

IN THE SUPREME COURT OF THE STATE OF NEVADA

Case No.: 72371

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Elizabeth A. Brown
Clerk of Supreme Court

PARDEE HOMES OF NEVADA

Appellant,

v.

JAMES WOLFRAM and WALT WILKES, et al.

Respondents.

Appeal Regarding Judgment and Post-Judgment Orders
Eighth Judicial District Court
District Court Case No.: A-10-632338-C

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10/23/2013	Trial Exhibit G	23	JA003638
10/23/2013	Trial Exhibit H	23	JA003639- JA003640
10/23/2013	Trial Exhibit I	23	JA003641- JA003643
10/23/2013	Trial Exhibit J – filed under seal	24	JA003644- JA003669
10/23/2013	Trial Exhibit K	24	JA003670- JA003674
10/23/2013	Trial Exhibit L	24	JA003675- JA003678
10/23/2013	Trial Exhibit M	24	JA003679- JA003680
10/23/2013	Trial Exhibit N	24	JA003681- JA003683
10/23/2013	Trial Exhibit O – filed under seal	25-26	JA003684- JA004083
10/23/2013	Trial Exhibit P	27	JA004084
10/23/2013	Trial Exhibit Q	27	JA004085
10/23/2013	Trial Exhibit R	27	JA004086- JA004089
10/23/2013	Trial Exhibit S	27	JA004090

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10/23/2013	Trial Exhibit T	27	JA004091- JA004092
10/23/2013	Trial Exhibit U	27	JA004093
10/23/2013	Trial Exhibit V	27	JA004094
10/23/2013	Trial Exhibit W	27	JA004095- JA004096
10/23/2013	Trial Exhibit X	27	JA004097
10/23/2013	Trial Exhibit Y	27	JA004098
10/23/2013	Trial Exhibit Z	27	JA004099- JA004100
10/23/2013	Trial Exhibit 1	27	JA004289- JA004292
10/23/2013	Trial Exhibit 10 – filed under seal	27	JA004320- JA004329
10/23/2013	Trial Exhibit 11 – filed under seal	28	JA004330- JA004340
10/23/2013	Trial Exhibit 12 – filed under seal	28	JA004341- JA004360
10/23/2013	Trial Exhibit 13 – filed under seal	28	JA004361- JA004453
10/28/2013	Trial Exhibit 15	34	JA005228- JA005232
10/28/2013	Trial Exhibit 18	34	JA005233- JA005235

Date	Document Description	Volume	Labeled
10/28/2013	Trial Exhibit 19	34	JA005236- JA005237
10/28/2013	Trial Exhibit 20	34	JA005238- JA005254
10/23/2013	Trial Exhibit 21	28	JA004454
10/28/2013	Trial Exhibit 23	34	JA005255- JA005260
10/30/2013	Trial Exhibit 23a	39	JA005816- JA005817
10/28/2013	Trial Exhibit 24	34	JA005261- JA005263
10/23/2013	Trial Exhibit 25	28	JA004455- JA004462
10/24/2013	Trial Exhibit 26	31	JA004792- JA004804
10/30/2013	Trial Exhibit 27	39	JA005818- JA005820
10/29/2013	Trial Exhibit 28	36	JA005494- JA005497
10/29/2013	Trial Exhibit 29	36	JA005498- JA005511
10/24/2013	Trial Exhibit 30	31	JA004805- JA004811
12/13/2013	Trial Exhibit 31a	48	JA007385- JA007410
12/12/2013	Trial Exhibit 39	46	JA006936- JA006948

Date	Document Description	Volume	Labeled
12/12/2013	Trial Exhibit 40	46	JA006949- JA006950
12/12/2013	Trial Exhibit 41	46	JA006951- JA006952
10/23/2013	Trial Exhibit 6 – filed under seal	27	JA004293- JA004307
10/23/2013	Trial Exhibit 7 – filed under seal	27	JA004308- JA004310
10/23/2013	Trial Exhibit 8 – filed under seal	27	JA004311- JA004312
10/23/2013	Trial Exhibit 9 – filed under seal	27	JA004313- JA004319
10/23/2013	Trial Exhibit AA	27	JA004101- JA004102
10/23/2013	Trial Exhibit BB	27	JA004103
10/23/2013	Trial Exhibit CC	27	JA004104
10/23/2013	Trial Exhibit DD	27	JA004105
10/23/2013	Trial Exhibit EE	27	JA004106- JA004113
10/23/2013	Trial Exhibit FF	27	JA004114- JA004118
10/23/2013	Trial Exhibit GG	27	JA004119- JA004122
10/23/2013	Trial Exhibit HH	27	JA004123

Date	Document Description	Volume	Labeled
10/23/2013	Trial Exhibit II	27	JA004124
10/23/2013	Trial Exhibit JJ	27	JA004125
10/23/2013	Trial Exhibit KK	27	JA004126- JA004167
10/23/2013	Trial Exhibit LL	27	JA004168
10/23/2013	Trial Exhibit MM	27	JA004169
10/23/2013	Trial Exhibit NN	27	JA004170- JA004174
10/23/2013	Trial Exhibit OO	27	JA004175- JA004183
10/23/2013	Trial Exhibit PP	27	JA004184- JA004240
10/23/2013	Trial Exhibit QQ	27	JA004241- JA004243
10/23/2013	Trial Exhibit RR	27	JA004244- JA004248
10/23/2013	Trial Exhibit SS	27	JA004249- JA004255
10/23/2013	Trial Exhibit TT	27	JA004256- JA004262
10/23/2013	Trial Exhibit UU	27	JA004263- JA004288
10/24/2013	Trial Exhibit VV	31	JA004791

Date	Document Description	Volume	Labeled
12/10/2013	Trial Exhibit WW	43	JA006531- JA006532
12/12/2013	Trial Exhibit XX	46	JA006879- JA006935

Dated this 28th day of February, 2018.

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of McDonald Carano LLP, and on the 28th day of February, 2018, a true and correct copy of the foregoing document was e-filed and e-served on all registered parties to the Supreme Court's electronic filing system:

/s/ Beau Nelson
An Employee of McDonald Carano LLP

1 Q. Okay. Would I expect to find a Parcel LP-1
2 on that map?

3 A. Yes.

4 Q. Okay.

5 Your Honor, I would like to now show the
6 witness what has been premarked as Exhibit 26.

7 THE COURT: Okay.

8 MR. J.M. JIMMERSON:

9 Q. Jim, you're gonna want to put the big sheet
10 away and go to the next roll.

11 MR. J.J. JIMMERSON: Let me help you. Just
12 give me those, and I will wrap them up.

13 THE COURT: I was gonna say --

14 MR. J.J. JIMMERSON: 26, Jim?

15 MR. J.M. JIMMERSON: Yes.

16 THE COURT: Okay.

17 MR. J.J. JIMMERSON: No, no, to the maps.

18 MR. J.M. JIMMERSON: The big roll.

19 THE COURT: We need to roll up these and move
20 on.

21 MR. J.J. JIMMERSON: I need a rubber band.

22 THE COURT: Here's some right here. She
23 keeps giving them to me, Mr. Jimmerson.

24 Okay.

25 THE WITNESS: Okay.

1 BY MR. J.M. JIMMERSON:

2 Q. Mr. Wolfram, what is the map before you?

3 A. It's Book 138, Page 51.

4 Q. Is that, to your understanding, the same book
5 that's listed in Exhibit 10?

6 A. Yes.

7 Q. Okay. Thank you very much.

8 I would like to now move this into evidence
9 as Exhibit 26, your Honor.

10 MS. LUNDVALL: Which exhibit is this, please?

11 MR. J.M. JIMMERSON: 26.

12 THE COURT: Right. Any objection? There is
13 a smaller version in the notebook.

14 MR. J.M. JIMMERSON: Yes. I only did that
15 because --

16 THE COURT: It's very helpful.

17 MR. J.M. JIMMERSON: Just in case you didn't
18 want to take it all home.

19 THE COURT: It's absolutely very helpful. I
20 can see this is easier for the witness.

21 Don't we already -- has that been stipulated
22 to?

23 THE CLERK: No.

24 THE COURT: Okay. I just wanted to make
25 sure. No problem.

1 MS. LUNDVALL: No objection, your Honor.

2 THE COURT: Okay, it will be so admitted,
3 Plaintiffs' Exhibit 26.

4 We have a smaller version in the notebook,
5 but we have the long sheets that will also be admitted.

6 MR. J.M. JIMMERSON: Thank you very much.

7 THE COURT: You're welcome.

8 BY MR. J.M. JIMMERSON:

9 Q. Mr. Wolfram, I'm showing you what is a
10 smaller construction of this map.

11 If I were to put Sheet 5 next to Sheet 6 next
12 to Sheet 7 next to Sheet 8 next to Sheet -- excuse me,
13 11, would I get some configuration like this?

14 A. Yes.

15 Q. Okay. Now, while this map does not
16 explicitly, excuse me, have the boundaries or the
17 measured boundaries of Parcel 2, does it make a
18 reference to Parcel 2 from the previous map we just got
19 done discussing?

20 A. Yes, it does.

21 Q. Okay. And is that right there?

22 A. Yes.

23 Q. Okay.

24 THE COURT: You need to describe for the
25 record --

1 MR. J.M. JIMMERSON: I'm sorry. I guess in
2 the middle of the demonstrative, which would be on
3 Sheet 6, Bates Stamp PLTF 10432.

4 THE COURT: Is there some writing that you
5 pointed to in the area? What's the writing?

6 MR. J.M. JIMMERSON: Parcel 2, File 113, Page
7 55.

8 THE COURT: Thank you.

9 BY MR. J.M. JIMMERSON:

10 Q. Mr. Wolfram, do you see Parcels LP-1, LP-2,
11 LP-3? Specifically you're gonna see them on Sheet 5,
12 PLTF 10431?

13 A. PLT what?

14 Q. PLT 10431.

15 A. Okay.

16 MR. J.J. JIMMERSON: Jim, is this still part
17 of 26?

18 MR. J.M. JIMMERSON: No -- yes. Yes. This
19 is 26.

20 THE WITNESS: Excuse me, your Honor.

21 THE COURT: You have some water. You're
22 okay.

23 THE WITNESS: I got it, okay.

24 BY MR. J.M. JIMMERSON:

25 Q. Do you see a parcel or a section entitled

1 "LP-1, LP-2, LP-3"?

2 A. I do.

3 Q. Okay. And do you believe those to be the
4 same parts or same sections of land referenced in
5 Plaintiffs' Exhibit 10, the Amendment Number 5?

6 A. Yes.

7 Q. Okay. Thank you very much, Mr. Wolfram.
8 I would like to move on to Exhibit Number 11.

9 MS. LUNDVALL: Your Honor, I'm gonna object
10 as far as now this reference, it makes -- the plan that
11 was referenced here was 182.81 acres. If you take a
12 look at LP-1, 2, 3, and 4, it identifies what those
13 acres are, and it's a lot more than 182.81.

14 MR. J.M. JIMMERSON: Your Honor, it's for
15 each parcel. Take a look, LP-1, 182.81; LP-2, 83.77;
16 LP-3, 197.48.

17 MS. LUNDVALL: This one matches, the other
18 question did not.

19 THE COURT: I matched it up. I understand.

20 MR. J.M. JIMMERSON: I understand. It's
21 confusing, that's all.

22 THE COURT: You're doing a great job. This
23 is not easy.

24 Mr. Wolfram agrees with the Judge, right?

25 / / / /

1 BY MR. J.M. JIMMERSON:

2 Q. Okay. Mr. Wolfram, can you please turn to
3 Exhibit 11, Amendment Number 6?

4 THE COURT: That's in the book, 11.

5 THE WITNESS: Okay, I got it.

6 BY MR. J.M. JIMMERSON:

7 Q. Okay. Mr. Wolfram, you testified earlier
8 that you had not received a copy of this document from
9 either the title company or Pardee.

10 Have you had a chance to see this document
11 before today and yesterday?

12 A. Yes.

13 Q. Who did you receive this document from?

14 A. My attorney, Mr. Jimmerson.

15 Q. Okay. Have you had a chance to read this
16 document?

17 A. Yes.

18 Q. Okay. Can you please flip to Page 2? I will
19 refer you to Paragraph 3.

20 A. Okay.

21 Q. Can you please explain your understanding of
22 the chart which says, Description, and the number of
23 acres in this document?

24 A. Yes.

25 MR. J.J. JIMMERSON: Exhibit 11, right?

1 MR. J.M. JIMMERSON: Yeah.

2 THE WITNESS: Parcel LP-18 of Book 138,
3 Page 51 of Plats, 130 acres, which matches up to the
4 parcel map.

5 BY MR. J.M. JIMMERSON:

6 Q. Okay. What is your understanding of why
7 there is this list of land here?

8 A. This is more land that Pardee bought.

9 Q. And what is the basis of that understanding?

10 A. The basis of that understanding is they were
11 taking down land outside of Parcel 1.

12 Q. Okay. Does this document in Paragraph 3 tell
13 us or tell you or indicate to you whether or not they
14 are taking down land?

15 A. No -- oh, yeah, no. Yeah.

16 Q. Okay. Can you please read it or show us the
17 portion which indicates to you that it was taken down?

18 A. By executing this Amendment, buyer hereby
19 exercises his right to purchase an additional portion
20 of the Initial Developed Parcel, consisting of
21 approximately 412.13 acres, the third additional
22 purchase parcel, described as follows.

23 Q. Okay.

24 Your Honor, I would like to refer the witness
25 back to Exhibit 30.

1 THE COURT: That's one of the maps, right?

2 MR. J.M. JIMMERSON: It is, your Honor.

3 THE COURT: I put it away. That's fine.

4 Counsel, is this a new one or is this --

5 MR. J.M. JIMMERSON: It's the one we admitted
6 from the previous amendments.

7 THE COURT: Okay. Sorry.

8 MR. J.M. JIMMERSON: Here, I will move it a
9 little closer.

10 THE COURT: I have it. Thank you.

11 Mr. Wolfram, I'm slower than you in finding
12 the map.

13 Okay.

14 THE WITNESS: You can't see that, right?

15 MR. J.M. JIMMERSON: Here,

16 THE WITNESS: Turn it so she can see it. I'm
17 trying it accommodate everyone.

18 THE COURT: I know, and the courtroom is not
19 very big. I appreciate everybody's efforts. It's not
20 the biggest courtroom.

21 BY MR. J.M. JIMMERSON:

22 Q. Mr. Wolfram, all right, we're with you.

23 This document, do you see Parcel 3?

24 A. I might have to come over there to see it.

25 THE COURT: You can come up.

1 MR. J.M. JIMMERSON: Yeah, please.

2 THE WITNESS: I see two, one, okay.

3 THE COURT: It's very small.

4 MR. J.M. JIMMERSON: It is.

5 BY MR. J.M. JIMMERSON:

6 Q. There, take your time.

7 A. Yeah, right here.

8 Q. Okay. And what is that acreage?

9 A. 113.24 acres.

10 Q. Is that the same number of acres as listed in
11 -- double check. I don't want you to say without
12 knowing.

13 Is it listed in Exhibit Number 11, Amendment
14 Number 6 to the Amended and Restated Option Document?

15 A. Yes.

16 Q. Let's get it out.

17 A. Yes, it's the same.

18 Q. Okay. Now, if you could, if you take the
19 binder for one more question, take it, I'm just gonna
20 have you point to the map one more time.

21 A. Okay.

22 Q. Can you see Parcel 4 on this map?

23 A. Right here.

24 Q. How many acres is Parcel 4?

25 A. 168.48 acres.

1 Q. And is that the same number of acres that's
2 listed in Exhibit 11?

3 A. Yes.

4 Q. Okay. Thank you very much, Mr. Wolfram.
5 Now, similar to what I asked you earlier
6 concerning a previous exhibit, excuse me, the previous
7 amendment, Amendment Number 5, if you were to look at
8 that map, could you tell us how far away from
9 US Highway 93, the easternmost portion of Parcel 3, is
10 on this map?

11 A. Yes. Take the farthest point right there and
12 measure inches over to Highway 93 and multiply by the
13 scale, the information by the scale.

14 Q. And that scale is what?

15 A. I have to look.

16 Q. 75 ain't easy.

17 A. Yeah. You're right.

18 MR. J.J. JIMMERSON: Not to mention 76.

19 BY MR. J.M. JIMMERSON:

20 Q. I thought you were 75, you turned 75. You
21 turn --

22 THE WITNESS: Yeah, January.

23 MR. J.M. JIMMERSON: He's 75.

24 MR. J.J. JIMMERSON: But he said he was 76.

25 / / / /

1 BY MR. J.M. JIMMERSON:

2 Q. Right, okay.

3 What is the scale? What's the scale?

4 A. One inch equals 600.

5 Q. So if I were to perform the same measurement
6 I did for Parcel 2, would I get the number of feet from
7 US Highway 93?

8 A. Take the furthest point right there and
9 measure across.

10 THE COURT: Just like we did on the other
11 map.

12 MR. J.M. JIMMERSON: Okay. I want to make
13 sure that I'm level.

14 THE COURT: Mr. Wolfram, is he doing it
15 right?

16 THE WITNESS: He's doing it right.

17 THE COURT: Okay.

18 MR. J.M. JIMMERSON: I'm getting 18 inches.

19 THE WITNESS: Okay, 18 times 600.

20 MR. J.M. JIMMERSON: 10,800.

21 BY MR. J.M. JIMMERSON:

22 Q. 10,800.

23 So Mr. Wolfram, according to this map, how
24 much away from US 93 is the easternmost portion of
25 Parcel 3?

1 A. To that point, whatever you just said.

2 Q. 10,800?

3 A. 10,800.

4 Q. Feet?

5 A. Feet.

6 Q. Okay. Now, from that measurement, can you
7 conclude or do you have any opinion as to whether or
8 not this easternmost portion of Parcel 3 lies within
9 the bounds of Parcel 1 or Parcel Map 9857 of the
10 Purchase Property?

11 MS. LUNDVALL: Counsel now asked as the
12 opinion of this witness, who --

13 THE COURT: Based on your experience and what
14 you've done looking at all these maps, can you tell us
15 whether this 10,800 feet --

16 THE WITNESS: 10,000 feet is more than 8,000
17 feet.

18 BY MR. J.M. JIMMERSON:

19 Q. So if I were to subtract 10,800, 8,000 from
20 10,800, would I get the difference or number of feet
21 outside of Parcel 1?

22 A. Absolutely.

23 MR. J.J. JIMMERSON: Jim, if opposing counsel
24 is going to make an objection as to evidence, under
25 NRCP or NRS 49, the rules of evidence, you can have, a

1 lay witness opinion is permitted. With this man's
2 experience, he can speak from a lay witness opinion.

3 MS. LUNDVALL: From his perspective, if we
4 want to get into the issues concerning lay opinions,
5 they're very limited. I think that the Court assisted
6 counsel, and I think they got the answer that they
7 wanted, so we don't need to resolve this, but the issue
8 dealing with lay opinions is different.

9 THE COURT: I laid the foundation that I felt
10 like he certainly could give that testimony, whether
11 you two agree with it or not, but I felt like I laid
12 the foundation, so it was appropriate.

13 THE WITNESS: Thank you.

14 THE COURT: You're welcome.

15 BY MR. J.M. JIMMERSON:

16 Q. Mr. Wolfram?

17 THE COURT: Okay, so from the 10,800 to 8,000
18 feet, the difference is outside Parcel 1 is where we're
19 at?

20 BY MR. J.M. JIMMERSON:

21 Q. Would the math be 2,800 feet outside of
22 Parcel 1?

23 A. Yes.

24 Q. Thank you, Mr. Wolfram.

25 Performing the same procedure for Parcel 4,

1 how would -- I'm sorry, if I were to measure from the
2 westernmost point in US Highway, Highway 93 to the
3 easternmost point of Parcel 1, I would get, I'm getting
4 18 and a half inches.

5 A. 18 and a half times 600.

6 Q. Okay. 18 and a half times 600.

7 MR. J.J. JIMMERSON: Jim, with 11,100, half
8 of 600 is 300.

9 THE WITNESS: 11,100.

10 THE COURT: Minus 8,000.

11 THE WITNESS: Minus 8,000.

12 BY MR. J.M. JIMMERSON:

13 Q. Okay. Mr. Wolfram, from this measurement,
14 can you tell us as to whether or not the easternmost
15 portion of Parcel 1 is inside or outside the bounds of
16 Parcel 1 on Map 9857 of the Purchase Property.

17 A. Yes.

18 Q. And what's your opinion?

19 A. The 11,000 to 8,000 lets you know the
20 boundary.

21 Q. So it's 3,100 feet outside of Parcel 1 of the
22 Purchase Property?

23 A. Yes.

24 Q. Thank you very much, Mr. Wolfram.

25 I will take this down.

1 A. Do I need this, Jim?

2 Q. No. You can put that away.

3 A. Okay.

4 MR. J.J. JIMMERSON: I can do that.

5 Does it go with this?

6 THE WITNESS: It's the cover sheet.

7 BY MR. J.M. JIMMERSON:

8 Q. Mr. Wolfram, if possible, could you please
9 flip to Exhibit 13?

10 A. Hold on.

11 15?

12 Q. 13.

13 A. 13.

14 Q. Mr. Wolfram, you testified earlier that you
15 did not receive a copy of this document from either
16 Pardee or the title company.

17 Have you seen this document before today and
18 yesterday?

19 A. I have not seen it until I saw it through my
20 attorney.

21 Q. Okay. Mr. Wolfram, please flip to Page 9.
22 This would be Bates stamp 1172, your Honor.

23 THE COURT: Thank you.

24 THE WITNESS: Page 9?

25 / / / /

1 BY MR. J.M. JIMMERSON:

2 Q. Yes, 1172?

3 A. Okay.

4 Q. Mr. Wolfram, referring you to Paragraph 8,
5 what, if anything, does this paragraph say about a
6 wastewater treatment parcel?

7 A. It says, The parties have agreed that at the
8 fifth purchase closing, seller shall also sell and
9 buyer shall also purchase the parcel on which the
10 wastewater treatment plant and facilities are being
11 constructed consisting of approximately 11.29 acres,
12 the WWTP parcel, which parcel is described on Exhibit K
13 attached hereto and made a part hereof.

14 Q. Okay. Can you flip to Exhibit K in this
15 exhibit?

16 A. Yes.

17 Q. It's gonna be in the back.

18 A. Yes.

19 MR. J.M. JIMMERSON: It's gonna be 1253, your
20 Honor.

21 THE COURT: Thank you

22 BY MR. J.M. JIMMERSON:

23 Q. Looking at Exhibit K, tell me where I would
24 be able to find location of the WWTP parcel.

25 A. I believe Lot 3 Per File 116, Page 35 of

1 Parcel Maps.

2 If you want a general description, I can give
3 you a general description also.

4 Q. Okay. Have you seen Parcel Map File 116,
5 Page 35?

6 A. Yes.

7 Q. Okay.

8 Your Honor, I would like the witness now to
9 look at Exhibit 27. It's one of the maps.

10 THE COURT: It's a map, okay.

11 Mr. Wolfram, we need to find one of those.

12 MR J.M. JIMMERSON: It's one I do not have
13 blown up. Just a minute.

14 MR. J.J. JIMMERSON: Jim, we also have the
15 miniatures.

16 THE COURT: We appreciate your help.

17 THE WITNESS: Better than yesterday.

18 MS. LUNDVALL: On this one, you don't have it
19 blown up. Use these.

20 MR. J.M. JIMMERSON: There won't be any
21 measurements, won't be anything that technical.

22 Your Honor, I would like the Court to take
23 notice that the original over there has the
24 Clark County Recorder's seal.

25 THE COURT: I will take judicial notice that

1 that is a public record.

2 MR. J.M. JIMMERSON: Thank you very much,
3 your Honor.

4 BY MR. J.M. JIMMERSON:

5 Q. Mr. Wolfram, what is this map?

6 A. This map is showing the location of the
7 wastewater treatment plant.

8 Q. What is the name of the map?

9 A. Oh, Parcel Map, Lot 3, as shown in File 116,
10 Page 86 of Parcel 1.

11 Q. Well, look at the bottom says, File 116, Page
12 35, is that this map?

13 A. Yes, File 116, Page 35, okay.

14 Q. Okay. Is it the same map that's referred to
15 on Exhibit K, Lot 3 per, file 116, Page 35?

16 A. Yes.

17 Q. Can you tell us, flip to sheet, the sheet
18 which will be PLTF 10440?

19 A. All right.

20 Q. Do you see Lot 3 on this map?

21 A. Yes.

22 Q. How many acres is Lot 3 according to this
23 map?

24 A. 11.29.

25 Q. Would that be the same amount of acres as the

1 Lot 3, per File 116, Page 35, listed in Exhibit K of
2 Exhibit 13?

3 A. Yes.

4 Q. Okay. Mr. Wolfram, what section, looking at
5 this map, this Lot 3, 11.29 acres located in this
6 township?

7 A. Let me find the section.

8 Q. If you want to, you can flip to the first
9 page. It's got a section breakdown, if you would like,
10 or there are rows that say the same --

11 A. Oh, here we go.

12 This would be in Section 23.

13 Q. Okay. And while the map says that's not to
14 scale, can you show the Court how the sections are
15 broken down in this particular township?

16 A. How, what do you mean by "broken down"?

17 Q. Well, it's got a bunch of numbers there. If
18 you have the experience, are you able to explain to the
19 Court how the sections are numbered?

20 THE COURT: You're talking about this
21 vicinity on the map?

22 MR. J.M. JIMMERSON: Uh-huh.

23 THE WITNESS: To the extreme east is
24 Section 22, the north is Section 14.

25 / / / /

1 BY MR. J.M. JIMMERSON:

2 Q. Extreme east?

3 A. West, I mean, 22, and north is Section 14.

4 Q. Okay. Mr. Wolfram, referring you back to
5 Exhibit 25, and I'll show you the blowup so you don't
6 have to refer by looking at this.

7 Can you tell us what sections in the bottom
8 here does Parcel 1 occupy?

9 A. 2.

10 Q. Does spill over to the other one?

11 A. No. What page is this, 22?

12 MS. LUNDVALL: Okay. Now, as far as I think
13 I would appreciate a little help here as to
14 identification as to where we're at, please?

15 THE WITNESS: No, it doesn't --

16 THE COURT: Let me get an answer.

17 Ms. Lundvall, right now he's still working.

18 MR. J.M. JIMMERSON:

19 Q. I'll withdraw the question.

20 A. I'm trying to figure out the section lines on
21 here.

22 Q. Can you tell us outside of Parcel 1?

23 A. Yeah. Right up here, right up here, and it
24 looked like 21 to me, right here, right here is the
25 section, the section line.

1 Q. Can you tell us me where Section 21 would be,
2 or could you show the Court?

3 A. It would have to be over here.

4 Q. What's "over here"?

5 A. 22.

6 Q. Okay. And is there any part of the Parcel 21
7 that's inside Parcel 22?

8 A. Yes.

9 Q. Do you see along the south here any other
10 sections, besides 21 and 22, that Parcel 1 is in?

11 A. On the bottom here.

12 Q. Uh-huh.

13 A. No.

14 Q. Okay. So according to your testimony, you
15 said that according to this map, according to the map,
16 File 116, Page 35, the WWTP parcel was in Section 23;
17 is that right?

18 A. Yes.

19 THE COURT: That's the wastewater, was in
20 Section 23?

21 THE WITNESS: Wastewater.

22 MR. J.M. JIMMERSON: Okay. Thank you very
23 much, Mr. Wolfram.

24 I believe now we can go off the confidential.
25 We're moving on.

1 THE COURT: Okay.

2 (End of confidential portion of
3 transcript.)

4 BY MR. J.M. JIMMERSON:

5 Q. Mr. Wolfram, what information did you ask for
6 from Pardee concerning the development related to your
7 commissions?

8 MS. LUNDVALL: This has now been asked and
9 answered three times, your Honor.

10 MR. J.M. JIMMERSON: Your Honor, it's purely
11 foundational. We haven't addressed it today.

12 THE COURT: I will give it one more time.
13 What information did you -- say it again.

14 BY MR. J.M. JIMMERSON:

15 Q. Okay. What information did you ask for from
16 Pardee concerning the development of Coyote Springs as
17 it pertained to your commission?

18 A. I asked simple questions. I asked for
19 locations, parcel numbers, things to that.

20 Q. Okay.

21 A. The locations.

22 Q. Mr. Wolfram, I'd like to refer you now to
23 Plaintiffs' Exhibit 16.

24 This is not in evidence.

25 Mr. Wolfram, what's this document?

1 A. Letter Agreement, letter of agreement dated
2 September 1st, 2004, between General Realty Group
3 Incorporated, and Award Realty Group, collectively
4 "brokers," and Pardee Homes of Nevada, and this is my
5 and Mr. Wilkes' commission agreement.

6 Q. Are you sure about that, Mr. Wolfram?

7 A. No. No. The front page is. When I turn it
8 over, I see that this is a letter.

9 Q. Wait, it's not in evidence yet. We haven't
10 talked about the content of this letter.

11 A. Yes.

12 MS. LUNDVALL: This exhibit is the same as
13 Exhibit W, your Honor, so we would stip to its
14 admission.

15 THE COURT: Okay.

16 MR. J.M. JIMMERSON: It's now been entered
17 into evidence.

18 THE COURT: It's now been introduced. He can
19 now ask you.

20 MS. LUNDVALL: As Exhibit W, your Honor.

21 THE COURT: W.

22 BY MR. J.M. JIMMERSON:

23 Q. Mr. Wolfram, who is this letter from?

24 A. John Lash.

25 Q. And who's it addressed to?

1 A. It's addressed to Walt Wilkes and myself.

2 Q. In this letter, what's Mr. Lash telling you
3 and Mr. Wilkes?

4 A. It's telling us that we had been overpaid on
5 our payments that we were getting monthly.

6 Q. You said that you had been overpaid. Was
7 this the first time the discussion of overpayment had
8 come up between you and Mr. Lash?

9 A. No, not at all. Walt and I found that we
10 were being overpaid. We're the ones that want to be
11 fair about this. We called John and told John, John,
12 you're overpaying us, you're giving us too much money,
13 and he said he wasn't sure. He talked to his
14 accountant, and we talked, and he said, Yeah, you're
15 being overpaid, you're right, thank you, and all that,
16 and he said he'd have the accountant, he'd work out
17 something with the accountant to call me with some kind
18 of a plan that we could pay the money back.

19 Well, actually, I told him, well, the plan
20 worked out the same basically as what I told him how to
21 get the money back, and we agreed to it, and this was
22 it right here in the agreement.

23 Q. Okay. Mr. Wolfram, does this letter address
24 any other issues besides the amount of money that you
25 were receiving on a monthly basis?

1 A. Yes.

2 Q. Okay. And what topic is that?

3 A. Separate agreements.

4 Q. Okay. The first sentence in the, I guess the
5 first paragraph below the schedule, the chart, says,
6 The Commission Agreement applies to the original Option
7 Agreement covering single-family land at Coyote
8 Springs, which included both of your involvement.

9 A. Yes.

10 Q. What did you read this sentence to mean from
11 John Lash?

12 A. Basically what it says. It applies to the
13 original Option Agreement, which is the Option
14 Agreement overall, Number 2, the Option Agreement.

15 Q. When you say Number 2, you mean Exhibit
16 Number 2?

17 A. Yes.

18 Q. Okay. Later it says, Since the execution of
19 the original single-family land Option Agreement, the
20 seller of Coyote Springs has decided not to pursue
21 building the multi-family land and custom lot parcels.
22 Recently, Pardee entered into separate agreements under
23 different values per acre and terms than the original
24 deal to purchase this additional acreage at Coyote
25 Springs.

1 Is this what you are referring to when you
2 said it dealt with other agreements?

3 A. Yes.

4 Q. How did you respond to being alerted that
5 there were other agreements concerning multifamily
6 land?

7 A. Yes, that we didn't know about until we got
8 this letter.

9 Q. Okay. Did you have any belief that you were
10 entitled to commissions for multifamily land?

11 A. No.

12 Q. Okay. Were you interested to find out what
13 was happening with the multifamily land?

14 A. Any land sale. If I wanted to find out
15 whether I'm getting what I need, I need to see a land
16 sale. Someone can tell you what zoning it has on it,
17 but it may not be that way, so I would feel that I
18 would like to see information from the land sale.

19 Q. You said something about zoning?

20 A. Well, I'm talking the difference between --
21 "designate" might be a better word to put.

22 If a piece of property has a designation of
23 apartments, I don't want any money. If I can see -- if
24 they give me parcel maps and I have designated
25 single-family residence detached production residential

1 use, I can see that I get paid on it.

2 Q. Okay.

3 A. And I, I would want a map on a sale just so I
4 could determine myself whether everything is correct.

5 Q. Okay. Were you interested in the custom lot
6 parcel agreement that it references to here?

7 A. We were, because we felt as though that the
8 custom lots were single-family, so I'd called John,
9 asked him, to talk to him about the custom lots, and he
10 told me stay away from the custom lots, they were done
11 separately from the original sale, and we didn't have
12 any part of that.

13 Q. Did you agree with Mr. Lash?

14 A. No. I didn't agree with him, because we
15 brought him the total parcel, and just because he goes
16 back and buys some more property and designates it for
17 single-family, we should have been paid for that. We
18 were the procuring cause on the lots

19 Q. Did you speak to Mr. Lash? Did you write him
20 a letter? How did you respond to receiving this letter
21 from Mr. Lash?

22 A. I wrote Mr. Lash a letter.

23 Q. Okay. Please flip to page -- not page,
24 Exhibit 22.

25 I don't believe this has been entered into

1 evidence.

2 Mr. Wolfram, what is this letter, without
3 discussing the specific content?

4 A. Okay, let me read here and make sure I have
5 it right.

6 Q. Without talking about the content, what's the
7 date of this letter?

8 A. The date of this letter is February 1st,
9 2008.

10 Q. And who wrote this letter?

11 A. I did.

12 Q. It's got a signature of Walt Wilkes?

13 A. When I say I -- Walt and I work together,
14 Walt and myself.

15 THE COURT: Who did you address this letter
16 to?

17 MS. LUNDVALL: Which exhibit are you on,
18 counsel?

19 MR. J.M. JIMMERSON: 22.

20 THE WITNESS: Mr. Lash.

21 BY MR. J.M. JIMMERSON:

22 Q. Now, please review this letter.

23 Is there anything in this letter you believe
24 to be inaccurate at the time you wrote it?

25 MS. LUNDVALL: This letter is the same as

1 Exhibit Z. We would stip to its admission.

2 THE COURT: So it's in evidence, all right.

3 MR. J.J. JIMMERSON: That's 17?

4 MR. J.M. JIMMERSON: It's 22.

5 THE COURT: 22, and exhibit Z.

6 I'm sorry, what was the question?

7 MR. J.M. JIMMERSON: I'll actually withdraw.

8 It's been entered into evidence.

9 THE COURT: He's just reviewing it.

10 MR. J.M. JIMMERSON: I'll withdraw the
11 question.

12 BY MR. J.M. JIMMERSON:

13 Q. Is this the letter you sent in response to
14 the previous letter?

15 A. Yes.

16 Q. Okay. This letter is dated February 1, 2008.
17 The previous letter from Mr. Lash is August 23rd, 2007.
18 Did you have any conversations or meetings with
19 Mr. Lash prior to February 1, 2008, concerning the
20 subject matter?

21 A. Yes. As soon as Walt and I figured out that
22 there was some separate agreements being made, and we
23 saw this was land as single-family, we did have some
24 talks with Mr. Lash.

25 Q. Okay. Mr. Wolfram, what was the purpose of

1 this letter of February 1, 2008 to Mr. Lash?

2 A. The purpose was letting him know that we knew
3 there were being some side agreements made and some
4 land was taken out, and some of that land, in our
5 opinion, was single-family residential. It was custom
6 lots. And we felt as though we were the procuring
7 cause, since we brought the total parcel to him, and
8 that was the gist of the conversation

9 Q. Did you ever receive a custom lot agreement
10 from Pardee or from the title company?

11 A. No.

12 Q. Before today, had you any knowledge of
13 whether or not Pardee had purchased land upon which
14 custom homes would be built?

15 A. Yes, I did, because I, not only did I hear
16 about that, but my son-in-law and I were gonna buy a
17 custom lot on a golf course, this is earlier before the
18 recession, and I called Pardee, and I talked to them
19 about Harvey's custom lots, and John says, No, you
20 know, you can buy from me, you know. They were gonna
21 do some kind of a project. He said, If you're gonna
22 buy a custom lot, buy it from me, but we ended up not
23 buying, so I knew he had the custom lots.

24 Q. Mr. Wolfram, do you know how much they paid
25 for the custom lots?

1 A. I do not.

2 Q. Do you believe you would be entitled a
3 commission for those payments?

4 A. I do believe I should be.

5 Q. Okay.

6 A. But this really isn't, all this isn't about
7 money though.

8 Q. All right. I understand Mr. Wolfram, and
9 we'll get to that.

10 A. And I do believe I should be paid for those.
11 That's single-family residence property.

12 Q. Without, without --

13 MS. LUNDVALL: Your Honor, I'm going to
14 object to what his representation is as to its use
15 designation. There is a different designation on that,
16 and he has not indicated --

17 THE COURT: It's just his opinion. It was
18 just his belief.

19 THE WITNESS: It's my opinion.

20 THE COURT: Okay.

21 BY MR. J.M. JIMMERSON:

22 Q. Already Wolfram, without knowing how much
23 Pardee paid for the custom lots, would you be able to
24 tell us how much commission you believe you would be
25 owed?

1 A. 1.25, one and a half percent of \$40,000.

2 Q. But you couldn't tell us -- could you perform
3 a calculation without knowing --

4 A. No.

5 Q. -- the specifics of the agreement?

6 A. No.

7 Q. Mr. Wolfram, please flip to Exhibit 17.

8 A. Okay.

9 MR. J.M. JIMMERSON: Your Honor, it's been
10 stipulated to be entered into evidence.

11 THE COURT: All right.

12 BY MR. J.M. JIMMERSON:

13 Mr. Wolfram, what is this document?

14 A. Certain Broker Agreement Dated September 1st,
15 2004, by and between Pardee Homes and D&W Real Estate,
16 LLC, and General Realty Group, Incorporated, brokers,
17 regarding Coyote Springs Development.

18 Q. That's the subject line of this letter?

19 A. That is the subject line of this letter.

20 Q. What's the date of this letter?

21 A. March 14, 2008.

22 Q. Who's this letter addressed to?

23 A. Mr. Wilkes and myself.

24 Q. Who wrote this letter?

25 A. John Lash.

1 Q. Did you receive this letter?

2 A. Yes.

3 Q. Okay. Did you read this letter
4 contemporaneous with when you received it?

5 A. Yes.

6 Q. And did you receive it in and around
7 March 14, 2008?

8 A. I did.

9 Q. Okay. Now, looking at Page 2, the top of the
10 first full paragraph, starting with, As of this date --

11 A. Yes.

12 Q. -- what is Mr. Lash telling you here?

13 A. Let me read it, or do you want me to read it?

14 Q. Feel free to read it.

15 A. As of this date, Pardee has not exercised any
16 options to purchase the Option property. As required
17 by the agreement, we'll provide you with copies of each
18 written option exercise noticed in a timely fashion;
19 however, we respectfully decline your request to
20 provide survey plat maps.

21 There should be no confusion over the
22 property that has been purchased. All commissions and
23 purchase monies have been paid through the same escrow
24 account simultaneously. Thus, production of the
25 documentation that you request serves no purpose of

1 mutual benefit.

2 Q. How did you respond to reading this?

3 A. I didn't care too much for that.

4 Q. Why not?

5 A. Because he's telling me I don't have any
6 interest in any of that land.

7 Q. Mr. Wolfram, did Mr. Lash at any time provide
8 you with any maps whatsoever concerning the
9 transactions?

10 A. No, he didn't.

11 Q. Okay. Is Mr. Lash, in this letter, asking
12 you for some information?

13 A. At the very bottom, he does just a short
14 sentence, I am hopeful this letter provides the
15 clarification you need. Naturally, if there's
16 additional information to consider, please pass it
17 along. In the meantime, thank you for your ongoing
18 professional courtesy.

19 Q. Did this letter provide you with the
20 clarification that you need?

21 A. No.

22 Q. What new information did this letter provide
23 you?

24 A. He wasn't gonna pay me for anything, but, you
25 know, after the original agreement, that's one thing.

1 Q. Okay, Mr. Wolfram.

2 A. He says there shouldn't be any confusion as
3 to the land bought, but there is confusion.

4 Q. What's that confusion?

5 A. The custom home lots.

6 Q. And was that for the same reason you
7 explained earlier?

8 A. Yes.

9 Q. Mr. Wolfram, please flip now to exhibit,
10 Exhibit 14.

11 A. All right.

12 MR. J.M. JIMMERSON: This is not included in
13 evidence, your Honor. This was not stipulated into
14 evidence.

15 MS. LUNDVALL: It's the same as Exhibit GG,
16 your Honor, so we'll stip to its admission.

17 MR. J.M. JIMMERSON: Okay.

18 THE COURT: Okay.

19 THE CLERK: Sorry, which exhibit is that?

20 MR. J.M. JIMMERSON: Exhibit 14, which is the
21 same as Defense GG, GG as in good good.

22 THE CLERK: That was admitted yesterday,
23 actually.

24 THE COURT: 14 was?

25 THE CLERK: Yes.

1 THE COURT: I will trust her. We got it.

2 BY MR. J.M. JIMMERSON:

3 Q. Mr. Wolfram, what is this letter?

4 A. That is a letter stating that we'd been paid
5 the last payment on the original Purchase Property
6 parcel.

7 Q. Okay. Who was this letter from?

8 A. Jim Stringer. He's an attorney. He was an
9 attorney for Mr. Lash.

10 Q. Okay. Was this letter addressed -- who is
11 this letter addressed to?

12 A. The letter is addressed to me.

13 Q. Excuse me, what does this, what information
14 is being conveyed to you by Mr. Stringer in this
15 letter?

16 A. Well, it's saying that we got our last
17 payment, and under the Commission Agreement, and I
18 think on the bottom part, if I remember right, they
19 attach closing statements to show that, you know, we
20 had been paid in full.

21 Q. Okay. Can you please flip to the first
22 closing, PLTF 190, Page 2 of the exhibit?

23 A. What is it?

24 Q. It's PLTF 190, the closing statement.

25 A. Okay.

1 Q. Mr. Wolfram, I'm sorry, it should be 188.

2 THE COURT: It's 188.

3 BY MR. J.M. JIMMERSON:

4 Q. Mr. Wolfram, do you see the near the top on
5 the left it's got a heading called Property?

6 A. Yes.

7 Q. Okay. Can you tell the Court what that is?

8 A. First additional purchase parcel, second
9 purchase closing, Nevada.

10 Q. Do you know what that's in reference to?

11 A. I think it's Parcel 1.

12 Q. How would you know that?

13 A. It doesn't say that. I'm not really certain.

14 Q. Do you know if it's perhaps a defined term in
15 maybe other agreements?

16 A. Could well be.

17 Q. When you received this closing statement, did
18 you know what the property, the first additional
19 purchase parcel, second purchase closing, was?

20 A. No.

21 Q. Okay. What information, how did this closing
22 statement assist you in understanding the transactions
23 occurring at Coyote Springs as it pertained to your
24 commission?

25 A. The only thing I saw was the balance at the

1 bottom. It was the last one.

2 Q. Do you know what affect, if any, this had on
3 your commission?

4 A. I don't think it had any affect on the
5 commission, other than I'm paid off.

6 Q. Does it say anything about your commissions
7 on here?

8 A. No.

9 Q. Okay. Does it say what land was being
10 purchased?

11 A. No.

12 Q. Okay. It's got an escrow number here,
13 08007385-027 FB.

14 Do you know what that's in reference to?

15 A. I don't remember what the escrow number was
16 in reference to, but I, you know, I guess, but I just
17 don't know right offhand.

18 Q. Okay.

19 A. I mean that I don't remember what the escrow
20 number was, is what I'm trying to tell you. That was
21 in reference to our payments and stuff.

22 Q. Okay. Mr. Wolfram, can you tell us, flip the
23 page now to PLTF 189.

24 A. Okay.

25 Q. Looking at this document, again, it's got,

1 there is a heading, Property.

2 Do you know what this property is being
3 referred to in this closing statement.

4 A. It's the third purchase closing.

5 Q. Do you know what that means?

6 A. It's the third parcel that they bought.

7 Q. When you see this, do you know what parcel
8 that is?

9 A. No.

10 Q. When you received this, did you know what
11 parcel that was?

12 A. No.

13 Q. Do you know what "third purchase closing"
14 means?

15 A. Well, it's closing of the property.

16 Q. Do you know what property it's referring to?

17 A. I think I know what it is, but I'm not sure.

18 Is it the Parcel 3?

19 No, hold on a second.

20 Q. Mr. Wolfram, I'll withdraw the question.

21 When you received this, did you know what the third
22 purchase closing was?

23 A. No.

24 Q. When you received this, did you know what the
25 second additional purchase parcel was?

1 A. No.

2 Q. Thank you, Mr. Wolfram.

3 We'll flip now to PLTF 190.

4 Mr. Wolfram, again, looking at the heading
5 Property, Fourth purchase closing, Coyote Springs,
6 Nevada, when you received this, did you know what the
7 fourth purchase closing meant?

8 A. No.

9 Q. Does this --

10 A. No.

11 Q. Does this closing statement give any
12 information which would let you know exactly what
13 property is being purchased?

14 A. No.

15 Q. Would it let you know exactly what the
16 designation of that property was as described in the
17 Option Agreement?

18 A. No.

19 Q. Okay.

20 MR. J.M. JIMMERSON: Your Honor, if we want
21 to take a -- I mean I don't know how late we want to
22 go.

23 THE COURT: It's up to you, counsel.

24 I guess I should ask my staff. How much
25 longer do you have?

1 MR. J.M. JIMMERSON: There's gonna be at
2 least maybe an hour.

3 THE COURT: Oh, okay. Well, I have
4 difficulty at County, you know. You can come back
5 tomorrow.

6 THE WITNESS: Oh, thanks.

7 THE COURT: Can you come back?

8 THE WITNESS: Yeah, I can.

9 MR. J.M. JIMMERSON: Are we coming back
10 tomorrow?

11 THE COURT: Oh, no, not Friday, Monday.

12 MR. J.M. JIMMERSON: I would be pleased.

13 THE COURT: I keep thinking Friday. I wish I
14 could, but I have another issue there. I asked about
15 that, and my answer was, I was told no, I cannot have
16 court Friday.

17 MR. J.J. JIMMERSON: The Court is being kind.
18 The Court was told, Heck no.

19 THE COURT: Yeah, you're right, basically,
20 yes. It's not me, but things outside my control.

21 So you're retired. You can come back.

22 Are you available Monday?

23 THE WITNESS: I will be, yes.

24 THE COURT: Okay. All right. Let's do it
25 that way.

1 We can start as early as you want Monday. I
2 don't have a calendar.

3 MR. J.M. JIMMERSON: We're actually gonna
4 start with Mr. Lash Monday, because he has limited
5 availability, much like Mr. Whittemore.

6 THE COURT: Can he be available? You tell
7 me, 8:30 or 9:00.

8 MR. J.M. JIMMERSON: We can go as early as
9 you want to.

10 MS. LUNDVALL: 9:00 o'clock is preferable,
11 your Honor. If, in fact, if in fact I can get Mr. Lash
12 here earlier to ensure he gets on and off, I don't know
13 what his flight schedule is. May I contact counsel and
14 the Court to let you know?

15 THE COURT: Absolutely, yes. We'll be
16 working on some stuff. I'm here anyway by 8:00 or so.

17 MS. LUNDVALL: Okay, I just heard --

18 THE COURT: Counsel, if you want to come
19 earlier than 9:00, I'm sure --

20 MS. LUNDVALL: I just heard he's gonna be
21 here the night before, so 8:30 would be great.

22 THE COURT: So we can do 8:30, counsel. Is
23 that this okay with you?

24 MR. J.M. JIMMERSON: We're perfectly
25 comfortable with 8:30. I will go 8:00 o'clock if

1 necessary.

2 THE COURT: Okay.

3 * * * * *

4

5 ATTEST:

6 Full, true, and accurate transcription of proceedings.

7

8

9

10 /s/Loree Murray _____
11 Loree Murray, CCR #426

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WOLFRAM V. PARDEE

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