

Project Summary

Dry Creek Highlands, Phase 3

This narrative serves as a summary of findings for the above reference project pertaining to the 11800 South fencing requirements.

Final Planning and Zoning signature approval: September 14, 2004

Final City Attorney signature approval: January 11, 2005

Final City Administrator signature approval: January 17, 2005

Plat recorded; January 20, 2005.

Construction of the project was 2005 through 2006.

Wall constructed along Highland Boulevard (1200 l.f.) in 2006.

Lot 310 closed December 2011. Lot 311 closed September 2006. Lot 313 closed August 2006.

Ivory constructed a model home in Phase 1 to aid home sales Phases 1, 2, and 3. A new model home was constructed in Phase 4. The Phase 1 model prominently displayed a Phase 3 plat showing easements, lot areas, lot dimensions, street names, set back requirements, lot sq. footage, fencing requirements along Highland Boulevard, and a very plain note indicating "Ivory will not be fencing along 11800 South" (lower left hand corner). Please look at the final recorded plat that is attached. A copy of the final recorded plat is attached. Please note that there is no fencing requirement along 11800 South Street, but there is a fencing requirement along Highland Boulevard (approximately 1200 l.f. of 5 foot masonry wall).

On September 26, 2012 a letter (attached) was sent to Larry and Paula Call concerning signs posted on their property. The letter makes several legal statements about Ivory's stand on this issue.

Attached is a copy of the Highland City Bonding Estimate prepared by Highland City. Please note on the third page under "Other" item 005 fencing of 1200 l.f. at a cost of \$54,000. This wall has been installed as required by the City. Please note that if you add the lineal footage along Highland Boulevard the summation of the lineal dimensions is approximately 1200 feet, further evidence that no bonding for any wall along 11800 South Street was required. The agent for the buyers on Lot 310 said he never committed to a wall because he knew there wasn't one. The original buyer on Lot 313 did ask if there was a wall on 11800 South St. and he was told "no wall". If one will drive 11800 South St. east of Highland Blvd., it is clear there was never a requirement of the City for a wall east of Highland Blvd. The LDS Church building and school do not have fences along 11800 South St. and going further east the subdivisions on the south side of 11800 South St. have a variety of fences (one lot masonry, most have iron fences; and some with wood vinyl. These fences have been installed by the adjacent property owners at the owner's expense and are not consistent with a required wall installed by the developer. The properties on the north side of 11800 South St. do not have fences.

In good faith Ivory has completed the requirements of Phase 3 back in 2006 and 2007. Seven (7) years has passed since the project was closed out and released by the City.

DRY CREEK HIGHLANDS PHASE 3

TOWNSHIP 4 SOUTH, RANGE 1 EAST, SALT LAKE BASE & MERIDIAN
CITY OF HIGHLAND, UTAH COUNTY, UTAH

SURVEYOR'S CERTIFICATE

I, J. Michael DeLessa, do hereby certify that I am a Registered Land Surveyor, and that I have performed the duties of a Surveyor under the laws of the State of Utah, and that I have examined the plat and described below, and have ascertained that the same is correct and true, and that the same conform to the laws of the State of Utah, and that I further certify that all data meet the area, boundary and width requirements of the applicable zoning ordinance.

[Signature]
J. Michael DeLessa
11/10/24

DRY CREEK HIGHLANDS PHASE 3 BOUNDARY DESCRIPTION

OWNER'S DEDICATION

OWNERS DEDICATION OF THE INTERESTS AND OTHER PUBLIC USES AS INDICATED HEREON FOR PERPETUAL USE OF THE PUBLIC.

LIMITED LIABILITY ACKNOWLEDGMENT

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the State of Utah, this 10th day of November, 2024.

ACCEPTANCE BY LEGISLATIVE BODY

PLANNING COMMISSION APPROVAL

DRY CREEK HIGHLANDS PHASE 3

APPROVED BY: BOARD OF HEALTH

APPROVED BY: CITY OF HIGHLAND

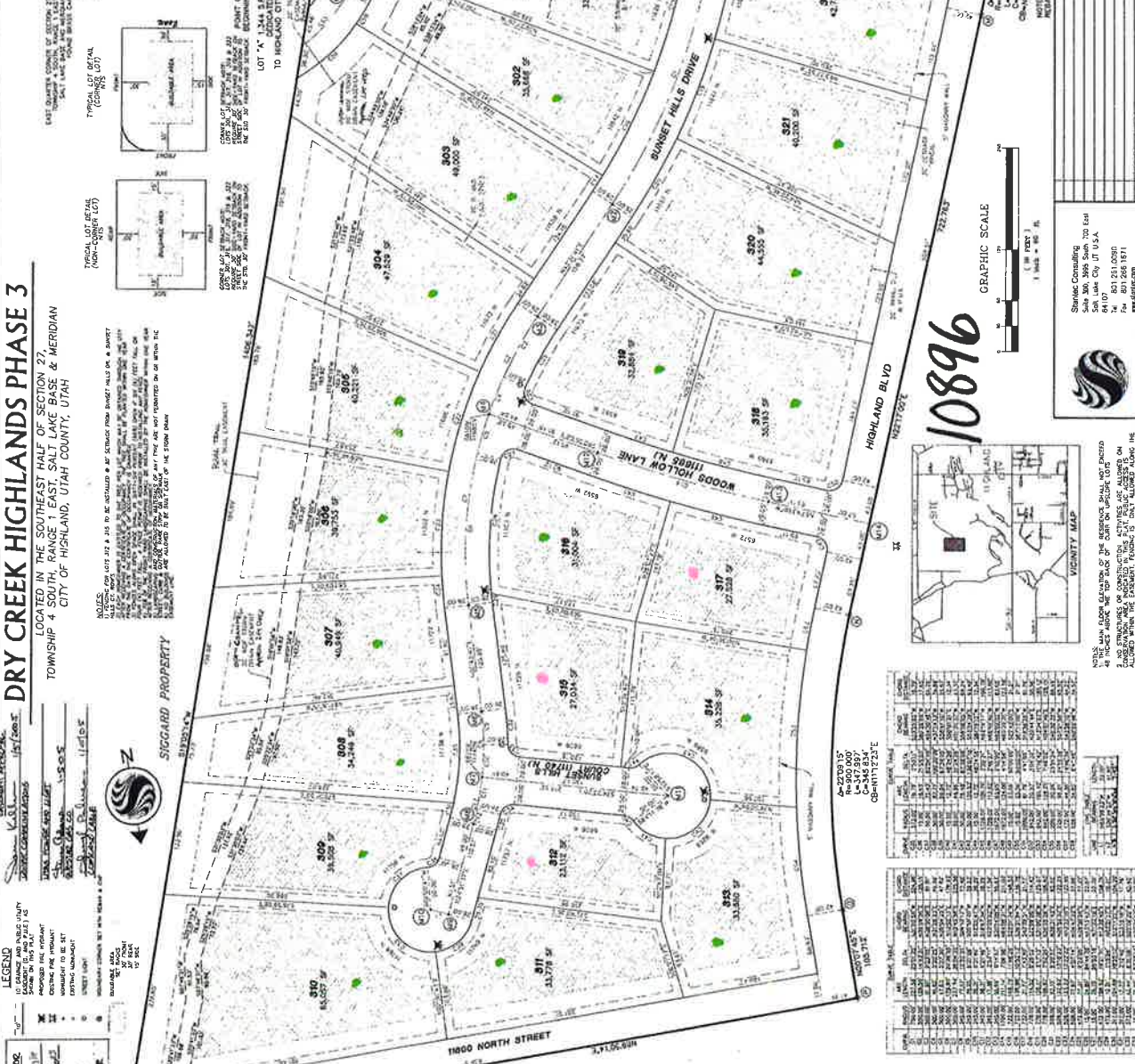
APPROVED BY: COUNTY OF UTAH

APPROVED BY: STATE OF UTAH

APPROVED BY: LOCAL GOVERNMENT

APPROVED BY: PROFESSIONAL SOCIETY

APPROVED BY: LEGISLATIVE BODY



NOTES:

1. THIS PLAN IS TO BE CONSIDERED AS A SURVEY.

2. THE CORNER OF SECTION 27, TOWNSHIP 4 SOUTH, RANGE 1 EAST, SALT LAKE BASE & MERIDIAN IS TO BE CONSIDERED AS THE POINT OF BEGINNING OF THIS SUBDIVISION.

3. THE CORNER OF SECTION 27, TOWNSHIP 4 SOUTH, RANGE 1 EAST, SALT LAKE BASE & MERIDIAN IS TO BE CONSIDERED AS THE POINT OF BEGINNING OF THIS SUBDIVISION.

STATE	PLAT	DATE	REGISTERED
UTAH	0001	1996	REGISTERED
UTAH	0002	1997	REGISTERED
UTAH	0003	1998	REGISTERED
UTAH	0004	1999	REGISTERED
UTAH	0005	2000	REGISTERED
UTAH	0006	2001	REGISTERED
UTAH	0007	2002	REGISTERED
UTAH	0008	2003	REGISTERED
UTAH	0009	2004	REGISTERED
UTAH	0010	2005	REGISTERED
UTAH	0011	2006	REGISTERED
UTAH	0012	2007	REGISTERED
UTAH	0013	2008	REGISTERED
UTAH	0014	2009	REGISTERED
UTAH	0015	2010	REGISTERED
UTAH	0016	2011	REGISTERED
UTAH	0017	2012	REGISTERED
UTAH	0018	2013	REGISTERED
UTAH	0019	2014	REGISTERED
UTAH	0020	2015	REGISTERED
UTAH	0021	2016	REGISTERED
UTAH	0022	2017	REGISTERED
UTAH	0023	2018	REGISTERED
UTAH	0024	2019	REGISTERED
UTAH	0025	2020	REGISTERED
UTAH	0026	2021	REGISTERED
UTAH	0027	2022	REGISTERED
UTAH	0028	2023	REGISTERED
UTAH	0029	2024	REGISTERED

LEGEND:

SOLID LINE AND VISIBLE SURVEY POINTS ARE TO BE CONSIDERED AS CORNER POINTS OF THIS SUBDIVISION.

SHADED AREAS ARE TO BE CONSIDERED AS BOUNDARY AREAS OF THIS SUBDIVISION.

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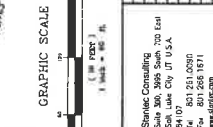
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10896

NAME	ADDRESS	PHONE	EMAIL	WEBSITE
Stantec Consulting	500 South Sun Valley Blvd	801 253 0500	stantec@stantec.com	www.stantec.com



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0029	2024	REGISTERED

KIRTON | McCONKIE

Benson L. Hathaway, Jr.
bhathaway@kmclaw.com
801.321.4835

September 26, 2012

Larry and Paula Call
6648 West Sunset Hills Court
Highland, UT 84003

*Original Hand Delivered
Also
Sent Certified Mail
And First Class*

**Re: *Defamation and Tortious Interference with Ivory Homes
Cease and Desist Demand***

Dear Mr. and Mrs. Call:

This letter is in response to your correspondence dated September 21, 2012. Ivory Homes has carefully revisited your position, but disagrees with you on several points. First, you state that you and your wife “understood” Ivory Homes, Ltd. (“Ivory”) would construct a wall along 11800 North behind your house, and at the same time acknowledge that you never spoke or met with an Ivory representative before erecting your sign. Your and your wife’s understanding apparently derives from hearsay statements of the people who sold you the home, and from “several different [unnamed] parties who affirmed that Ivory Homes made those kinds of representations to them . . .” Whatever source, your understanding is misinformed.

Ivory Homes never contracted, committed, or intended to build a wall along 11800 North. As previously furnished to you, the plat map for this subdivision shows that no wall was going to be built in that location. All but one of the homes in your vicinity was built in 2006. Had there been a commitment to build the wall, surely you understand that Highland City would have never approved construction on the lots or released Ivory’s improvement bond without the wall having been complete. Ivory’s wall obligation was satisfied, and Highland City approved the homes, the subdivision improvements and released the bond.

Additionally, Ivory made no commitment in the home purchase contracts with the original homebuyers to build a wall along 11800 North. If it had, the wall would have been built. Further, its homebuyers would have no doubt raised the issue long before the passing of the interim 6 years. They did not, because no such commitment or agreement existed. Neither did Ivory represent that a wall would be built to prospective or actual purchasers. Whatever hearsay upon which you have formed your belief that Ivory committed to build a wall is obviously unreliable. Fact is, you have no factual basis to complain, which underscores your reckless disregard for the truth when you put up your sign.

If the construction of a wall was material to your purchase of the home, a reasonable person would have not relied solely on the representation of a third person, but could have verified the fact by

ATTORNEYS AT LAW
www.kmclaw.com

Kirton McConkie Building, 50 East South Temple, Salt Lake City, UT 84111
1800 Eagle Gate Tower, 60 East South Temple, Salt Lake City, UT 84111
Pinehurst Business Park, 518 West 800 North, Suite 204, Orem, UT 84057

801.328.3600 *tel* 801.321.4893 *fax*
801.328.3600 *tel* 801.321.4893 *fax*
801.426.2100 *tel* 801.426.2101 *fax*

checking with the entity who supposedly was going to do the actual construction. A simple inquiry to Ivory would have cleared up any confusion.

Importantly, you didn't buy your home from Ivory. Besides that, you do not have another contract with Ivory, and never have. Ivory has no contractual obligation to build a wall for you, or, for that matter, to do anything else. This you well know. You and Ivory are contractual and legal strangers. Nor does Ivory owe you a duty at law to build a wall. You simply have no claim against Ivory or standing to demand that Ivory do anything, much less "work out some sort of compromise" with you. Fact is, you have no basis to imply that Ivory owes you anything. To knowingly do so as you have is duplicitous and further underscores the vacuous message of your banner.

Regardless of your level of "comfort" with the sign, it is defamation and actionable. Defamatory speech is not protected speech under either the Utah or United States Constitution. Regardless of the fact that you published the statement in the form of a question, the implication about Ivory Homes is clear. The Utah Supreme Court has held that statement can be defamatory when it "states *or implies* facts that are false or defamatory." *American Bush v. City of South Salt Lake*, 2006 UT 40, ¶ 126, 140 P.3d 1235, *see also West v. Thomson Newspapers*, 872 P.2d 999, 1011 (Utah 1994) (holding that statements themselves were not defamatory, but the implication arising from statements were defamatory). Your purpose for putting up the sign in the first place would be defeated if the sign did not communicate that Ivory had an obligation to build a wall and was in the wrong for not having done so by now.

Ivory has answered your question with indisputable evidence that it never intended or committed to your seller, to the city, and much less to you to build a wall along 11800 North. If you were told differently when you bought the home, that is between you and the seller. Now that you are in possession of the relevant information proving your prior statement to be false, any further defamatory action from you will be considered clearly malicious and will not be tolerated.

Govern yourselves accordingly.

Very truly yours,

KARTON McCONKIE

Benson L. Hathaway, Jr.

Highland City Bonding Estimate

SUBDIVISION NAME:

DRY CREEK HIGHLANDS 3

LOCATION:

Highland Utah

DEVELOPER:

Ivory Development

		Unit	Qunatity	Unit Costs	Totals
EARTHWORK (100-)					
001-	Clearing and Grubbing	SF	333,108.00	\$0.04	\$13,324.32
002-	Silt Fence along cons. Easement	LF	1,196.00	\$1.95	\$2,332.20
003-	Gravel washout pad	TON	55.00	\$9.09	\$499.95
004-	Intlet protection	LUMP	10.00	\$150.00	\$1,500.00
005-	Mass Excavation	CY	10,000.00	\$2.20	\$22,000.00
006-	Compaction Testing	LUMP	1.00	\$4,000.00	\$4,000.00
007-					\$0.00
008-					\$0.00
009-					\$0.00
010-					\$0.00
011-					\$0.00
EARTHWORK SUB-TOTAL					\$43,656.47

		Unit	Qunatity	Unit Costs	Totals
SANITARY SEWER (200-)					
001-	48" Manhole	EACH	10.00	\$1,825.00	\$18,250.00
002-	60" Manhole	EACH	2.00	\$2,574.60	\$5,149.20
003-	8" Sewer main	LF	1,655.00	\$14.36	\$23,765.80
004-	4" Laterals	EACH	22.00	\$441.40	\$9,710.80
005-	Bedding for Sewer	TON	3,987.00	\$4.79	\$19,097.73
006-	Video	LF	1,655.00	\$1.00	\$1,655.00
007-	Concrete Collar	EACH	12.00	\$300.00	\$3,600.00
008-					\$0.00
009-					\$0.00
010-					\$0.00
					\$0.00
SANITARY SEWER SUB-TOTAL					\$81,228.53

		Unit	Qunatity	Unit Costs	Totals
STORM DRAIN (300-)					
001-	15" RCP	LF	1,397.00	\$18.00	\$25,146.00
002-	18" RCP	LF	331.00	\$24.00	\$7,944.00
003-	36" RCP	LF	1,084.00	\$44.00	\$47,696.00
004-	Inlet Box	EACH	10.00	\$1,184.23	\$11,842.30
005-	Cleanout Box	EACH	20.00	\$1,696.32	\$33,926.40
006-	Bubble up Box	EACH	1.00	\$1,038.92	\$1,038.92
007-	15" Flared End Section	EACH	1.00	\$1,520.08	\$1,520.08
009-	Concrete Collar	EACH	16.00	\$250.00	\$4,000.00
010-	Grade Detention basin	LUMP	1.00	\$2,000.00	\$2,000.00
					\$0.00
STORM DRAIN SUB-TOTAL					\$135,113.70

CULINARY WATER (400-)

		Unit	Quantity	Unit Costs	Totals
001-	Hot tap connection	EACH	1.00	\$2,800.00	\$2,800.00
002-	8" Water Main w/bedding	LF	1,998.00	\$22.00	\$43,956.00
003-	Fire Hydrant	EACH	5.00	\$2,518.56	\$12,592.80
004-	Laterals	EACH	22.00	\$395.17	\$8,693.74
005-	8" valves	EACH	10.00	\$725.00	\$7,250.00
006-	Concrete Collars	EACH	10.00	\$250.00	\$2,500.00
007-					\$0.00
008-					\$0.00
009-					\$0.00
010-					\$0.00
CULINARY SUB-TOTAL					\$77,792.54

SECONDARY WATER (500-)

		Unit	Quantity	Unit Costs	Totals
001-	Hot tap existing	EACH	1.00	\$1,500.00	\$1,500.00
002-	6" Water Main w/ bedding	LF	1,517.00	\$12.00	\$18,204.00
003-	Secondary water laterals	EACH	22.00	\$684.95	\$15,068.90
004-	6" valves	TON	5.00	\$650.00	\$3,250.00
005-	Concrete Collar	EACH	5.00	\$250.00	\$1,250.00
006-	2" Blowoff Assemblies	EACH	2.00	\$250.00	\$500.00
007-					\$0.00
008-					\$0.00
009-					\$0.00
SECONDARY WATER SUB-TOTAL					\$39,772.90

ROAD IMPROVEMENTS (600-)

		Unit	Quantity	Unit Costs	Totals
001-	24" Curb & Gutter	LF	5,240.00	\$9.39	\$49,203.60
002-	4' Sidewalk w/ base	LF	4,094.00	\$9.66	\$39,548.04
003-	Handicap Ramp (latest ADA)	EACH	6.00	\$500.00	\$3,000.00
004-	3" Asphalt Paving - with 6" Base	SF	73,125.00	\$0.69	\$50,456.25
005-	8" road base	SF	73,125.00	\$0.39	\$28,518.75
006-	12" pit run	SF	73,125.00	\$0.40	\$29,250.00
007-					\$0.00
008-					\$0.00
009-					\$0.00
010-					\$0.00
ROAD IMPROVEMENTS SUB-TOTAL					\$199,976.64

LANDSCAPING (700-)

		Unit	Quantity	Unit Costs	Totals
001-	Trees	EACH	45.00	\$250.00	\$11,250.00
002-	Sod	SF	0.50	\$1,200.00	\$600.00
003-	Hydroseeding	SF	23,100.00	\$0.15	\$3,465.00
004-	Sprinkler System	LUMP	25,500.00	\$0.50	\$12,750.00
005-	Top Soil	CY	8.00	\$75.00	\$600.00
006-	Power	LUMP	1.00	\$2,000.00	\$2,000.00
007-	Conc. Mow Edge	LF	73.00	\$5.00	\$365.00
008-					\$0.00
009-					\$0.00
010-					\$0.00
LANDSCAPING SUB-TOTAL					\$31,030.00

OTHER (800-)		Unit	Qunatity	Unit Costs	Totals
001-	Monuments	EACH	13.00	\$250.00	\$3,250.00
002-	Stop Signs	EACH	3.00	\$130.00	\$390.00
003-	Yield Signs	EACH	0.00	\$0.00	\$0.00
004-	Street Name Signs	EACH	4.00	\$150.00	\$600.00
005-	Fencing	LF	1,200.00	\$45.00	\$54,000.00
006-	10' Meandering Asphalt Trail (Highland Blvd)	LF	1,200.00	\$10.00	\$12,000.00
007-	Street Lights	EACH	4.00	\$2,000.00	\$8,000.00
008-					\$0.00
009-					\$0.00
010-					\$0.00
OTHER SUB-TOTAL					\$78,240.00

GRAND SUB-TOTAL	\$	686,810.78
TEN (10%) PERCENT RETAINAGE	\$	68,681.08
GRAND TOTAL ESTIMATE	\$	755,491.86