS WAY	16
B00146938	15150 PLAYERS WAY	17
B00146939	15152 PLAYERS WAY	18
B00146940	15154 PLAYERS WAY	19
B00146941	15156 PLAYERS WAY	20

o.k. to release

05/25/2004
09:54:34

N

11000 Health Dept

2:00 John Borst

LOT MASTER - Summary
MARYLAND WEST-MDW

Community: 66-CATTAIL CREEK VILLAS
City : CITY OF GLENWOOD
State : MD

SQL lot_master.dept_code = 'MDW' and lot_master.community='66'

Corp	Legal	Address	Customer	Sale Date	Cont ngnt	Proj Settle	Actual Settle	Set/Ver	PP/ Rev	BLDG Lot	PER.# Comment
V001	@										
V001	A Δ	15110	PLAYERS WAY	PIZZUTO	11/17/2003	N 05/31/2004		26400	11 P	B00144907	
V002	@										
V002	A Δ	15112	PLAYERS WAY	KIRBY	12/15/2003	N 05/31/2004		26400	11 R	B00144908	
V003	@										
V003	A Δ	15114	PLAYERS WAY	KRIEGER	02/24/2004	N 05/31/2004		26400	11 P	B00144909	
V004	@										
V004	A Δ	15116	PLAYERS WAY	COLVARD	10/17/2003	N 05/31/2004		26400	11 R	B00144910	
V005	@										
V005	A Δ	15120	PLAYERS WAY	PARSONS	01/31/2004	N 07/31/2004		26400	11 P	B00144911	
V006	@										
V006	A Δ	15122	PLAYERS WAY	ABASHIAN	02/29/2004	N 07/31/2004		26400	11 R	B00144912	
V007	@										
V007	A Δ	15124	PLAYERS WAY	SILVERSTEI	04/19/2004	N 07/31/2004		26400	11 P	B00144913	
V008	@										
V008	A Δ	15126	PLAYERS WAY	GIBBONS	04/29/2004	N 07/31/2004		26400	11 R	B00144914	
V009	@										
V009	A Δ	15130	PLAYERS WAY	MEY	04/29/2004	N 09/30/2004		26400	11 P		
V010	@										
V010	A Δ	15132	PLAYERS WAY								
V011	@										
V011	A Δ	15134	PLAYERS WAY								
V012	@										
V012	A Δ	15136	PLAYERS WAY	ALEXANDER	05/24/2004	N 09/30/2004		26400	11 R		
V013	@										
V013	A	15140	PLAYERS WAY								
V014	@										
V014	A	15142	PLAYERS WAY								
V015	@										
V015	A	15144	PLAYERS WAY								
V016	@										
V016	A	15146	PLAYERS WAY								
V017	@										
V017	A	15150	PLAYERS WAY								
V018	@										
V018	A	15152	PLAYERS WAY								
V019	@										
V019	A	15154	PLAYERS WAY								
V020	@										
V020	A	15156	PLAYERS WAY								
V021	@										
V021	A	15157	PLAYERS WAY								
V022	@										
V022	A	15155	PLAYERS WAY								
V023	@										
V023	A	15153	PLAYERS WAY								
V024	@										
V024	A	15151	PLAYERS WAY								
V025	@										
V025	A	15147	PLAYERS WAY								

Δ = approved 3rdm

21x3
4x3

75

EXHIBIT G-7

MARYLAND WEST-MD#

Community: 66-CATTAIL CREEK VILLAS

City : CITY OF GLENWOOD

State : MD

Corp- Lot/U	Legal Lot	Blk	Sect	House	Address Street	Customer Name	Sale Date	Cont ngnt	Proj Settle	Actual Settle	Set/Ver Rev	PP/ Rev	BLDG Lot	PER.# Comment
V100	@													
V100	A			15253	CALLAWAY COURT									
V101	@													
V101	A			15237	CALLAWAY COURT	CASNER	03/15/2004	N	09/30/2004		26400	11 P	B00146891	
V102	@													
V102	A			15235	CALLAWAY COURT	CAVEY	04/13/2004	N	09/30/2004		26400	11 R	B00146892	
V103	@													
V103	A			15233	CALLAWAY COURT	SARANDOS	04/26/2004	N	09/30/2004		26400	11 P	B00146893	
V104	@													
V104	A			15231	CALLAWAY COURT	WEISS	03/31/2004	N	09/30/2004		26400	11 R	B00146894	
V105	@													
V105	A			15207	CALLAWAY COURT	PARCOVER	11/30/2003	N	07/31/2004		26400	11 P	B00145615	
V106	@													
V106	A			15205	CALLAWAY COURT	WHITE	03/11/2004	N	07/31/2004		26400	11 R	B00145616	
V107	@													
V107	A			15203	CALLAWAY COURT	MULHERIN	03/11/2004	N	07/31/2004		26400	11 P	B00145614	
V108	@													
V108	A			15201	CALLAWAY COURT	TASH	12/08/2003	N	07/31/2004		26400	11 R	B00145617	
V109	@													
V109	A			15129	PLAYERS WAY	BOMSE	12/15/2003	N	06/30/2004		26400	11 P	B00144919	
V110	@													
V110	A			15127	PLAYERS WAY	KASTURI	12/19/2003	N	06/30/2004		26400	11 R	B00144920	
V111	@													
V111	A			15125	PLAYERS WAY	JAMESON	11/18/2003	N	06/30/2004		26400	11 P	B00144921	
V112	@													
V112	A			15123	PLAYERS WAY	HOWELL	11/30/2003	N	06/30/2004		26400	11 R	B00144922	
V113	@													
V113	A			15117	PLAYERS WAY	CREMEANS	10/31/2002	N	12/30/2003	12/31/2003	26400	10 P	B00139419	
V114	@													
V114	A			15115	PLAYERS WAY	SUNDERLY	02/09/2004	N	03/30/2004	03/30/2004	26400	10 R	B00139420	
V115	@													
V115	A			15113	PLAYERS WAY	KUCZARSKI	10/19/2003	N	12/30/2003	12/31/2003	26400	10 P	B00139421	
V116	@													
V116	A			15111	PLAYERS WAY	PETTIT FAM	12/17/2003	N	12/31/2003	12/31/2003	26400	10 R	B00139422	

Total Lot Master Count: 136

68 lots
32 permits issued = 3 bdr = 96 bdr already

36 permits left to receive 2 bdr = 72 bdr left to build

168

MARYLAND WEST-MDW

Community: 66-CATTAIL CREEK VILLAS

City : CITY OF GLENWOOD

State : MD

-Corp-	Legal	Address	Customer	Sale	Cont	Proj	Actual	Set/Ver	PP/	BLDG	PER.#	
Lot/U	Lot	Blk	Sect	House	Street	Name	Date	ngnt	Settle	Rev	Lot	Comment
V026	@											
V026	A			15145	PLAYERS WAY							
V027	@											
V027	A			15143	PLAYERS WAY							
V028	@											
V028	A			15141	PLAYERS WAY							
V029	@											
V029	A			15230	CALLAWAY COURT	HENSING	03/29/2004	N	07/31/2004		27100	00 P B00146202
V030	@											
V030	A			15232	CALLAWAY COURT						27100	00 P B00146205
V031	@											
V031	A			15234	CALLAWAY COURT						27100	00 P B00146204
V032	@											
V032	A			15236	CALLAWAY COURT	WILDING	05/17/2004	N	08/31/2004		27100	00 R B00146203
V033	@											
V033	A			15240	CALLAWAY COURT							
V034	@											
V034	A			15242	CALLAWAY COURT							
V035	@											
V035	A			15244	CALLAWAY COURT							
V036	@											
V036	A			15246	CALLAWAY COURT							
V037	@											
V037	A			15250	CALLAWAY COURT							
V038	@											
V038	A			15252	CALLAWAY COURT							
V039	@											
V039	A			15254	CALLAWAY COURT							
V040	@											
V040	A			15256	CALLAWAY COURT							
V041	@											
V041	A			15260	CALLAWAY COURT							
V042	@											
V042	A			15262	CALLAWAY COURT							
V043	@											
V043	A			15264	CALLAWAY COURT							
V044	@											
V044	A			15266	CALLAWAY COURT							
V093	@											
V093	A			15269	CALLAWAY COURT							
V094	@											
V094	A			15267	CALLAWAY COURT							
V095	@											
V095	A			15265	CALLAWAY COURT							
V096	@											
V096	A			15263	CALLAWAY COURT							
V097	@											
V097	A			15259	CALLAWAY COURT							
V098	@											
V098	A			15257	CALLAWAY COURT							
V099	@											
V099	A			15255	CALLAWAY COURT							

Total Allowable bedrooms is 232

5/24/04

VILLAS AT CATTAIL CREEK

UNITS NOT APPROVED - ON HOLD

BUILDING PERMITS MODIFIED

36 units X 2 Bedrooms = 72 bedrooms

4 SFD's X 3 Bedrooms = 12 bedrooms

TOTAL BEDROOMS = 84

APPROVED + FINAL U+O RECEIVED

(2) 32 units X 3 Bedrooms = 96 Bedrooms

(1) 6 units X 4 Bedrooms = 24 bedrooms

1 unit X 2 Bedrooms = 2 bedrooms

TOTAL BEDROOMS = 122 bedrooms

* BP copy signed for 3 Bdrms - Cornerstone shows 4 Bdrms

APPROVED - ~~SEPTIC~~ NOT FINALED - U+O NOT DONE

10 units X 3 Bedrooms = 30 Bedrooms

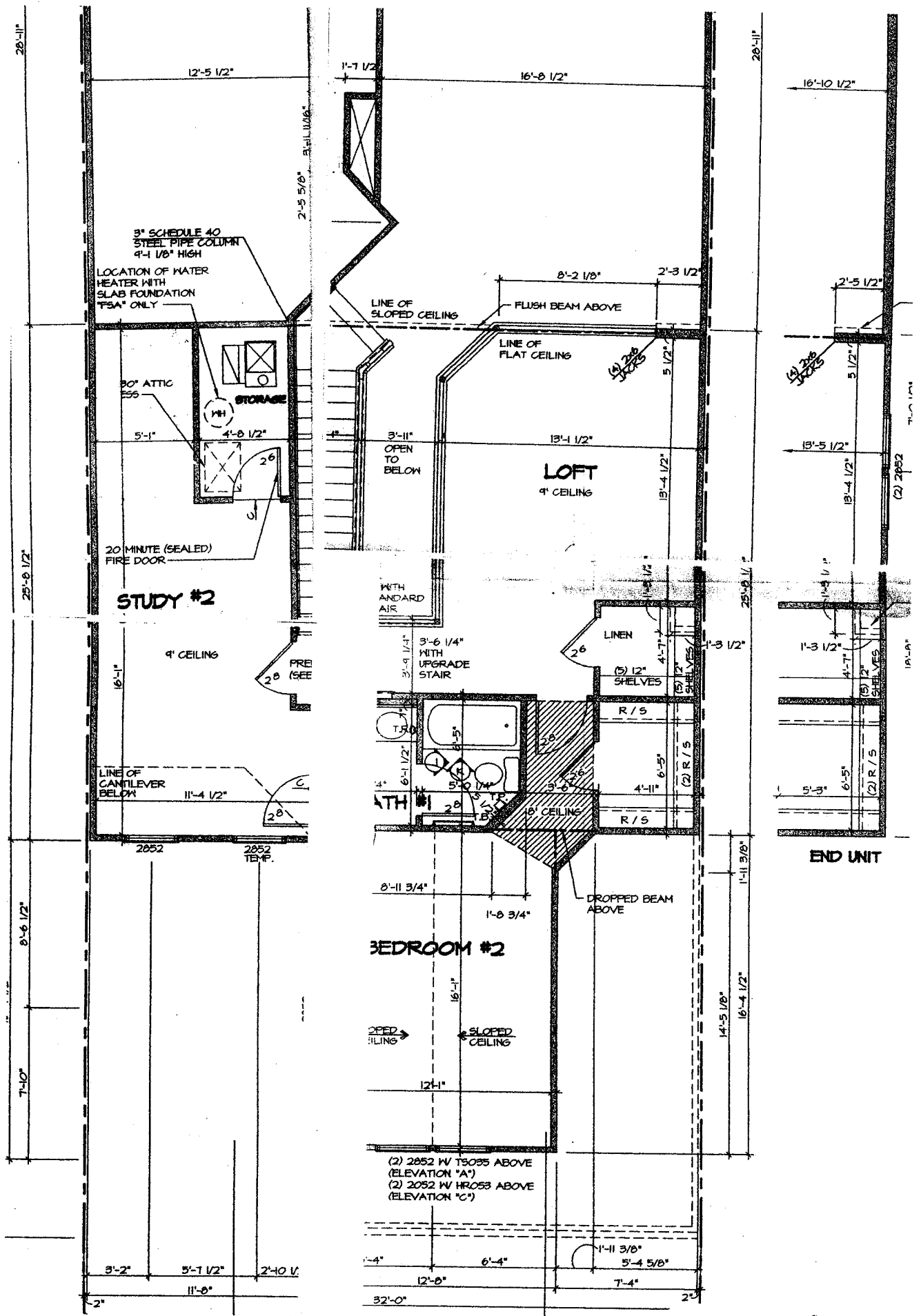
4 units X 2 bedrooms = 8 Bedrooms

TOTAL BEDROOMS = 244

(1) marked in Cornerstone as 4 but, HCHD permit has 3 on it. So, possible that final count is 6 less

(2) possible that some of these units are really 2 bdrm units, even though it appears that by permit, they are 3

- Bottom line is that total bdrm count may still not be correct.



Plan in Health Department Files

EXHIBIT G-8

Upper Level Floor Plan

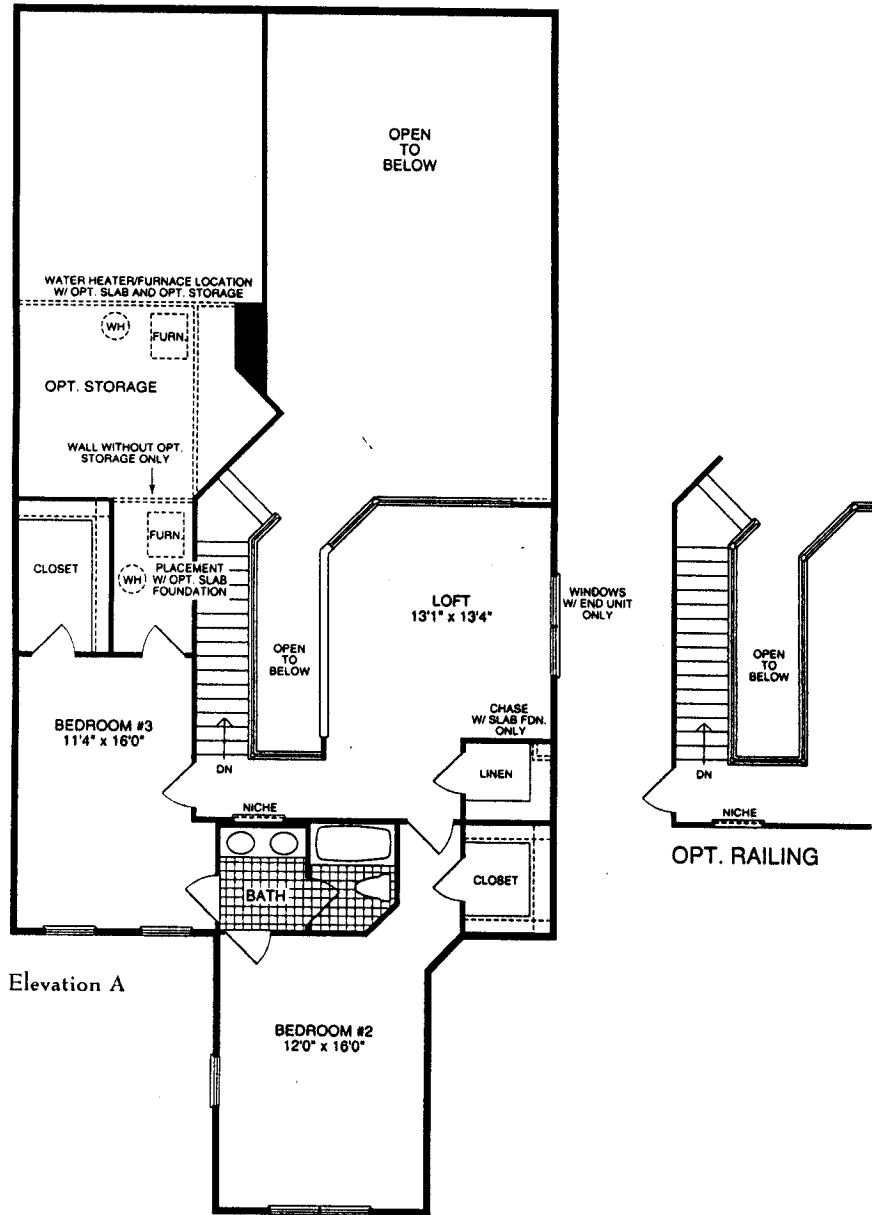


EXHIBIT G-9

Builder's Marketing Plan

Lower Level Floor Plan

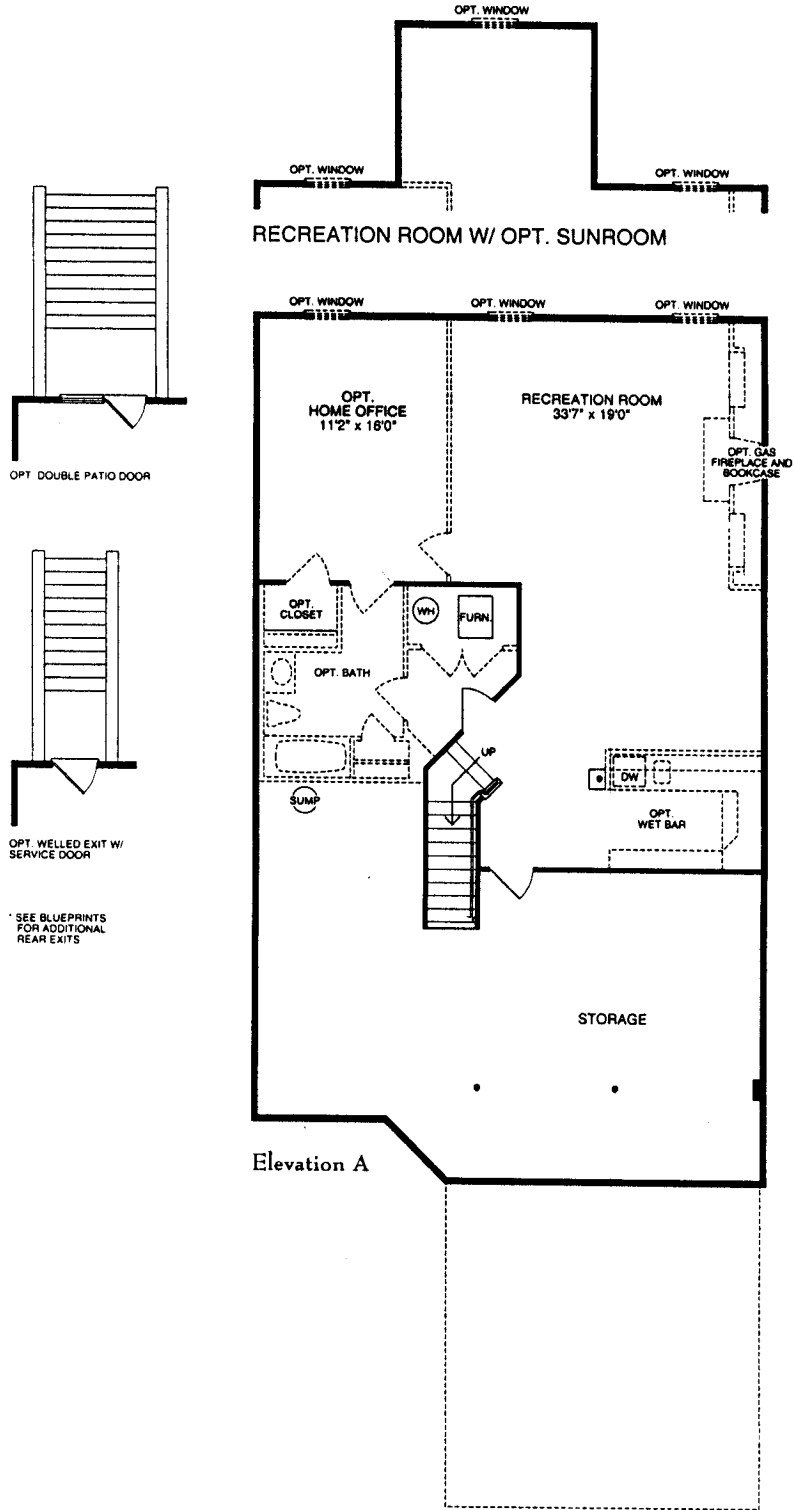


EXHIBIT G-10

Builder's Marketing Plan