

PUB. SEWER STATUS VERIFIED BY _____

ISSUE DATE: 3/24/2004

PERMIT

P 520112

APPROVAL DATE: _____

A REPAIR

ON-SITE SEWAGE DISPOSAL SYSTEM HOWARD COUNTY HEALTH DEPARTMENT BUREAU OF ENVIRONMENTAL HEALTH

01-163892

Bauman Plumbing IS PERMITTED TO INSTALL ALTER

ADDRESS: 5750 Furnace Avenue, Elkridge PHONE NUMBER: 410-796-2515

SUBDIVISION: _____ LOT NUMBER: _____

ADDRESS: 6078 Old Lawyers Hill Road PROPERTY OWNER: Wm Coggins

SEPTIC TANK CAPACITY (GALLONS): _____

PUMP CHAMBER CAPACITY (GALLONS): _____

NUMBER OF BEDROOMS: _____

SQUARE FEET PER BEDROOM: _____

LINEAR FEET OF TRENCH REQUIRED: _____

TRENCHES:	Trench to be _____ feet wide. Inlet _____ feet below original grade. Bottom maximum depth _____ feet below original grade. Effective area begins at _____ feet below original grade. _____ feet of stone below distribution pipe.
LOCATION:	_____
PURPOSE:	Existing septic system has failed. Call for inspection when ground is opened so sanitarian can recommend repair.

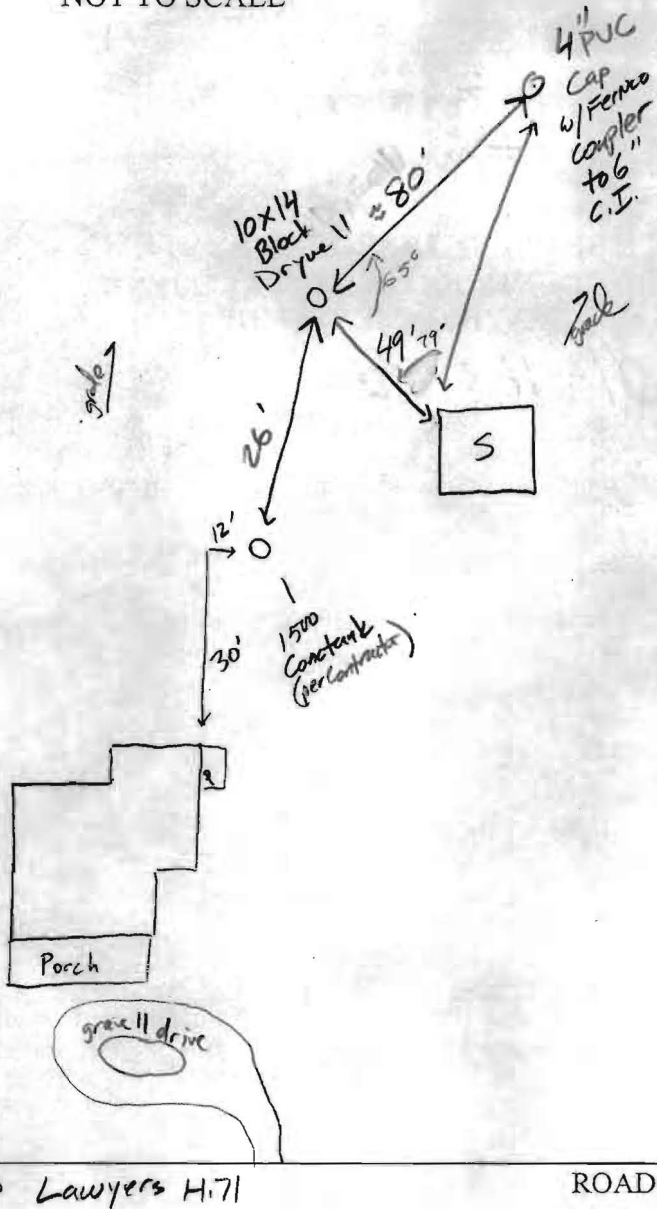
PLANS APPROVED: _____ DATE: _____

- NOTE: PERMIT VOID AFTER 2 YEARS
- NOTE: CONTRACTOR RESPONSIBLE FOR SCHEDULING A PRE-CONSTRUCTION INSPECTION FOR ALL INSTALLATIONS
- NOTE: WATERTIGHT SEPTIC TANKS REQUIRED
- NOTE: ALL PARTS OF SEPTIC SYSTEM SHALL BE 100 FEET FROM ANY WATER WELL
- NOTE: MANHOLE RISERS REQUIRED ON ALL SEPTIC TANKS AND PUMP CHAMBERS

NEITHER THE HOWARD COUNTY COUNCIL OR THE HEALTH DEPARTMENT IS RESPONSIBLE FOR THE SUCCESSFUL OPERATION OF ANY SYSTEM PERMITTEE RESPONSIBLE FOR OBTAINING FINAL APPROVAL ON THIS PERMIT CALL 410-313-2640 FOR INSPECTION OF SEPTIC SYSTEM

P520112

NOT TO SCALE



TRENCH/DRAINFIELD DATA

WIDTH	INLET	BOTTOM
_____	_____	_____
NUMBER OF TRENCHES _____		
TOTAL LENGTH _____		
ABSORPTION AREA _____		
DISTRIBUTION BOX LEVEL _____		
DISTRIBUTION BOX BAFFLE _____		
DISTRIBUTION BOX PORT _____		

SEPTIC TANK DATA

SEPTIC TANK 1 LEVEL _____

CAPACITY _____ GAL

SEAM LOC _____

TANK LID DEPTH _____

BAFFLES _____

BAFFLE FILTER _____

MANHOLE LOC _____

6" PORT LOC _____

WATERTIGHT TEST _____

SEPTIC TANK 2 LEVEL _____

CAPACITY _____ GAL

SEAM LOC _____

TANK LID DEPTH _____

BAFFLES _____

BAFFLE FILTER _____

MANHOLE LOC _____

6" PORT LOC _____

WATERTIGHT TEST _____

PRE-CONSTRUCTION 3/25/04

INSTALLATION 3/25/04 Made ins. w/ Contractor on-site to verify line was capped. Contractor to fill connection area with conc. and then back fill with dirt. Contractor to provide photos that area at the capped end was backfilled as specified. JB

FINAL INSPECTOR _____ DATE OF APPROVAL _____



Mail Message



Close

Previous Next Forward Reply to Sender Reply All Move Delete Properties

From: Lou Ruzzi
To: Mark Rifkin
Date: Monday - May 12, 2003 12:43 PM
Subject: Re: Fwd: Re: Coggins
COMPLAIN.wpd (11171 bytes) [View] [Save As]

Mark:

See revised version, which incorporates your edits. One additional item I've been meaning to raise with you: Before this matter gets to the courtroom, I will definitely need you to have samples lab-tested from the overflow pipe. When we have discussed this issue before, I think you stated that such a test would show only that the samples contain fecal matter, and not whether it is human fecal matter, or from a deer or other animal. If that is the limit of the scientific conclusion that a lab test can provide, I am OK with that. Let me know what other info such lab testing might provide, like concentration levels or anything else that might be helpful.

In terms of case strategy, I first need to knock out Coggins's bogus suggestion in his letters that the substance is just "water" coming out of the pipe. Once we can scientifically show that the substance contains fecal matter, it will be easier for us to get the Court to infer that the substance (ie. "the crap") is coming from Coggins's drainfield. Given his track record, I expect no concessions from Coggins/Hewitt on any item the County has to prove.

We have the burden of proof as plaintiff, and we definitely want to eliminate Coggins's opportunity to stand in front of a judge & claim that the County has failed to take any reasonable scientific step to identify what the substance is coming out of the excavated end of the pipe. Once we can prove that the liquid contains fecal matter, then the evidentiary burden should shift to Coggins to try to prove that his septic system is not the fecal source. Also, because of the blockage encountered in the line, our camera was not able to travel inside the pipe all the way to Coggins' clean-out. This leaves us asking the Court to infer that Coggins is the source of a septic overflow. Proving that the fluid contains fecal matter eliminates one small variable in drawing this conclusion.

I also think this will bolster your testimony, based on your training and experience, that the liquid coming out of the excavated end of the pipe looks & smells like the real McCoy and, therefore, that it is septic overflow from Coggins's drainfield. LOU

>>> Mark Rifkin 05/12/03 10:29AM >>>

Lou, we would like to make the following changes:

- 3.at a location APPROXIMATELY five to ten feet downhill of the PROPERTY BOUNDARY BETWEEN THE subject property AND THE ADJACENT PROPERTY.
7. This test showed that the pipe EXTENDS IN a straight line from the point of excavation on the Strow property directly toward, AND TO WITHIN TEN FEET OF, the drainfield or drywell located on Defendant's property.
10(a) and install such additional drainfield as is necessary to avoid any further sewage overflows.... (that is remove "licensed contractor")

Please advise.
Thanks,
Mark

KEEP ALL DOCUMENTS DO NOT WEED!



DISTRICT COURT OF MARYLAND FOR HOWARD COUNTY
3451 COURTHOUSE DR (V)
ELLCOTT CITY, MD 21043-4377
TELEPHONE NUMBER: (410) 480-7700

1001



Civil Case No.: 1001 - 0002532 - 2003

Complaint No.: 001

To: RUZZI, LOUIS P 004631
HOWARD CNTY OFF. OF LAW
3430 COURTHOUSE DRIVE
ELLCOTT CITY, MD 21043

Regarding: HOWRD COUNTY, MARYLAND
VS.
COGGINS, WILLIAM N

Date: February 12, 2004

The court proceeding for the case named above, originally set for March 08, 2004, has been rescheduled. The new scheduling information is as follows:

Type of Proceeding: MERIT TRIAL
Date: April 05, 2004
Session Time: 08:45 AM
Courtroom Number:
Court Location: 3451 COURTHOUSE DR
ELLCOTT CITY, MD 21043-4377
Reason: THE COURT HAS REQUESTED THE POSTPONEMENT

Visit our website for directions and information about procedures.

Our web address is www.courts.state.md.us/district

To request a foreign language interpreter or a reasonable accommodation under the Americans with Disabilities Act, please contact the court immediately.

TTY users call 1-800-925-9690 or use the Maryland Relay Service at 1-800-735-2258 or 711

Howard County, Maryland

Office of Law

3430 Court House Drive
Ellicott City, Maryland 21043
(410) 313-2100

December 22, 2003

William E. Hewitt, Esquire
John Davis, Esquire
Coggins, Harman & Hewitt
Suite 600
8905 Fairview Road
Silver Spring, Maryland 20910-4171

*RE: Howard County, Maryland, et al.
v. William N. Coggins
Case No. 2532-2003*

Dear Bill and John:

This letter memorializes the agreement reached between your client, William Coggins, and the Howard County Health Department in connection with the above-referenced matter. The terms of the agreement are as follows:

1. Mr. Coggins agrees that, as soon as practicable, he will engage the services of an independent septic system contractor to perform the work necessary to determine where, on the Coggins property, the underground drainage pipe¹ leads or connects.

2. Mr. Coggins agrees that, if it is determined by the septic system contractor that the underground drainage pipe is connected to any source on or under his property, he will take the action necessary to have the underground drainage pipe disconnected from such source. He further agrees that he will take the action necessary to fully remedy any actual or potential overflow of his septic system or drain field as a result of the underground drainage pipe being disconnected. If the pipe is not connected to the septic tank, drywell or house, Coggins will take appropriate action to remove or block the pipe, or take such other steps as may be reasonably required to prevent discharge from the pipe. The parties agree that if, as a result of the work of the septic system contractor engaged by Mr. Coggins and upon the observation of a Howard County Health Department representative, the source of the underground drainage pipe is not on or under the Coggins property (i.e. the underground drainage pipe traverses the Coggins property and continues beyond any boundary line of the Coggins property), the Health Department will further seek to determine the source of the underground drainage pipe and to disconnect it from

¹ "Underground drainage pipe" refers to the terra cotta drainage pipe referred to in the Complaint filed in this action. Namely, a terra cotta pipe that has been observed discharging into a trench approximately 5 to 10 feet downhill of the property boundary between the Coggins property and the adjacent property. Herein, the adjacent property will be referred to as the Strow property.

DEC 24 2003

William E. Hewitt, Esquire
John Davis, Esquire
Page 2
December 22, 2003

its source. When the underground drainage pipe is disconnected from its source, whether the source is located on the Coggins property or an adjacent property, or if it is determined that the underground drainage pipe is not connected to any source, the parties agree that Mr. Coggins may plug both ends of the underground drainage pipe (i.e. the "uphill" end located either at its source on the Coggins property or at the boundary line between the Coggins property and the adjacent property, and the "downhill" end located at the boundary of the Coggins property and the Strow property).

3. Mr. Coggins agrees that a representative of the Howard County Health Department will be permitted to enter upon his property, in Mr. Coggins' presence or in the presence of a person designated by Mr. Coggins, to observe the work performed by the septic system contractor. Mr. Coggins agrees that said Howard County Health Department representative shall be notified at least 48 hours in advance of the time that the work is to begin, and that said Howard County Health Department representative be permitted to take photographs of the open trench containing the underground drainage pipe and/or the point of connection of the underground drainage pipe to its source. The parties also agree that the Howard County Health Department representative on hand shall be able to consult and/or communicate with the septic system contractor in order to determine, if necessary, the preferred way to disconnect the underground drainage pipe and/or remedy any actual or potential overflow problem associated with said disconnection.

4. The parties agree that, due to irreconcilable personal differences between Mr. Coggins and Mark Rifkin of the Howard County Health Department, the Howard County Health Department representative referred to in paragraph 3 above shall be John Boris.

5. Mr. Coggins agrees that he will, within thirty (30) days of the date of this letter, enter into a written agreement with a licensed septic system contractor to perform the work described above. It is understood that said contractor shall not be required to commence said work until such time that weather and soil conditions permit. It is understood that said contractor shall obtain a septic system repair permit from the Howard County Health Department by submitting the required \$25 septic repair permit fee.

6. The parties agree that neither the execution of this letter agreement nor the performance of the work outlined herein shall constitute an admission of any liability on the part of Mr. Coggins. The work outlined herein is being done as an offer of compromise and shall not be admissible in any litigation without the express consent of Mr. Coggins, except as necessary to show the status of the underground drainage pipe and the condition of the Coggins property.

William E. Hewitt, Esquire
John Davis, Esquire
Page 3
December 22, 2003

7. The parties further agree that neither the execution of this letter agreement nor the performance of the work outlined herein shall constitute a waiver by Mr. Coggins of any easement rights or any action at law or in equity he might have against any of his adjoining property owners, which rights are hereby specifically reserved and protected.

8. The parties agree that, upon the final signing of this letter, they will jointly request postponement of the trial in this action currently scheduled for December 29, 2003 at 1:15 p.m. and request that the Court schedule another trial date on the regular docket (which the parties believe will result in the trial being scheduled no earlier than mid to late spring of 2004). If all of the work referred to in this agreement is not completed in the required manner by March 31, 2004, the Howard County Health Department will continue to pursue this action. The parties reserve the right to jointly agree to extend the March 31, 2004 date and/or postpone a new trial date, if weather conditions so require.

We appreciate your efforts to bring this matter to an amenable resolution. Our concern is, and has always been, the health, safety and welfare of all involved. Please have your client sign this letter agreement where indicated and send the original signed letter back to me, keeping a copy for your files. If I do not receive the signed letter by the close of business on Monday, December 22, 2003, we will proceed with the trial now scheduled for Monday, December 29, 2003 at 1:15 p.m. (In order to expedite the return of the signed letter agreement to me, you may fax it to me by the above date, with a promise that the original will be forthcoming.)

Again, thank you for your and your client's cooperation in this matter.

Sincerely yours,

HOWARD COUNTY OFFICE OF LAW



Katherine L. Taylor
Senior Assistant County Solicitor

Inorganics

Test	Container	Sample Size	Preservative	Holding Time	Method
▸ Alkalinity	P	500 mL	4 EC	14 days	EPA 310.1
▸ Bioch. oxy. demand	P	1000 mL	4 EC	48 hours	EPA 405.1
▸ Chem. oxy. demand	P	500 mL	4 EC, H ₂ SO ₄ , pH<2	28 days	EPA 410.4
▸ Chloride	P	500 mL	None	28 days	EPA 325.2
▸ Chlorophyll	Filter	na	4 EC, lt. protect.	30 days	EPA 10200
▸ Color	P	500 mL	4 EC	48 hours	EPA 110.2
▸ Conductance	P	500 ml	4 EC	28 days	EPA 120.1
▸ Conductance	P	500 mL	4 EC	28 days	EPA 846,9050
▸ Corrosivity	G	8 oz.	4 EC	24 hours	EPA 846/7.2
▸ Cyanide					
Amenable	P	500 mL	NaOH, pH>12	14 days	EPA 335.1
Total	P	500 mL	NaOH, pH>12	14 days	EPA 335.2
▸ Fluoride	P	1L	None	28 days	EPA 340.2
▸ Hardness	P	500 mL	H ₂ SO ₄ or HNO ₃ pH <2	6 months	EPA 130.1
▸ Ignitability	G	8 oz.	4 EC	14 days	EPA 846/1020
▸ MBAS (detergents)	P	500 mL	4 EC	48 hours	EPA 425.1
▸ Nitrogen					
Total Ammonia	P	1 L	4 EC, H ₂ SO ₄ , pH<2	28 days	EPA 350.1
Total Kjeldahl	P	1 L	4 EC, H ₂ SO ₄ , pH<2	28 days	EPA 351.2
Total Nitrate/Nitrite	P	1 L	H ₂ SO ₄ , pH<2	28 days	EPA 353.2
Total Nitrite	P	1 L	4 EC	48 hours	EPA 353.2
▸ Oil and Grease	G, Teflon cap	1 L	4 EC, H ₂ SO ₄ , pH<2	28 days	EPA 413.1/1664
▸ pH, soil	G	8 oz.	4 EC	Immediately	EPA 150.1
▸ Phenol	G, Teflon cap	1L	4 EC, H ₂ SO ₄ , pH<2	28 days	EPA 420.1

Call first

E. Coli

004286

STATE OF MARYLAND
DEPARTMENT OF HEALTH AND MENTAL HYGIENE
Laboratories Administration

201 W. Preston Street
P.O. Box 2355, Baltimore, Maryland 21203
J. Mehsen Joseph, Ph.D., Director

Lab No. _____

BACTERIOLOGICAL EXAMINATION OF STREAMS OR WASTEWATERS
Field Record

Part I: Stream or Other Body of Water

Date 8/7/03 Hour 10:16 Nearest Town E/Kridge County Howard

Bottle No. Coggins 2 Sample Iced: Yes No

Body of Water Pipe 6078 Old Lawyers Hill Rd Station No. _____ Station Location _____

Tide: 1. Ebb 2. Flood 3. Non-Tidal
Rain: 1. Yes 2. No
Duration _____ ± Hours prior to Sampling
Wind Direction minimal
Water Temperature _____
Collector Mark Rittin

Part II: Wastewater Treatment Plant

Setup as A1 2000 Tray
1:100 dilution. (DOC) mc

Name of Plant _____ County _____ County Code

--	--

Sewage Plant Code

--	--	--

Type of Waste: Sewage Industrial Waste Other (Specify) _____

Source of Sample: Raw Intermediate Final Sample Iced: Yes No

Bottle No. _____ Field pH _____ Field Res. Chlorine: Total _____ Free _____

Collected: Date

--	--	--

 Hour _____ Collector _____ Employer _____

LABORATORY RECORD

Presumptive Test*

DILUTION	10	1	10 ⁻¹	10 ⁻²	10 ⁻³	10 ⁻⁴	10 ⁻⁵	10 ⁻⁶	QUANTITATIVE TEST (CONFIRMED) 1:100 Dil			
									100 ml. of Sample	No. of Pos	MPN	
Quantity in ml.	10	1	1	1	1	1	1	1	Total Coliforms ***			
Gas, 24 hours									E. Coli ***	49/18	30800	
Gas, 48 hours									Enterococci **			

Confirmed Test

DILUTION	10	1	10 ⁻¹	10 ⁻²	10 ⁻³	10 ⁻⁴	10 ⁻⁵	10 ⁻⁶	MPN/100 ML.
Quantity in ml.	10	1	1	1	1	1	1	1	
Coliforms†									
Fecal Coliforms‡									

Date and Hour:

Temp Control: _____

'03 AUG 7 AM 11:14

Rec'd

*Remarks: 1:100 DILUTION

'03 AUG 7 AM 11:22

Exam. LMP

Laboratory

Bacteriologist _____

'03 AUG 8 PM 1:08

Rept. LMP

- CENTRAL
- E. SHORE REG.
- S. MD REG.
- W. MD REG.

Thiosulfate: Pres. Absent Undetermined

* using Lauryl Sulfate Trypticase broth at 35° C. incubation
 † using Brilliant Green Lactose Bile broth at 35° C. incubation
 ‡ Using E C broth or A-1 medium at 44.5° C. incubation
 *** Using ONPG - MUG at 35° C incubation
 ** Using Enterolert at 41° incubation

Per 100 ml.
Strong indication

but not conclusive

~~Ken~~ Ken Wilde
Div. of Phd
Env. Micro, Director

2003 AUG 12 PM 1:22

ENVIRONMENTAL HEALTH

Coli

004286

STATE OF MARYLAND
DEPARTMENT OF HEALTH AND MENTAL HYGIENE
Laboratories Administration

201 W. Preston Street
P.O. Box 2355, Baltimore, Maryland 21203
J. Mehseu Joseph, Ph.D., Director

Lab No. _____

BACTERIOLOGICAL EXAMINATION OF STREAMS OR WASTEWATERS
Field Record

Part I: Stream or Other Body of Water

Date 8/7/03 Hour 10:16 Nearest Town E/Kridge County Howard

Bottle No. Coggins 2 Sample Iced: Yes No

Body of Water Pipe 6078 Dld Lawyers Hill Rd Station No. _____ Station Location _____

Tide: 1. Ebb 2. Flood 3. Non-Tidal
Rain: 1. Yes 2. No
Duration _____ ± Hours prior to Sampling
Wind Direction minimal
Water Temperature _____
Collector Mark Ritkin

Setup as ~~A1~~ 2000 Tray
1:100 dilution. (Doc) me

Part II: Wastewater Treatment Plant

Name of Plant _____ County _____ County Code

Sewage Plant Code

Type of Waste: Sewage Industrial Waste Other (Specify) _____

Source of Sample: Raw Intermediate Final Sample Iced: Yes No

Bottle No. _____ Field pH _____ Field Res. Chlorine: Total _____ Free _____

Collected: Date Mo. Day Yr. Hour _____ Collector _____ Employer _____

LABORATORY RECORD

Presumptive Test*

DILUTION	10 ⁻¹	10 ⁻²	10 ⁻³	10 ⁻⁴	10 ⁻⁵	10 ⁻⁶	QUANTITATIVE TEST (CONFIRMED) 1:10 DIL		
							100 ml. of Sample	No. of Pos	MPN
Quantity in ml.	10	1	1	1	1	1	Total Coliforms ***		
Gas, 24 hours							E. Coli ***	49/18	30800
Gas, 48 hours							Enterococci **		

Confirmed Test

DILUTION	10 ⁻¹	10 ⁻²	10 ⁻³	10 ⁻⁴	10 ⁻⁵	10 ⁻⁶	MPN/100 ML.
Quantity in ml.	10	1	1	1	1	1	
Coliforms†							
Fecal Coliforms‡							

Date and Hour:

'03 AUG 7 AM 11:14

Temp Control: _____

Rec'd

* Remarks: 1:100 DILUTION

'03 AUG 7 AM 11:22

Exam. LMP

Laboratory

Bacteriologist _____

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Thiosulfate: Pres. Absent Undetermined

E. SHORE REG.

* using Lauryl Sulfate Trypticase broth at 35° C. incubation
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S. MD REG.

‡ Using E C broth or A-1 medium at 44.5° C. incubation

W. MD REG.

*** Using ONPG - MUG at 35° C incubation

** Using Enterolert at 41° incubation

E. Coli

2

004285

STATE OF MARYLAND
DEPARTMENT OF HEALTH AND MENTAL HYGIENE
Laboratories Administration

201 W. Preston Street
P.O. Box 2355, Baltimore, Maryland 21203
J. Mehsen Joseph, Ph.D., Director

Lab No. _____

BACTERIOLOGICAL EXAMINATION OF STREAMS OR WASTEWATERS
Field Record

Part I: Stream or Other Body of Water

Date 8/7/03 Hour 10:18 Nearest Town Elkridge County Howard

Bottle No. Coggins 1 Sample Iced: Yes No

Body of Water Pipe - 6078 Old Lawyers Hill Rd Station No. _____ Station Location _____

Tide: 1. Ebb 2. Flood 3. Non-Tidal
Rain: 1. Yes 2. No
Duration _____ ± Hours prior to Sampling
Wind Direction minimal
Water Temperature _____
Collector Mark Ripkin

Part II: Wastewater Treatment Plant

Name of Plant Setup as A-1 2000 Tray County _____ County Code
1:100 dilution (DOC) ml

Sewage Plant Code

Type of Waste: Sewage Industrial Waste Other (Specify) _____

Source of Sample: Raw Intermediate Final Sample Iced: Yes No

Bottle No. _____ Field pH _____ Field Res. Chlorine: Total _____ Free _____

Collected: Date Mo. Day Yr. Hour _____ Collector _____ Employer _____

LABORATORY RECORD

Presumptive Test*

DILUTION	Quantity in ml.	10	1	10 ⁻¹	10 ⁻²	10 ⁻³	10 ⁻⁴	10 ⁻⁵	10 ⁻⁶	QUANTITATIVE TEST (CONFIRMED) 1:10 DIL		
				100 ml. of Sample	No. of Pos	MPN						
Gas, 24 hours										Total Coliforms ***		
Gas, 48 hours										E. Coli ***	48/19	26000
										Enterococci **		

Confirmed Test

DILUTION	Quantity in ml.	10	1	10 ⁻¹	10 ⁻²	10 ⁻³	10 ⁻⁴	10 ⁻⁵	10 ⁻⁶	MPN/100 ML.
Coliforms†										
Fecal Coliforms‡										

Date and Hour:

'03 AUG 7 AM 11:14

Rec'd

Temp Control: _____

*Remarks: 1:100 DILUTION

'03 AUG 7 AM 11:22

Exam.

Laboratory

Bacteriologist _____

'03 AUG 8 PM 1:08

Rept.

- CENTRAL
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Thiosulfate: Pres. Absent Undetermined

* using Lauryl Sulfate Trypticase broth at 35° C. incubation
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 ‡ Using E C broth or A-1 medium at 44.5° C. incubation
 *** Using ONPG - MUG at 35° C incubation
 ** Using Enterolert at 41° incubation




Howard County
Internal Memorandum

Subject: Coggins Counterclaim and
Third Party Complaint

July 3, 2003

TO: Penny Borenstein
Howard County Health Officer

FROM: Louis P. Ruzzi 
Senior Assistant County Solicitor

Attached is a copy of the counterclaim and third party complaint filed by Coggins, in response to our lawsuit asking the Court to order him to fix his septic system. These court papers serve four purposes for Coggins: 1) they add the Strows and the Estate of Helen Voris (Coggins' predecessor in title) to the litigation as parties; 2) requests the Court rule on Coggins' claim that he has a legal right to discharge on the Strow property; 3) requests that the Voris Estate and/or the Strows pay any sums that Coggins might have to pay as a result of the County's lawsuit; and 4) demands a jury trial on the issues raised in his counterclaim and third party complaint.

I will be preparing a response on our behalf. Please call me should you have any questions.

LPR:cm

Enclosure

cc: Mark Rifkin (w/encl.)

Greg Mellon (w/encl.)

03 JUL -2 PM 1:33
IN THE
DISTRICT COURT
GENERAL COURT OF LAW

HOWARD COUNTY, MARYLAND :
 and :
 PENNY BORENSTEIN, M.D. :
 Plaintiffs :
 vs. :
 WILLIAM N. COGGINS :
 Defendant and Third Party Plaintiff :
 vs. :
 LAWRENCE L. STROW :
 6064 Old Lawyers Hill Road :
 Elkridge, Maryland 21075 :
 And :
 VAN L. STROW :
 6064 Old Lawyers Hill Road :
 Elkridge, Maryland 21075 :
 And :
 ESTATE OF HELEN P. VORIS :
 C/o Jinny Voris-Batterson, Personal Representative :
 3404 Noble Avenue :
 Richmond, VA 23222 :
 Third Party Defendants :

IN THE
 DISTRICT COURT
 FOR
 HOWARD COUNTY,
 MARYLAND
 CASE NO. 2532-2003

DEFENDANT'S COUNTERCLAIM AND THIRD PARTY COMPLAINT

Defendant, William N. Coggins ("Coggins"), by and through his attorneys, William E. Hewitt, Jr. and Coggins, Harman and Hewitt, and pursuant to Maryland Rule 3-331 and 3-332, files this Counterclaim against Plaintiffs Howard County, Maryland ("Howard County") and Penny Borenstein, M.D. ("Borenstein") and his Third Party Complaint against the Third Party

COGGINS, HARMAN & HEWITT
 ATTORNEYS AT LAW
 8905 FAIRVIEW ROAD
 SUITE 600
 SILVER SPRING, MD 20910-4171
 TELEPHONE (301) 587-2880

Defendants, Lawrence L. Strow, Van L. Strow and the Estate of Helen P. Voris, and for his causes of action states as follows:

FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

1. Defendant Coggins is the owner of real property and the improvements thereon located in Howard County, Maryland at 6078 Old Lawyers Hill Road, Elkridge, Maryland 21075, where he resides with his wife and three school-aged children.
2. Third Party Defendants Lawrence L. Strow and Van L. Strow are the owners of real property and the improvements thereon located in Howard County, Maryland at 6064 Old Lawyers Hill Road, Elkridge, Maryland 21075.
3. The Estate of Helen P. Voris is the owner of real property and the improvements thereon located in Howard County, Maryland at 6086 Old Lawyers Hill Road, Elkridge, Maryland 21075.
4. Plaintiffs Howard County, Maryland and Penny Borenstein, M.D. filed this action in the District Court seeking a court order directing Defendant Coggins to obtain a septic system, repair permit from the Health Department, disconnect the existing overflow pipe allegedly running onto the adjacent property owned by Mr. and Mrs. Strow, and install additional drainfield capacity as necessary to avoid any further sewage overflows.
5. The Complaint establishes on its face that the sewage discharging out of the ground was at a location on the Strows' property "approximately five to ten feet downhill of the property boundary between the Subject Property (Defendant's property) and the adjacent property (the Strows' property)."

6. Despite the fact that the sewage, which allegedly constituted a "nuisance," was located on the property of the adjacent property owners, Mr. and Mrs. Strow, Plaintiffs failed to join the Strows as Defendants to this action. The Strows are necessary and indispensable parties to this action as shown by the allegations of the Complaint.

7. If any ponding has occurred on the Strows' property, it is the result of their construction, breaking of underground pipes, building a retaining wall, planting bamboo and otherwise disrupting the natural flow of subsurface water.

8. Defendant and Third Party Plaintiff Coggins has an implied easement for drainage across the Strows' property, and the Strows' actions in breaking underground pipes on the property, constructing across the easement, and otherwise changing the land contour caused the alleged discharge of which Plaintiffs Howard County and Borenstein now complain.

9. Defendant Coggins and his predecessors in title received all of their property, and the Strows and their predecessors in title received a portion of their property, from a common grantor, J. Calvin Voris and Helen P. Voris.

10. By deed dated June 12, 1957, and recorded at Liber 300, folio 228 among the Land Records of Howard County, the whole parcel known as "Wayside", consisting of 4+ acres was conveyed to J. Calvin Voris and Helen Voris by Nicholas G. Penniman, III, Executor under the Last Will and Testament of Jennette Bathhurst Dobbins.

11. Thereafter, by deed dated November 22, 1957, and recorded at Liber 308, folio 97, J. Calvin Voris and Helen P. Voris conveyed the historical house located at Wayside and 1.5 acres of that land to George N. Dougherty and Jeanne D. Dougherty.

12. By the November 22, 1957 deed, J. Calvin Voris and Helen P. Voris conveyed the historical house (the only dwelling house the Vorises acquired in their June 12, 1957 deed),

thereby making the conveyance of the historical home the dominant estate. The Vorises thereafter built a home on the land they had retained, the servient estate.

13. The November 22, 1957 deed conveying the historical home (the dominant estate) specifically recites that the property is conveyed:

“Together with the buildings and improvements therein erected, made or being; and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging, or in anywise appertaining.”

14. By deed dated September 17, 1979, recorded in Liber 963, folio 208, George W. Dougherty and Jeanne D. Dougherty conveyed the historical home and the 1.5 acres of land (the dominant estate) to Charles H. Simpkinson and Ann A. Simpkinson.

15. The September 17, 1979 deed contains the same “Together with” clause of the November 22, 1957 deed, specifically conveying the 1.5 acres, “together with the buildings and improvements therein erected, made or being; and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging, or in anywise appertaining.”

16. In September, 1982, by deed recorded in Liber 1130, folio 186, Charles H. Simpkinson and Ann A. Simpkinson conveyed the historical home and the 1.5 acres of the land (the dominant estate) to William N. Coggins, et al.

17. That deed contains the same “Together with” clause of the prior deeds, conveying not only the 1.5 acres, but also the “rights, privileges, appurtenances and advantages thereto belonging or appertaining...”.

18. Lawrence L. Strow and his wife, Van L. Strow, acquired the first portion of their property, consisting of approximately .944 acres, by deed from John S. Mehring and Ruthe Hall Mehring dated December 5, 1977, and recorded at Liber 858, folio 607.

19. Thereafter, by deed dated February 16, 1983, and recorded at Liber 1145, folio 247, the Strows obtained an additional 2.661 acres of land from Joe Addison Cobb and May Winter Cobb.

20. Neither of the latter two deeds is in Mr. Coggins' chain of title. However, by deed dated October 23, 1987, and recorded at Liber 1739, folio 539, the Strows acquired from J. Calvin Voris and Helen P. Voris .235 acres of the Servient Estate, which included approximately 35 linear feet of the Servient Property abutting the northern boundary line of the Dominant Estate known as "Wayside" owned by Mr. Coggins.

21. Said conveyance in 1987 to the Strows of approximately 35 linear feet of the property abutting the northern boundary line of Mr. Coggins' property was, in all respects, conveyed by Mr. and Mrs. Voris subject to the servitudes imposed by their prior conveyance of Mr. Coggins' property (Wayside).

22. When Mr. and Mrs. Voris deeded the 1.5 acres of Wayside, together with the historical home located thereon to Mr. Coggins' predecessors in title, they conveyed with it the implied easements or quasi easements necessary to the reasonable use and enjoyment of the property granted, which had been, and at the time of the grant were being used by them as owners of the entire property for the benefit of the part granted (the historical home) to Mr. Coggins' predecessors in title.

23. Such implied or quasi easements included an easement for drainage onto the portion of the Voris property subsequently conveyed to Mr. and Mrs. Strow and on which the Plaintiffs claim to have discovered the alleged sewage which they claim to be a nuisance within the provisions of the health code.

COUNT ONE – DECLARATORY JUDGMENT
(§ 3-406, Courts and Judicial Proceedings Article)
(Against all Parties)

24. Defendant and Third Party Plaintiff Coggins incorporates by reference the factual allegations set forth in paragraphs 1 through 23 above, with the same effect as if fully set forth herein.

25. This is an action for declaratory judgment pursuant to Section 3-406 of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland, for the purpose of determining a question of actual controversy between the parties, as hereinafter more fully appears.

26. Plaintiffs Howard County and Borenstein have claimed in their Complaint that sewage allegedly discharging out of the ground at a location on the Strows' property, five to ten feet downhill of Coggins' property, constitutes a nuisance pursuant to Section 12.110 of the Howard County Code.

27. The sewage is allegedly being discharged at a site located on the Strows' property, in an area over which Coggins has an implied or quasi easement for drainage.

28. The Strows and Mr. Coggins have each denied all responsibility for any alleged sewage overflow that might be determined to constitute a nuisance, and Mr. Coggins has asserted that if any sewage overflow or other nuisance is found to exist, it was caused by the acts of the Strows through their construction, breaking of underground pipes, building of a retaining wall, planting bamboo and otherwise disrupting the natural flow of subsurface water.

29. There is an actual controversy between the Plaintiffs, Defendant Coggins, and the Third Party Defendants regarding the actual existence of any alleged nuisance, the parties

responsible for any alleged nuisance that might be found to exist, and the rights and liabilities of the parties, other than the Plaintiffs, with respect to the implied or quasi easement for drainage granted to Mr. Coggins and his predecessors and successors in title by virtue of the Vorises conveyance of the dominant estate to Mr. Coggins and a portion of the servient estate to Mr. and Mrs. Strow, which controversy may be determined by a judgment of this Court.

WHEREFORE, Defendant and Third Party Plaintiff Coggins demands:

- a. That the Court determine the existence and cause of any alleged sewage overflow on the properties of the Defendant and Third Party Defendants.
- b. That the Court find and declare that pursuant to and by virtue of the deeds of conveyance by the Vorises of the parcel known as "Wayside" (consisting originally of 4+ acres), the Vorises conveyed to Coggins and his predecessors in title not only the historical home that was located on the property, but also implied easements or quasi easements necessary to the reasonable use and enjoyment of the property granted, which implied or quasi easements included an easement for drainage onto the portion of the Voris property subsequently conveyed to Mr. and Mrs. Strow.
- c. That the Court find and declare that Coggins has an implied or quasi easement for drainage on the property of Mr. and Mrs. Strow.
- d. That the Court award to Coggins the costs of these proceedings.
- e. That the Court award Coggins such other and further relief as in law and justice he may be entitled to receive.

COUNT TWO – DECLARATORY JUDGMENT
(§ 3-409, Courts and Judicial Proceedings Article)
(Against all Parties)

30. Defendant and Third Party Plaintiff Coggins incorporates by reference the factual allegations set forth in paragraphs 1 through 29 above, with the same effect as if fully set forth herein.

31. This is an action for declaratory judgment pursuant to Section 3-409 of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland, for the purpose of determining questions of actual controversy between the parties and terminating uncertainty and controversy giving rise to this proceeding, as herein more fully appears.

32. There exists an actual controversy of a justiciable issue between the parties involving the rights and liabilities of the parties.

33. Antagonistic claims are present between the parties, which have already resulted in the filing by the Plaintiffs of their Complaint against Coggins, and the Defendant and each of the Third Party Defendants deny any liability for any alleged sewage overflow or nuisance.

34. A declaratory judgment by the Court will terminate this controversy.

WHEREFORE, Defendant and Third Party Plaintiff Coggins demands:

a. That the Court determine the existence and cause of any alleged sewage overflow on the properties of the Defendant and Third Party Defendants.

b. That the Court find and declare that pursuant to and by virtue of the deeds of conveyance by the Vorises of the parcel known as “Wayside” (consisting originally of 4+ acres), the Vorises conveyed to Coggins and his predecessors in title not only the historical home that was located on the property, but also implied easements or quasi easements necessary to the

reasonable use and enjoyment of the property granted, which implied or quasi easements included an easement for drainage onto the portion of the Voris property subsequently conveyed to Mr. and Mrs. Strow.

c. That the Court find and declare that Coggins has an implied or quasi easement for drainage on the property of Mr. and Mrs. Strow.

d. That the Court award to Coggins the costs of these proceedings.

e. That the Court award Coggins such other and further relief as in law and justice he may be entitled to receive.

COUNT THREE – ESTABLISHMENT OF QUASI OR IMPLIED EASEMENT
(Against Third Party Defendants)

35. Defendant and Third Party Plaintiff Coggins incorporates by reference the factual allegations set forth in paragraphs 1 through 29 above, with the same effect as if fully set forth herein.

36. When Mr. and Mrs. Voris deeded the 1.5 acres of Wayside, together with the historical home located thereon to Mr. Coggins' predecessors in title, they conveyed with it the implied easements or quasi easements necessary to the reasonable use and enjoyment of the property granted, which had been, and at the time of the grant were being used by them as owners of the entire property for the benefit of the part granted (the historical home) to Mr. Coggins' predecessors in title.

37. Such implied or quasi easements included an easement for drainage onto the portion of the Voris property subsequently conveyed to Mr. and Mrs. Strow and on which the

Plaintiffs claim to have discovered the alleged sewage which they claim to be a nuisance within the provisions of the health code.

38. Mr. Coggins and his predecessors in interest have continuously used the Strows' property for drainage for more than twenty years under a claim of right, and such use was and is apparent and necessary to the reasonable use and enjoyment of the property granted to Mr. Coggins and his predecessors in interest.

39. At the time of the grant of the historical home located on Wayside to Mr. Coggins' predecessors in interest, the Vorises were using the entire Wayside property (including the portion now owned by the Strows) for the benefit of the part granted (the historical home) to Mr. Coggins' predecessors in title, including the use of such property for drainage, which use was continuous, apparent and necessary for the reasonable enjoyment of the property conveyed.

40. A real and present controversy exists between the parties hereto because the Third Party Defendants refuse to recognize and honor the right of Mr. Coggins to use the Strows' and the Estate of Helen P. Voris' property for drainage and because Plaintiffs' action against Mr. Coggins has raised questions regarding the claimed quasi or implied easement.

41. The Third Party Defendants have refused and continue to refuse to recognize the right of Mr. Coggins to use the property of the Third Party Defendants for drainage. Such action on the part of the Third Party Defendants will irreparably harm Mr. Coggins and will prevent his contemplated use of the property, thereby adversely affecting the value of such property to Mr. Coggins in an amount well in excess of Twenty Thousand Dollars.

WHEREFORE, Defendant and Third Party Plaintiff Coggins demands:

a. That the Court enter a judgment declaring the rights of Mr. Coggins to have the use and enjoyment of the Third Party Defendants' property for the purpose of drainage.

- b. That the Court declare that Mr. Coggins has a quasi or implied easement over the Third Party Defendants' property for the purpose of drainage.
- c. That the Court enter an order permanently and perpetually enjoining the Third Party Defendants from interfering in any manner with the free use of such property for drainage.
- d. That the Court award to Mr. Coggins the costs of these proceedings.
- e. That the court award Mr. Coggins such other and further relief as the Court deems proper and just.

COUNT FOUR – INDEMNIFICATION
(Against Estate of Helen P. Voris)

42. Defendant and Third Party Plaintiff Coggins incorporates by reference the factual allegations set forth in paragraphs 1 through 41 above, with the same effect as if fully set forth herein.

43. Mr. and Mrs. Voris are both deceased, and the present owner of the property previously owned by them as tenants by the entireties is the Estate of Helen P. Voris.

44. By the November 22, 1957 deed, J. Calvin Voris and Helen P. Voris conveyed the historical house (the only dwelling house the Vorises acquired in their June 12, 1957 deed), thereby making the conveyance of the historical home the dominant estate. The Vorises thereafter built a home on the land they had retained, the servient estate.

45. The November 22, 1957 deed conveying the historical home (the dominant estate) specifically recites that the property is conveyed:

“Together with the buildings and improvements therein erected, made or being; and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging, or in anywise appertaining.”

46. Pursuant to said deed, the Vorises warranted that they were conveying to Mr. Coggins' predecessors in interest not only the 1.5 acres of Wayside, together with the historical home located thereon, but also the implied easements or quasi easements necessary to the reasonable use and enjoyment of the property granted, which had been, and at the time of the grant were being used by them as owners of the entire property for the benefit of the part granted (the historical home) to Mr. Coggins' predecessors in title.

47. Such implied or quasi easements included an easement for drainage onto the portion of the Voris property subsequently conveyed to Mr. and Mrs. Strow and on which the Plaintiffs claim to have discovered the alleged sewage which they claim to be a nuisance within the provisions of the health code.

48. If Mr. Coggins is unable to use the Strows property for drainage, or is found to be responsible for any alleged nuisance because of his failure to be able to use the Strows property or the Voris property for drainage, then any damages or injuries sustained by Mr. Coggins as a result thereof would be the sole responsibility of the Estate of Helen P. Voris, as the successor in title to Mr. and Mrs. Voris, which would be in breach of the warranties, representations and covenants of the deed of conveyance. The inability of Mr. Coggins to use the Strows property for drainage would irreparably harm Mr. Coggins and would prevent his contemplated use of the property, thereby adversely affecting the value of such property to Mr. Coggins in an amount well in excess of Twenty Thousand Dollars.

WHEREFORE, Third Party Plaintiff Coggins demands judgment against the Estate of Helen P. Voris for indemnity of all sums, if any, for which Coggins might be adjudged to be liable to Plaintiffs.

COUNT FIVE – INDEMNIFICATION
(Against Mr. and Mrs. Strow)

49. Defendant and Third Party Plaintiff Coggins incorporates by reference the factual allegations set forth in paragraphs 1 through 41 above, with the same effect as if fully set forth herein.

50. If Plaintiffs can assert any valid claim for a nuisance as a result of sewage overflow on the property of the Defendant or Third Party Defendants, such sewage overflow and the resultant nuisance was caused by Mr. and Mrs. Strow, and not Mr. Coggins.

51. The alleged discharge of which Plaintiffs Howard County and Borenstein now complain were caused by Mr. and Mrs. Strows' wrongful actions in breaking underground pipes on the property, constructing across the easement, and otherwise changing the land contour caused, and not by any acts of Mr. Coggins.

WHEREFORE, Third Party Plaintiff Coggins demands judgment against Mr. and Mrs. Strow for indemnity of all sums, if any, for which Coggins might be adjudged to be liable to Plaintiffs.

Respectfully submitted,

COGGINS, HARMAN & HEWITT

By: 

William B. Hewitt, Jr.
8905 Fairview Road, Suite 600
Silver Spring, MD 20910
(301) 587-2880

Attorneys for Defendant

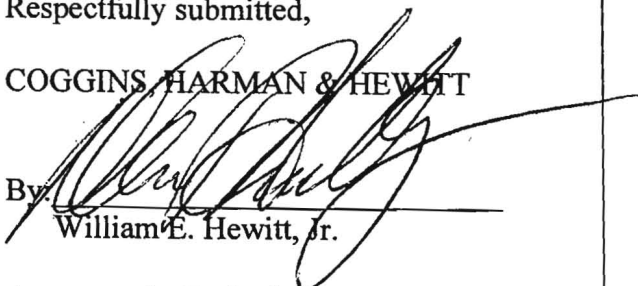
COGGINS, HARMAN & HEWITT
ATTORNEYS AT LAW
8905 FAIRVIEW ROAD
SUITE 600
SILVER SPRING, MD 20910-4171
TELEPHONE (301) 587-2880

REQUEST FOR JURY TRIAL

Pursuant to Maryland Rule 3-325, Defendant and Third Party Plaintiff William N. Coggins requests a trial by jury on all causes of action in his Counterclaim and Third Party Complaint triable of right by a jury.

Respectfully submitted,

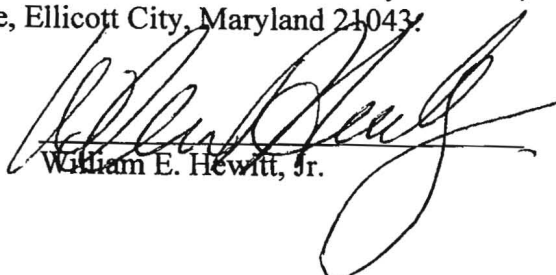
COGGINS, HARMAN & HEWITT

By 
William E. Hewitt, Jr.

Attorneys for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the foregoing Counterclaim and Third Party Complaint were mailed by first class mail, postage prepaid, this 30th day of June, 2003, to Barbara M. Cook, County Solicitor and Louis P. Ruzzi, Senior Assistant County Solicitor, George Howard Building, 3430 Courthouse Drive, Ellicott City, Maryland 21043.


William E. Hewitt, Jr.

J:\WEH CLIENTS\William Coggins\Pld\counterclaim.3rdparty

COGGINS, HARMAN & HEWITT
ATTORNEYS AT LAW
8905 FAIRVIEW ROAD
SUITE 600
SILVER SPRING, MD 20910-4171
TELEPHONE (301) 587-2880

Howard County, Maryland

Office of Law

3430 Court House Drive
Ellicott City, Maryland 21043
(410) 313-2100

June 4, 2003

Kay Smith
Civil Supervisor
District Court for Howard County
3451 Courthouse Drive
Ellicott City, Maryland 21043

RE: Howard County, Maryland
v. William N. Coggins
Case No. 2532-2003

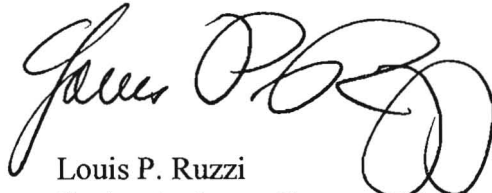
Dear Ms. Smith:

The above-referenced case is scheduled for trial on Monday, July 14, 2003 at 1:15 p.m. I am hereby requesting a postponement of this matter as I am scheduled to be on a pre-planned family vacation from July 14 through 25, 2003.

Thank you for your assistance in this matter.

Very truly yours,

HOWARD COUNTY OFFICE OF LAW



Louis P. Ruzzi
Senior Assistant County Solicitor

LPR:cm
cc: William N. Coggins
Mark Rifkin



DISTRICT COURT OF MARYLAND FOR HOWARD COUNTY
3451 COURTHOUSE DR (V)
ELLCOTT CITY, MD 21043-4377

1001



CIVIL CASE NO.: 1001 - 0002532 - 2003
COMPLAINT NO.: 001

TO: HOWRD COUNTY, MARYLAND
& PENNY BORENSTEIN, M.D.
6571 COLUMBIA GATEWAY DRIVE
COLUMBIA, MD 21046

**HOWRD COUNTY, MARYLAND
VS.
COGGINS, WILLIAM N**

DATE: 05/28/2003

HEARING/TRIAL NOTICE

THE COMPLAINT AFFIDAVIT/MERIT TRIAL
IN THE CASE REFERENCED ABOVE IS SET FOR JULY 14, 2003 AT 01:15 PM
IN ROOM , AT 3451 COURTHOUSE DR , ELLICOTT CITY
MD 21043-4377. ANY REQUEST FOR POSTPONEMENT MUST COME TO THIS COURT
IN WRITING (REFERENCING ABOVE CASE NUMBER) IMMEDIATELY. PLEASE PROVIDE
COURT WITH ESTIMATED TIME FOR TRIAL.

ANY REASONABLE ACCOMMODATION FOR PERSONS WITH DISABILITIES
SHOULD BE REQUESTED BY CONTACTING THE COURT IMMEDIATELY.

FOR QUESTIONS CONCERNING THIS DOCUMENT TELEPHONE (410) 480-7700.

HEARING/SPEECH IMPAIRED CALLERS ONLY, TELEPHONE TTY/TT 1-800-925-9690
OR THROUGH MARYLAND RELAY SERVICE AT 1-800-735-2258 OR 711.

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LAW OFFICES
COGGINS, HARMAN & HEWITT
A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

SUITE 600
8806 FAIRVIEW ROAD
SILVER SPRING, MARYLAND 20910-4171

(301) 587-8080
FACSIMILE (301) 495-4880

WASHINGTON OFFICE
SUITE 330 - G STREET LOBBY
655 15TH STREET, N.W.
WASHINGTON, D.C. 20005-3701

VIRGINIA OFFICE
254A N. WASHINGTON STREET
FALLS CHURCH, VA 22046

WILLIAM E. HEWITT, JR.

March 31, 2003

Lou Ruzzi, Esq.
Office of Law, Howard County
3430 Courthouse Drive
George Howard Building
Ellicott City, MD 21043

Re: William N., Coggins
6078 Old Lawyers Hill Road
Elkridge, MD 21075

03 APR -2 PM 2:13
OFFICE OF LHM

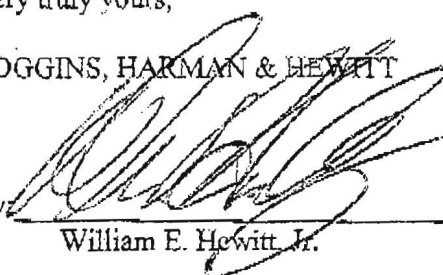
Dear Mr. Ruzzi:

This will acknowledge receipt of your letter of March 27, 2003 in response to our February 24, 2003 letter to you. Although you state that you see no reason to debate the right of adjoining landowners and easements, it is precisely the law of easements which is applicable in this case. In our previous conversation you acknowledged that Mr. Coggins does have an implied easement across the property that Mr. Strows acquired from the Voris'. This being the law, Mr. Strow can undertake no action that interferes with Mr. Coggins' easement. It is in fact Mr. Strows actions in breaking underground pipes found on the property, construction across the easement and land contour changes that have caused the alleged discharge. Rather than issuing directives to law abiding property owners, Mr. Strow should be directed to cease his unlawful conduct and remedy the situation on his property.

By copy of this letter we are notifying the Estate of Helen Voris (the original owner of the subject property) that the conveyance of the subject parcel to Mr. Strow has interfered with the Voris' prior conveyance of the property and caused damages for which my client is entitled to indemnification.

Very truly yours,

COGGINS, HARMAN & HEWITT

By 
William E. Hewitt, Jr.

WEH:ssz

CC: Estate of Helen Voris
wehclients\William Coggins\Cor\Ruzzi-3-31

Howard County, Maryland

Office of Law

3430 Court House Drive
Ellicott City, Maryland 21043
(410) 313-2100

March 27, 2003

VIA FACSIMILE (301) 495-4990

William E. Hewitt, Esquire
Coggins, Harman & Hewitt
Suite 600
8905 Fairview Road
Silver Spring, Maryland 20910-4171

RE: William Coggins
6078 Old Lawyers Hill Road

Dear Bill:

The purpose of this letter is to follow up on our telephone conversation last week and to respond to your February 24, 2003 correspondence regarding Mr. Coggins's septic system, the discharge pipe that runs from his drywell onto the Strow property, and the overflowing sewage coming out of that discharge pipe. As a preliminary matter, I want to address your allegation of an improper relationship between Mr. Rifkin and the neighboring property owners, the Strows. Your claims of a "personal relationship" and "preferential treatment" on the part of Mr. Rifkin towards the Strows are untrue. Mr. Rifkin has no "personal relationship" with the Strows. Likewise, he has treated both the Strows and your client evenhandedly, just as he would treat other County residents in any investigation he conducts on behalf of the Health Department. To a large extent, I believe that your client's perception of "antagonism" may be merely a reflection of his own tone and attitude towards Mr. Rifkin.

At the outset of your letter, you assert that it is "disingenuous" for the County to consider a suit for injunctive relief against Mr. Coggins because of a purported lack of irreparable injury and the alleged availability of an adequate remedy at law. This contention is wrong on two counts.

First, your position ignores the Health Department's regulatory authority with respect to overflowing sewage. A sewage overflow is expressly defined as a "nuisance" under the Health Code, ie., an actual or potential threat to public health. See Section 12.110(a)(2) of the Howard County Code. Once the Health Officer determines that a "nuisance" exists and orders that the nuisance be corrected, the Howard County Code further empowers the Health Department to bring action in court, under Section 12.112(c), to "enforce compliance with [the Health Officer's] order or to correct a nuisance."

Second, Maryland courts relax the applicable legal standard when the state or a local government seeks injunctive relief as a valid exercise of its police power. I suggest that you review the following Maryland cases as to the availability of injunctive relief when the State or a local government, rather than a private individual, seeks to compel compliance with laws aimed at protecting the public health, safety and welfare:

- 1) Joy v. Anne Arundel County, 52 Md. App. 653, 660, 451 A.2d 1237 (1982) (in zoning enforcement case court noted that strict rules of equity do not apply to actions brought by the government against a private party);
- 2) Malooof v. Maryland Department of the Environment, 136 Md. App. 682 (2001) (court applied rationale in Joy to environmental case by noting that environmental regulations ensure compliance with minimum standards for public health and safety);
- 3) Fogle v. H & G Restaurant, Inc., 337 Md. 441, 654 A.2d 449 (1995)(court noted that where governmental interests are impacted courts may go much farther both to give and withhold relief in furtherance of the public interest).

In Malooof, the Court of Special Appeals explicitly rejected a property owner's assertion that MDE's enforcement action required a showing of "irreparable harm." 136 Md. App. at 708-11. These cases, as well as the specific regulatory provisions cited above, govern any legal action by the Health Department to obtain a court order requiring Mr. Coggins to fix his septic system. The more general criteria, which are recited in your letter and which are applicable to a private party's request for injunctive relief, are not controlling in this situation.

I see no reason to debate the overall chronology of events, or the rights of adjoining landowners and easements. The issue is the presence of overflowing sewage from Mr. Coggins's septic system, not whether Mr. Coggins possesses the legal right to have a discharge pipe on the Strow property. Assuming arguendo that your client can establish the existence of an implied reservation of an easement that allows for the discharge pipe running from his septic system onto the Strow property, any such easement clearly does not include the right to discharge sewage in a manner or quantity that creates an actual or potential threat to public health. Likewise, the existence of an easement cannot trump the authority of the Health Department to order the system owner to take whatever steps are necessary to eliminate a public health threat.

Through Mr. Rifkin's testimony as a registered sanitarian, the County's enforcement case will show by a preponderance of the evidence: 1) the presence of raw sewage on the Strow property; 2) the presence of the discharge pipe running from Coggins's property and his septic system onto the Strow property; and 3) that this sewage has been observed on the ground at the location of the

William E. Hewitt, Esquire

Page 3

March 27, 2003

discharge pipe. Although your letter characterizes the discharge as a "water problem," I have no doubt that the Court will credit Mr. Rifkin's testimony, based on his training and experience, that the "water" emanating from the pipe is raw sewage.

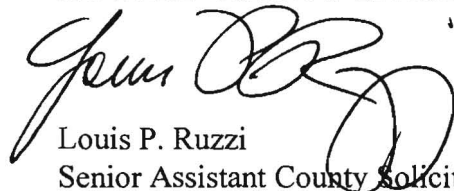
At the end of January, you requested that I provide further clarification of the required changes to Mr. Coggins's septic system. By letter dated February 3, 2003, I provided to you the requested information, complete with the Health Department's description of the necessary corrective steps and a rough cost estimate of \$2,000 - 3,000.

I hope that this letter helps to clarify the County's position. The Health Department will allow your client fifteen (15) days from the date of this letter to initiate repairs, with completion of the work ninety (90) days after the permit's issuance. There is a \$25 fee associated with a septic system repair permit. If action is not taken within the prescribed time limit, the County will pursue injunctive relief in court. It is my hope that your client will apply his resources towards correcting the problem, rather than expending time and money on litigation.

I look forward to hearing from you soon.

Very truly yours,

HOWARD COUNTY OFFICE OF LAW

A handwritten signature in black ink, appearing to read "Louis P. Ruzzi", is written over the typed name and title.

Louis P. Ruzzi
Senior Assistant County Solicitor

LPR:cm

cc: Mark Rifkin

Greg Mellon

Mark

March 12, 2003

Mr. William Coggins
6078 Old Lawyers Hill Road
Elkridge, MD 21075

RE: **CONTINUING NOTICE OF VIOLATION**
Overflowing Septic System
6078 Old Lawyers Hill Road
Tax Map 32, Parcel 55

Dear Mr. Coggins:

A Notice of Violation was issued to you on _____ 2001. Subsequent to that action, numerous meetings and exchanges were made between (you) your attorney and Mr Louis Ruzzi, Ho Co Office of Law, and this Department. We have listened, (blah, blah, blah) in good faith, (more boilerplate)..... ,

On October 24, 2002, this agency performed a video camera test to confirm the origins of the sewage discharging from the pipe previously excavated at a location near the common property boundary. The video camera was extended through the pipe approximately 67 feet before an immovable blockage was encountered. A homing beacon confirmed the pipe runs directly toward the existing drywell, and the blockage is located approximately ten to fifteen feet from the existing drywell cleanout. This confirms beyond all reasonable doubt that the source of the sewage discharging from the referenced pipe is the drywell on your property, notwithstanding any opinion from septic contractors.

This condition is in violation of Section 12.110 of the Howard County Code.

On or about November 5, 2002 you were supplied a copy of the videotape. On or about February 3, 2003, specific septic system repair and installation guidelines were provided to you. Despite overwhelming evidence of an active sewage discharge, to date, you have not attempted to abate or repair the discharge.

Your attorney's letter of February 24, 2003, to Lou Ruzzi asserted an implied right of easement for the existing pipe which crossed the boundary line into the Strow property. Aside from any such right for a **pipe** which may or may not be contained in case law, the Maryland Department of the Environment has delegated to this agency sole authority to enforce regulations governing the discharge of sewage, whether subsurface or on the ground surface. Therefore, any right of easement for a pipe does not include the right to discharge sewage on the ground surface or in a manner which is, or could be a threat to the public health.

As the sewage discharge creates a condition, which is, or may be, hazardous to the public health you are hereby ordered to immediately effect repairs within fifteen days of receipt of this letter. Since the installation of a drainfield is believed to be necessary, you must also apply to this office for a septic system repair permit, the fee for which is \$25.00. **You must immediately (within 48 hours)**

provide documentation to this office that the septic tank contents have been pumped by a licensed sewage scavenger. Until repairs are completed, you must continue pumping, as often as necessary, to prevent future sewage overflows. Depending on water usage and other factors, this may be as often as once or twice weekly.

If action toward the required repair is not taken within the prescribed time limit, this office will pursue injunctive relief in court.

Very truly yours,

Mark E. Rifkin, R.S.
Well and Septic Program

cc: William Hewitt, Coggins Harman and Hewitt
Lou Ruzzi, Office of Law
Frank Skinner
Greg Mellon

SENT Back
w/changes
MR/GM
5/12

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

: IN THE

: DISTRICT COURT

and

PENNY BORENSTEIN, M.D.
Howard County Health Officer
6751 Columbia Gateway Drive
Columbia, Maryland 21046

: FOR

Plaintiffs

: HOWARD COUNTY

vs.

WILLIAM N. COGGINS
6078 Old Lawyers Hill Road
Elkridge, Maryland 21075

: Case No. _____

SERVE ON:

WILLIAM N. COGGINS
6078 Old Lawyers Hill Road
Elkridge, Maryland 21075

.....

COMPLAINT FOR INJUNCTIVE RELIEF

Howard County, Maryland, a body corporate and politic, and Penny Borenstein, M.D., Howard County Health Officer, by their attorneys, Barbara M. Cook, County Solicitor, and Louis P. Ruzzi, Senior Assistant County Solicitor, sues William N. Coggins and state as follows:

1. Plaintiffs are charged with the enforcement of health regulations in Howard County, including the provisions set forth in Section 12.110 et. seq. of the Howard County Code relating to the declaration of a "nuisance."

2. Defendant, William N. Coggins, is the owner of the property located at 6078 Old Lawyers Hill Road (hereinafter referred to as the "Subject Property") in Elkridge, Maryland.

3. On August 9, 2001, Health Department personnel conducted an inspection at the property boundary between the Subject Property and the adjacent property. This inspection was in response to a report of an overflowing septic system. The Health Department inspector observed sewage discharging out of the ground at a location five to ten feet downhill of the Subject Property. *betw the* *the adj. prop* *approx.* *property bdy*

4. As a result of the Health Department's inspection, a notice of violation was issued on August 20, 2001 to Defendant, stating that the overflowing sewage constituted a "nuisance" pursuant to Section 12.110 and ordering that septic repairs be undertaken within fifteen (15) days of receipt of the notice. In the interim, Defendant was ordered to pump out the contents of the septic tank.

5. The sewage overflow came from a drainage pipe that runs from Defendant's septic drainfield onto the adjacent property.

6. In July of 2002, Health Department personnel conducted a site visit that included Defendant, Defendant's counsel, and the adjacent property owner, Mr. Strow. On his side of the property boundary, and pursuant to an agreement with Defendant, Strow had dug in the area to permit further evaluation of the source of the overflow. During the site visit, Health Department staff observed a trench, approximately 24-30 inches deep and 4-5 feet in length, that was half-full of sewage. A terra cotta pipe was visible, which was actively discharging into the trench.

7. In October of 2002, the Department conducted a camera inspection by inserting a cable, which has a small video camera mounted on its end, into the previously excavated end of the pipe. This test showed that the ~~path of the pipe~~ *extends directly in* a straight line from the point of excavation on the Strow property directly toward, *and to within ten feet of* the drainfield or drywell located on Defendant's property, thus confirming that the source of the sewage discharge is Defendant's drainfield or drywell.

8. Based upon its investigation, the Health Department concluded that Defendant's existing drywell had reached capacity and that continued usage of Defendant's septic system without installation of additional capacity posed the threat of continued overflows.

9. To date, Defendant has undertaken no repairs, modifications, or installation of increased capacity, despite the Health Department's order that Defendant bring his septic system

into compliance.

10. Plaintiffs seek a court order directing Defendant to disconnect the overflow pipe and to install additional capacity for Defendant's septic system to avoid future sewage overflows.

WHEREFORE, Howard County and Penny Borenstein, M.D., respectfully request that this Court grant the following relief:

(a) issue an order directing Defendant, within fifteen (15) days, to obtain a septic system repair permit from the Health Department, disconnect the existing overflow pipe running onto the adjacent property, and install ~~by a licensed contractor~~ such additional drainfield capacity as is necessary to avoid any further sewage overflows, so as to bring Defendant's septic system into compliance with applicable Health Department standards; and

(b) such other and further relief as this Court may deem appropriate.

HOWARD COUNTY OFFICE OF LAW

Barbara M. Cook
County Solicitor

Louis P. Ruzzi
Senior Assistant County Solicitor
George Howard Building
3430 Courthouse Drive
Ellicott City, Maryland 21043
(410) 313-2104

Greg Mellon - Re: Coggins

From: Lou Ruzzi
To: Rifkin, Mark
Date: 3/6/2003 12:24 PM
Subject: Re: Coggins
CC: Mellon, Greg

Mark:

Barb and I discussed this matter at some length yesterday. Bottom line is that she recommended I contact/meet with Hewitt to see if I can persuade him to our side. She wanted to know whether there is some middle ground that might be acceptable, in lieu of a new drainfield. She termed this case a crap-shoot in court (ha-ha), and was somewhat concerned with damaging our office's credibility with bringing a somewhat weak case to a judge.

Like Lisa, Barb thinks Coggins may well possess the right to have his underground discharge pipe on the Strow property by virtue of an implied easement, but that right certainly would not include discharging sewage in such a manner or quantity that sewage comes to the surface of the Strow property, creating a nuisance.

She had some evidentiary questions: 1) why does our file show no problems between 1994 and 2001- was the periodic pumping adequate to avoid discharge into the overflow pipe? 2) Can you testify unequivocally that the material observed flowing from the excavated pipe was sewage and, based on the semi-complete camera test, that the pipe is connected to Coggins's drywell? 3) Can we say with reasonable certainty that nothing done by the Strows, ie. the retaining wall, the bamboo plantings, or any altering of the grade, caused or so changed the terrain, that the sewage that had been confined underground is now finding its way to the surface?

She is willing to defer to my judgment as to whether we move forward. I guess I just want more of a comfort level before I file anything in Court. Let me have your thoughts. LOU

>>> Mark Rifkin 03/04/03 05:30PM >>>

Lou:

Have you finished reviewing Hewitt's letter?
 When can we file in court?

Mark — We need someone to stop sewage overflow. So, will we have to get Lou involved since both ~~have~~ choose to see themselves as not responsible. *YES*
 So, should he go forward now or!?

J

LAW OFFICES
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WILLIAM E. HEWITT, JR.

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WASHINGTON, D.C. 20004-8701

VIRGINIA OFFICE
800-A N. WASHINGTON STREET
FALLS CHURCH, VA 22046

February 24, 2003

Lou Ruzzi, Esq.
Office of Law, Howard County
3430 Courthouse Drive
George Howard Building
Ellicott City, MD 21043

Re: William N., Coggins
6078 Old Lawyers Hill Road
Elkridge, MD 21075

Dear Mr. Ruzzi:

This responds to your February 3, 2003 letter to me and your facsimile transmission of February 21, 2003. I am somewhat surprised by your demands as contained in your most recent communication given the history of your office's involvement in this matter since September, 1994, almost nine (9) years ago. To threaten injunctive relief is disingenuous as it can hardly be claimed that irreparable injury would be sustained by the complainant or that there is not an adequate remedy at law available in a suit between two (2) adjoining landowners. This also raises the issue of why your office appears to be representing one landowner preferentially to the interests of Mr. Coggins whose property adjoins the Strows and as between those two is the dominant estate. The preferential treatment shown to the Strows arises I believe because Mark Rifkin has an admitted personal relationship with the Strows and he has shown an obvious antagonistic attitude towards Mr. Coggins. That attitude was more than evident when I met on site on July 19, 2002 with Messers. Coggins and Strow as well as Mark Rifkin and Dan Driscoll. If it is your intention to file a complaint I certainly cannot stop you from doing that, however, I believe that a better understanding of the chronology of events which have occurred hopefully will dissuade you and convince you to cease and desist the private representation of the Strows.

The first notice of any complaint from the Howard County Health Department was September 22, 1994. On September 29, 1994 Mr. Coggins responded to this notice advising that in response to a neighbors concerns he had his septic system inspected by Jack Fyock Septic Service, Inc. on September 1, 1994 and the system was found to be in good working order. According to your records the first alleged violation was observed on August 31, 1994, however, a re-inspection on September 6, 1994 found no violation. Apparently a hearing was postponed to

February 24, 2003

Page Two

allow the Health Department to conduct a "smoke test". This smoke test was performed on October 26, 1994 to determine the source of liquid discharge on adjoining property located at 6064 Old Lawyers Hill Road (Strow's property). On November 17, 1994 the Health Department withdrew the violation against Mr. Coggins because the origin of the liquid could not be determined.

Between November, 1994 and July, 2001 there were no complaints made to the Health Department that were in any way, shape or form communicated to Mr. Coggins. Suddenly, on August 20, 2001 Mr. Coggins is again notified of an alleged overflowing septic system. The author of that notice was Mark Rifkin. It was stated at that time that sewage was observed discharging out of the ground at a location approximately five to ten feet downhill (emphasis added) of Mr. Coggins' property line. In your letter of October 6, 1994 you indicate a pipe runs from Mr. Coggins' property to an embankment in the Strow's front yard. Coincidentally, the location of the water was observed at a meeting on July 19, 2002. A terracotta pipe had been broken by Mr. Strow and dug up. Also, Mr. Strow had planted bamboo in the area and otherwise altered the natural flow of subsurface water by building what appeared to be an embankment surrounding the bamboo. It should be noted that the meeting of July 19, 2002 resulted from Mr. Coggins' agreement of September 10, 2001 to allow the inadvertent trespass onto his property to determine source. Again, between September 10, 2001 and May, 2002 there was no communication from your office or the Health Department's office until a demand to meet was made on June 26, 2002 scheduling a meeting for July 3, 2002 which ultimately occurred on July 19, 2002. At this meeting the Health Department admitted that the previous smoke test did not prove sewage discharge. No testing of the water on the Strow's property has been done. Also, Mr. Rifkin stated at that meeting that if Mr. Coggins pumped his septic system then the water would recede on the Strow's property. Mr. Coggins explained that he, in fact, had his septic system pumped two (2) weeks before this meeting. At that point, Mr. Rifkin admitted he did not know where the source of the water problem emanated from yet he wanted Mr. Coggins at his expense to dig up his property to disprove that the source emanated from Mr. Coggins' property. I told him that was absurd and that Mr. Coggins had no legal obligation whatsoever to do that.

Four (4) months later you advise me that a videotape test was conducted with an alleged entry onto my client's property without permission. You apologize for not contacting us prior to conducting this test despite our prior request to be present.

The conclusions reached by the Health Department are flawed and not based on any remotely scientific testing. Moreover, what you seem to overlook is the law pertaining to the rights of adjoining landowners and easements.

February 24, 2003

Page Three

Our office has conducted a title examination of the subject property. On June 12, 1957 the whole parcel known as "Wayside" was conveyed to J. Calvin Voris and Helen Voris by the Estate of Jennette Dobbins. This deed conveyed 4+ acres.

On November 22, 1957 Mr. and Mrs. Voris conveyed the house and 1.50 acres to George and Jeanne Dougherty. (This house is the Coggins' house that he acquired two deeds later.) This particular conveyance by Voris to Dougherty is the conveyance of the historical house and accordingly this estate is the dominant estate. This was the only house on the 4+ acre parcel originally owned by the Voris.

The Voris sold the house to get enough cash to build a house on the land they retained thereby becoming a servient tenement. In the deed from Voris to Dougherty the property is conveyed:

"Together, with the buildings and improvements thereupon erected, made or being; and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging, or in anywise appertaining."

The Dougherty's conveyed the property to Mr. Coggins' predecessor in title on September 17, 1979 and thereafter the Simkinsons conveyed the property to Mr. Coggins in 1982 and Mr. Coggins has owned the dominant estate since 1982. Each deed to the dominant estate contains the same "together with" clause.

The Strows have lived at their property since 1977. That property along with 2.5 acres acquired in 1983 are not in Mr. Coggins' chain of title.

On October 2, 1987 Calvin and Helen Voris conveyed property to the Strows along the rear lot line of Mr. Coggins' property. Note Mr. Coggins has lived in his house since March, 1982. This small parcel was acquired by the Strows without a title examination. Had they bothered to get a title examination they would have seen the "together with" clause in the dominant estate deeds. The Strows certainly inspected the property if not by living next door to it since 1977 but also when they had the property surveyed prior to their acquisition in 1987. Prior to Dougherty's sale to Simkinson the septic system was installed circa 1979 and the Strows were aware of that installation and are on actual notice of the location and drainage from the dominant estate onto the servient tenement.

February 24, 2003

Page Four

In Maryland, as well as under the common law, an owner cannot have an easement in his own land. But, if during unity of ownership the owner of two properties uses one for the benefit of the other in such manner as would indicate existence of an easement if the properties are owned by different persons, then, upon a conveyance of the dominant property so used an easement will be granted to the purchaser, provided the use has been such that the easement resulting from it would be of the class known as continuous and apparent, and would be necessary for the reasonable enjoyment of the property conveyed. Slear v. Jankiewicz, 189 Md. 18; 54 A.2d 137 (1947), quoting Elison v. Grove, 85 Md. 215, 225, 36 A. 844, 845; Donneen v. Corporation, etc., 114 Md. 589, 594, 595, 79 A. 1021.

All apparent easements which are necessary to the reasonable enjoyment of the premises granted, and which have been, and are at the time of the grant, used, or allowed to be used, by the owner of the entirety for the benefit of the part granted, will pass to the grantee by implication [or by necessity]. Burns v. Gallagher, 62 Md. 462, 474.

An implied grant of an easement is based upon the principle of construction that, where a man grants a definite thing, there accompanies it, by implication, as a part of the grant, everything necessary to its reasonable enjoyment, or at least those things which the common owner has used for the benefit of, and which are appurtenant to, the thing which is granted, during the time it was in his possession. Or, in other words, upon the grant by the owner of part of his property, as it is then being used and enjoyed, there will pass to the grantee all those continuous and apparent quasi easements which are necessary to the reasonable use and enjoyment of the property granted, and which have been, and are at the time of the grant being, used by the owner or the entirety for the benefit of the part granted. Kelly v. Nagle, 132 A. 587, 590, 150 Md. 125 (1926).

Therefore, the use made of the property must be such that the easement resulting from it would be of the kind known as 1. Continuous, 2. Apparent and 3. Necessary for the reasonable enjoyment of the property conveyed, determined at the time of the severance of the tenement. Mitchell v. Houstie, 217 Md. 259, 142 A. 556, 558.

Judge Digges, speaking for the Court of Appeals of Maryland in Kelly v. Nagle, *supra*, cited the rule of the common law upon the subject, as stated in 14 Cyc. 1166, as follows:

"That where the owner of two heritages, or of one heritage consisting of several parts, has arranged and adapted these so that one derives a benefit or advantage from the other of a continuous

February 24, 2003

Page Five

and obvious character, and he sells one of them without making mention of these incidental advantages or burdens of one in respect of the other, there is in the silence of the parties an implied understanding and agreement that these advantages and burdens respectively shall continue as before the separation of the title."

150 Md. 125, 132 A. at 590.

In Jones v. Jenkins, *supra*, the Court of Appeals, speaking through Judge Alvey, said:

"Whenever, therefore, an owner has created and annexed peculiar qualities and incidents to different parts of his estate (and it matters not whether it is done by himself or his tenant by his authority), so that one portion of his land becomes visibly dependent upon another for the supply or escape of water, or the supply of light and air, or for means of access, or for the beneficial use and occupation, and he grants the part to which such incidents thus plainly attached to the part granted, and to which another part is made servient, will pass to the grantee, as accessorial to the beneficial use and enjoyment of the land."

Kelly v. Nagle, 150 Md. 125, 132 A. 587, 590 (1926), citing James v. Jenkins, 34 Md. 1, 6 Am. Rep. 300.

As previously stated there is no problem on Mr. Coggins' property. If ponding has occurred on the Strow's property it is the result of his construction, breaking underground pipes, building a retaining wall, etc. The natural grade of the dominant estate is downhill and it has been that way since the dominant estate was created in 1957.

Mr. Coggins has the absolute legal right to use and enjoy his estate without interference from the Strows or any governmental agency. It is respectfully suggested that it is Mr. Coggins whose property rights have been imperiled by Mr. Strow's actions. As previously discussed the Strows purchased the property in question from the Voris' subject to the rights, appurtenances, and easements in favor of Mr. Coggins. To suggest otherwise, amounts to a condemnation of "Wayside," a registered Howard County Historical Home.

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WILLIAM E. HEWITT, JR.

February 24, 2003

Page Six

Mr. Coggins requests that you ~~cease~~ and desist in your efforts immediately.

Very truly yours,

COGGINS, HARMAN & HEWITT

By: 
William E. Hewitt, Jr.

WEH:ssz

wchofients\William Coggins\CortRuzzi-2-24

Howard County, Maryland

Office of Law

3430 Court House Drive
Ellicott City, Maryland 21043
(410) 313-2100

February 21, 2003

VIA FACSIMILE (301) 495-4990

William E. Hewitt, Esquire
Coggins, Harman & Hewitt
Suite 600
8905 Fairview Road
Silver Spring, Maryland 20910-4171

RE: William Coggins
6078 Old Lawyers Hill Road

Dear Bill:

I have left voicemail messages for you yesterday and today. As I indicated in my messages, Mr. Coggins stated during our telephone conversation last week that a written response was already prepared, complete with chronology and case law, and would be forthcoming the first part of this week. To date, I have received nothing in writing. If I do not receive this response by Tuesday, February 25th, we will proceed with the preparation and filing of a complaint for injunctive relief.

I look forward to hearing from you soon.

Very truly yours,

HOWARD COUNTY OFFICE OF LAW



Louis P. Ruzzi
Senior Assistant County Solicitor

LPR:cm
cc: Mark Rifkin
Greg Mellon

Howard County, Maryland

Office of Law

3430 Court House Drive
Ellicott City, Maryland 21043
(410) 313-2100

February 3, 2003

VIA FACSIMILE (301) 495-4990

William E. Hewitt, Esquire
Coggins, Harman & Hewitt
Suite 600
8905 Fairview Road
Silver Spring, Maryland 20910-4171

RE: William Coggins
6078 Old Lawyers Hill Road

Dear Bill:

With respect to our telephone conversation last week and further clarification of the required changes to Mr. Coggins's septic system, the Health Department has provided the following information.

The existing drywell (marked by the second of the two cleanouts) should be excavated and the overflow discharge pipe(s) disconnected. Because the drywell (expected to be 12-15' deep) actually contains enough water to reach the overflow pipe at 3-4' below grade, it is likely that the existing drywell has reached its life expectancy. Continued usage without installation of additional capacity would likely result in the near future in a discharge on the ground surface or inside the house.

In these situations, additional capacity is typically provided by installing a gravel-filled trench of a specified length and depth on level ground and connecting it to the drywell via 4" pipe (e.g. connected at the same location as the overflow discharge pipe). This trench design is a standard repair methodology used routinely in Howard County. Because soil conditions are unknown, actual length and depth would be determined in the field upon excavation of the soil. The expected costs, depending on soil and other site conditions, is \$2,000-3,000. The Health Department's septic system repair permit fee is \$25.

William E. Hewitt, Esquire

Page 2

February 3, 2003

A list of septic contractors can also be provided if desired. If any other information is requested, please advise. Please call me as soon as you have had the opportunity to discuss this matter further with your client.

Very truly yours,

HOWARD COUNTY OFFICE OF LAW



Louis P. Ruzzi
Senior Assistant County Solicitor

LPR:cm

cc: Mark Rifkin

Greg Mellon

Barbara M. Cook

Howard County, Maryland

Office of Law

3430 Court House Drive
Ellicott City, Maryland 21043
(410) 313-2100

November 5, 2002

William E. Hewitt, Esquire
Coggins, Harman & Hewitt
Suite 600
8905 Fairview Road
Silver Spring, Maryland 20910-4171

RE: William Coggins
6078 Old Lawyers Hill Road

Dear Mr. Hewitt:

Pursuant to my letter of October 29, 2002, enclosed please find a copy of the videotape taken by the Health Department on October 24, 2002, along with a copy of Mark Rifkin's report.

Please call me once you have had the opportunity to discuss this matter further with your client.

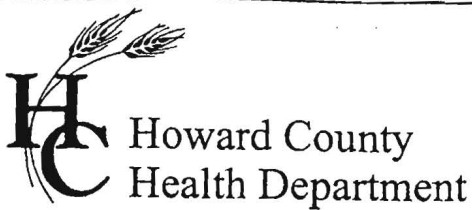
Very truly yours,

HOWARD COUNTY OFFICE OF LAW



Louis P. Ruzzi
Senior Assistant County Solicitor

LPR:cm
cc: Mark Rifkin
Greg Mellon
Barbara M. Cook




3525 H Ellicott Mills Drive • Ellicott City, MD 21043
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TDD (410) 313-2323 Toll Free 1-866-313-6300
website: www.hchealth.org

Penny E. Borenstein, M.D., M.P.H., Health Officer

October 31, 2002

MEMORANDUM

TO: Lou Ruzzi, Office of Law

FROM: Mark Rifkin 
Well and Septic Program

RE: Video Camera Test of Discharging Sewage line
6064 ~~6078~~ Old Lawyers Hill Road
Strow/Wensil Property

On Thursday, October 24, 2002, at my request, a County Utilities crew performed a video camera test of a discharging sewer line at the referenced property. The Health Department has been investigating the source of the sewage discharge and the Coggins residence is immediately uphill of the referenced property.

On the referenced date, a cable attached to a video camera was inserted in the discharging pipe at a location within five feet of the common property boundary. The resulting images were recorded on video tape with narration provided by a County Utilities employee.

The camera was able to be inserted approximately 67 feet before an immovable blockage was encountered. The camera also revealed the pipe is straight with a few locations of damage.

After encountering the blockage, County Utilities staff used a homing beacon to pinpoint the location of the cable from the ground surface and marked the cable's path with dots of white paint. The beacon revealed the path of the pipe is directly toward the existing drywell on Mr. Coggins' property, and that the blockage is approximately ten to fifteen feet from the drywell cleanout.

This confirms beyond all reasonable doubt that the source of the sewage discharging through the referenced pipe is from the drywell on Mr. Coggins' property.

MR
cc: File

Howard County, Maryland

Office of Law

3430 Court House Drive
Ellicott City, Maryland 21043
(410) 313-2100

October 29, 2002

William E. Hewitt, Esquire
Coggins, Harman & Hewitt
Suite 600
8905 Fairview Road
Silver Spring, Maryland 20910-4171

RE: William Coggins
6078 Old Lawyers Hill Road

Dear Mr. Hewitt:

The purpose of this letter is to confirm the substance of our telephone conversation on Friday, October 25th, which included Mark Rifkin of the Health Department. Mr. Rifkin and I advised you that the Health Department had performed testing on October 24th to determine the source of the sewage that discharges onto the Strow/Wencil property.

This testing involved the use of a small video camera mounted on the end of a cable, an investigative technique frequently used by the County Bureau of Utilities to inspect underground water and sewer lines for possible breaks or obstructions. The cable was then inserted into the previously-excavated end of the pipe, which is located on the Strow/Wencil property near the common property boundary, from which the discharge of raw sewage has been previously observed.

As Mr. Rifkin and I indicated, the test showed that the path of the pipe is a straight line from the excavation on the Strow/Wencil property directly toward the dry well on Mr. Coggins' property. The cable could not be extended beyond a point 67 feet from the excavation due to a blockage in the line; this point is approximately ten to fifteen feet from the dry well cleanout. This testing seems to confirm that the source of the sewage discharging from this pipe is Mr. Coggin's dry well.

You requested a copy of the videotape and Mr. Rifkin's report. These items will be forwarded as soon as copies of the tape and report are completed. You stated that you would review these items, discuss this matter further with your client, and contact the County. As I stated, the County is anxious to have this problem addressed by Mr. Coggins, so that further sewage discharges might be avoided.

William E. Hewitt, Esquire

Page 2

October 29, 2002

Finally, I do want to express once again my apology, on the County's behalf, for its failure to contact you or your client in advance of performing the test. It would have been preferable for you or your client to have had the opportunity to observe the camera test as it was performed. I am sorry this did not occur.

Please call me should you have any questions. I look forward to discussing with you the resolution of this matter once you have reviewed the tape and the Department's summary.

Very truly yours,

HOWARD COUNTY OFFICE OF LAW



Louis P. Ruzzi
Senior Assistant County Solicitor

LPR:cm

cc: Mark Rifkin

Greg Mellon

Barbara M. Cook

Mail Message

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From: Mark Rifkin
To: Greg Mellon, Lou Ruzzi
Date: Friday - July 19, 2002 5:49 PM
Subject: Coggins

To: Louis P. Ruzzi, Senior Asst. County Solicitor
From: Mark Rifkin
CC: Gregory Mellon
Date: 7/19/2002
Re: Coggins, 6078 Old Lawyers Hill Rd.

The on-site meeting between myself (with another inspector, Dan Driscoll, present), Mr. Strow, Mr. Coggins and Mr. Hewitt was conducted this morning to analyze the excavation Mr. Strow dug on his side of the property line. The trench dug by Mr. Strow is approximately 24-30" deep, four to five feet in length, and was half full of black liquid. The pipe was visible, appeared to be terra cotta and was actively discharging into the trench. The liquid appeared to be in appearance and smell, sewage.

Mr. Coggins and Mr. Hewitt disagreed with the Health Department and/or Mr. Strow on the following:

- 1) despite Mr. Strow's position that the trench is within two-to-three feet of the property line, Mr. Coggins thinks the excavation is approximately 15 feet from the property line, and is therefore not consistent with the stipulations of the meeting of September 4, 2001;
- 2) that the outcome of the September meeting at your office was that if a pipe is found to be in close proximity to his property line he (Coggins) would unearth it and follow it to its source. Hewitt showed me your confirmation letter to him, and I was unable to defend our belief in his obligation;
- 3) that the water in the trench is sewage, despite the extremely dark color and odor generated when the water was disturbed;
- 4) that Coggins is under any obligation whatsoever to determine the source of the water in the pipe, despite the obvious direction of the pipe. They asserted that the obligation to fix any pipe discharge is Mr. Strow's, since the pipe is on Mr. Strow's property, and according to their interpretation of real estate law, Mr. Strow essentially "bought" whatever problems may exist there. Additionally, according to their interpretation of septic system operation, Coggins' system is operating normally, and therefore, the pipe cannot be connected to his system.

Mr. Coggins declared that the issue "will end up in court" because he will sue Mr. Strow for "defamation of character".

Given that the liquid is very much sewage in quality and that the pipe is nearly at his property line, the non-compliance of Mr. Coggins must now proceed to further legal action on our part.

Please advise what your thoughts or actions are at this point. I will be out of the office the week of July 29 through August 2, 2002.

Thanks,
Mark Rifkin

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WILLIAM E. HEWITT, JR.

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WASHINGTON, D.C. 20005-5701

VIRGINIA OFFICE
254A N. WASHINGTON STREET
FALLS CHURCH, VA 22046

July 3, 2002

VIA FACSIMILE
(410) 313-2648

Mr. Gregory S. Mellon
Assistant Director
Howard County Health Department
Bureau of Environmental Health
3525-H Ellicott Mills Drive
Ellicott City, Maryland 21043

Re: William Coggins
6078 Old Lawyers Hill Road

Dear Mr. Mellon:

This will confirm our various phone conversations and acknowledge receipt of your letter dated June 26, 2002. I believe there is some confusion with respect to my previous correspondence to Lou Ruzzi, Esq. When Mr. Coggins and I met with Mr. Ruzzi and representatives of your office on September 4, 2001, this culminated in my letter to Mr. Ruzzi dated September 10, 2001. In that letter we agreed that if the Strows in their excavation process inadvertently crossed Mr. Coggins' property line that he would not maintain an action in trespass. The seven day notice requirement that you keep referencing was nothing more than our request to be given seven days notice before the Strows began the excavation process.

You have construed that letter to mean that you must give us seven days notice to meet on the site. In that regard, almost nine months after we met with your office you fax a letter to us and set an appointment for the morning of July 3, 2002. As I advised I was not available for that meeting and requested that we do it on the afternoon of July 3, 2002. I cleared that date with Mr. Coggins and cleared my calendar for that afternoon in anticipation that that date was the date you wanted to meet. You then advised me that other parties were not available on the afternoon of July 3rd and I can only assume that the Strows were not available. I then left you a voice mail message indicating that I had spoken with Mr. Coggins and that the first available date on my calendar is July 19, 2002 at 2:30 p.m. If necessary I can be available at 8:30 a.m. on July 19, 2002. I advised you that Mr. Coggins is out of town the week commencing July 8, 2002.

RECEIVED
HOWARD COUNTY HEALTH DEPT
ENVIRONMENTAL HEALTH BUREAU
2002 JUL -5 PM 12:58

July 3, 2002
Page Two

You left me a voice mail message stating that the meeting was scheduled for 10:00 a.m. on Monday, July 8, 2002. Notwithstanding our phone conversation I have checked with Mr. Coggins who wants to be present at any meeting and also wants me present.

In view of the fact that so much time has gone by since the original complaint and since our letter of consent to your office dated September 10, 2001 I am wondering why it is that your office is accommodating one property owner over the other. Mr. Coggins and I are willing to meet with you and the Strows on the site but I believe we should have the courtesy of being allowed to have accommodating dates for our schedules as well.

Accordingly, I am available on July 19, 2002 at 8:30 a.m., July 19, 2002 at 2:30 p.m., July 31, 2002 all day, August 2, 2002 at 8:30 a.m. and August 5, 2002 at 8:30 a.m.

If this is not agreeable to you or the Strows I will alter my holiday plans and be available on Friday, July 5, 2002 at 8:30 a.m. Please advise.

Very truly yours,

COGGINS, HARMAN & HEWITT

By: 

William E. Hewitt, Jr.

WEH:ssz

CC: Williams Coggins, Esq.
wehclients\William Coggins\Cor\Mellon-07-03

LAW OFFICES
COGGINS, HARMAN & HEWITT
 A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

SUITE 800
 8908 FAIRVIEW ROAD
 SILVER SPRING, MARYLAND 20910-4171
 (301) 537-8680
 FACSIMILE (301) 406-4990

WILLIAM E. HEWITT, JR.

WASHINGTON OFFICE
 SUITE 300-G STREET LOBBY
 888 14TH STREET, N.W.
 WASHINGTON, D.C. 20005-5701

VIRGINIA OFFICE
 254A N. WASHINGTON STREET
 FALLS CHURCH, VA 22048

July 3, 2002

VIA FACSIMILE
 (410) 313-2648

Mr. Gregory S. Mellon
 Assistant Director
 Howard County Health Department
 Bureau of Environmental Health
 3525-H Ellicott Mills Drive
 Ellicott City, Maryland 21043

Re: William Coggins
 6078 Old Lawyers Hill Road

Dear Mr. Mellon:

This will confirm our various phone conversations and acknowledge receipt of your letter dated June 26, 2002. I believe there is some confusion with respect to my previous correspondence to Lou Ruzzi, Esq. When Mr. Coggins and I met with Mr. Ruzzi and representatives of your office on September 4, 2001, this culminated in my letter to Mr. Ruzzi dated September 10, 2001. In that letter we agreed that if the Strows in their excavation process inadvertently crossed Mr. Coggins' property line that he would not maintain an action in trespass. The seven day notice requirement that you keep referencing was nothing more than our request to be given seven days notice before the Strows began the excavation process.

You have construed that letter to mean that you must give us seven days notice to meet on the site. In that regard, almost nine months after we met with your office you fax a letter to us and set an appointment for the morning of July 3, 2002. As I advised I was not available for that meeting and requested that we do it on the afternoon of July 3, 2002. I cleared that date with Mr. Coggins and cleared my calendar for that afternoon in anticipation that that date was the date you wanted to meet. You then advised me that other parties were not available on the afternoon of July 3rd and I can only assume that the Strows were not available. I then left you a voice mail message indicating that I had spoken with Mr. Coggins and that the first available date on my calendar is July 19, 2002 at 2:30 p.m. If necessary I can be available at 8:30 a.m. on July 19, 2002. I advised you that Mr. Coggins is out of town the week commencing July 8, 2002.

(B01)
 495
 4990
 Mr. Huyett
 {
 Grey
 call him B4
 you re-schedule
 see me.
 End

Strow 7/10
7/19@
8³⁰ or 2³⁰

July 3, 2002
Page Two

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If this is not agreeable to you or the Strows I will alter my holiday plans and be available on Friday, July 5, 2002 at 8:30 a.m. Please advise.

Very truly yours,

COGGINS, HARMAN & HEWITT

By 

William E. Hewitt, Jr.

WEH:ssz

CC: Williams Coggins, Esq.
wcholicnts\William Coggins\Cork\Mellon-07-03

LAW OFFICES
COGGINS, HARMAN & HEWITT
 A PARTNERSHIP OF PROFESSIONAL CORPORATIONS
 SUITE 600
 6806 FAIRVIEW ROAD
 SILVER SPRING, MARYLAND 20910-4171
 (301) 587-2880
 FACSIMILE (301) 490-4990

WASHINGTON OFFICE
 SUITE 600 - G STREET LOBBY
 605 16TH STREET, N.W.
 WASHINGTON, D.C. 20005-8701

VIRGINIA OFFICE
 6844 N. WASHINGTON STREET
 FALLS CHURCH, VA 22046

FACSIMILE TRANSMITTAL SHEET

COMPANY: _____ ATTENTION: Mr Gregory S Mellon
 FAX NUMBER: 410-313-2648 FROM: William E Hewitt, Jr
 RE: William Coggins FILE NUMBER: _____
 NUMBER OF PAGES (INCLUDING COVER SHEET) 3 DATE TRANSMITTED: 7/3/02
 OPERATOR: Sherri

- URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY

NOTES/COMMENTS:

THE INFORMATION TRANSMITTED BY THIS FACSIMILE IS CONSIDERED ATTORNEY PRIVILEGED AND CONFIDENTIAL. IT IS INTENDED FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU SHOULD BE AWARE THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU.

LAW OFFICES
COGGINS, HARMAN & HEWITT
A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

SUITE 800
6908 FAIRVIEW ROAD
SILVER SPRING, MARYLAND 20910-4171
(301) 587-8860
FACSIMILE (301) 498-4990

WILLIAM E. HEWITT, JR.

WASHINGTON OFFICE
SUITE 330-G STREET LOBBY
688 18TH STREET, N.W.
WASHINGTON, D.C. 20006-8701

VIRGINIA OFFICE
254-A N. WASHINGTON STREET
FALLS CHURCH, VA 22048

July 3, 2002

VIA FACSIMILE
(410) 313-2648

410796

1867

Mr. Gregory S. Mellon
Assistant Director
Howard County Health Department
Bureau of Environmental Health
3525-H Ellicott Mills Drive
Ellicott City, Maryland 21043

Re: William Coggins
6078 Old Lawyers Hill Road

Dear Mr. Mellon:

This will confirm our various phone conversations and acknowledge receipt of your letter dated June 26, 2002. I believe there is some confusion with respect to my previous correspondence to Lou Ruzzi, Esq. When Mr. Coggins and I met with Mr. Ruzzi and representatives of your office on September 4, 2001, this culminated in my letter to Mr. Ruzzi dated September 10, 2001. In that letter we agreed that if the Strows in their excavation process inadvertently crossed Mr. Coggins' property line that he would not maintain an action in trespass. The seven day notice requirement that you keep referencing was nothing more than our request to be given seven days notice before the Strows began the excavation process.

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Our conversation for the 2nd your secretary on 7/2 said you had a cancellation for the 3rd in the A.M.

Subsequent to your wish to cancell the 3rd in the A.M.,

spoke w/ Strow on 7/5/02 @ 9 AM.



HOWARD COUNTY HEALTH DEPARTMENT

Bureau of Environmental Health
3525-H Ellicott Mills Drive, Ellicott City, Maryland 21043-4544
(410) 313-2640 FAX (410) 313-2648
TDD (410) 313-2323 Toll Free 1-877-4MD-DHMH

Penny E. Borenstein, M.D., M.P.H., Acting County Health Officer

June 26, 2002

VIA MAIL AND FACSIMILE: (301)495-4990

William E. Hewitt, Esquire
Coggins, Harman & Hewitt
Suite 600
8905 Fairview Rd.
Silver Spring, Maryland 20910-4171

Re:William Coggins
6078 Old Lawyers Hill Road

Dear Mr. Hewitt:

This is a follow-up letter to the September 5, 2001, letter regarding the excavation work near the boundary of your property and the Strow's property. As noted in that letter, we are contacting you to schedule the meeting at the site for July 3, 2002, at 9:30 A.M. This office and the Strow's will be present to further the evaluation of the possible source of the overflow.

Sincerely,

Gregory S. Mellon
Assistant Director
Bureau of Environmental Health

Cc: Louis P. Ruzzi
William N. Coggins

From: Lou Ruzzi
To: Mellon, Greg
Date: 6/25/02 12:38PM
Subject: Re: Coggins/VanWenzed/Strow-Lawyers hill

- 1) No, I did not send the file copy attached to Mark's memo to the Stroh's. I did not understand from Mark's memo that I was to forward this copy to the Stroh's. Sorry about that. Although I think the file is disclosable under the Md. Public Info Act, you should consider the AG's office, rather than the County Solicitor, as your legal advisor on this type of disclosure issue.
- 2) Yes, you should advise Coggins immediately, in writing, with a copy to his lawyer, that the excavation work already has been performed and, explain that, due to a miscommunication on my part, the Wencil/Stroh, was not advised of Mr. Coggins' desire for prior notice before digging.
- 3) Unless there is some health-related urgency requiring immediate inspection, I would suggest trying to arrange for both Coggins & Stroh/Wencil to be present for your site inspection. (I would suggest including a proposed date and time in your letter to Coggins, with a copy to Wencil/Stroh.) Any idea from Van as to how long Coggins will be away ?? In the interim, perhaps the hole could be covered in some way to limit mosquitoes? LOU

>>> Greg Mellon 06/25/02 11:50AM >>>

Sorry I was wordy in the V-mail but I am looking to answer the following

- 1] Did you send the Strow's the file Mark sent you with the legal correspondence back in March, 2002?
- 2] Should we send or call Coggins or his attorney as you said we would in the Sept 5,2001 letter, given that the Strow's have already dug the hole and it is full of water.
- 3]Should we visit the site without the Coggins people.

If you sent the file to the Strow's then they were advised about the one week notice by way of a copy of the letter, and then it is a case of sticking to the protocol outline in that letter or taking advantage of the situation presented to us. The Strow conversation today stated that the water is a mosquito breeding area!

Please call me at X1771 Thanx, Greg

CC: Nixon, Bert; Skinner, Frank

6/25/02 /

410-796-1867

MIS Van Winsell =

contains liquid 2 feet
of water

= 3 ft hole deep
4 ft hole x 3 feet

= and the terra cotta pipe is exposed but
is @ 36 inches (under 1 ft of water)

is located at the ^{front} line per their idea and
old lady next door, void (previous owner

(9:30 - 10:00) schedule to meet on 6/26/02

She did not call us until hole was
dug since they have been digging for last
four days.

3 1/2 x 6 long + 1 1/2 wide




HOWARD COUNTY HEALTH DEPARTMENT

Bureau of Environmental Health
3525-H Ellicott Mills Drive, Ellicott City, Maryland 21043-4544
(410) 313-2640 FAX (410) 313-2648
TDD (410) 313-2323 Toll Free 1-877-4MD-DHMH

Penny E. Borenstein, M.D., M.P.H., Acting County Health Officer

MEMORANDUM

TO: Louis P. Ruzzi, Esquire
Senior Assistant County Solicitor
3430 Courthouse Drive
Ellicott City, Maryland 21043

FROM: Mark Rifkin, Registered Sanitarian 
Howard County Environmental Health

DATE: March 14, 2002

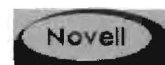
RE: William Coggins
6078 Old Lawyers Hill Road
Elkridge, Maryland

Dear Mr. Ruzzi:

Enclosed please find a copy of the file we have on the referenced property. Please review the content and advise as to whether we should send a copy for public review to Ms. Wensil. Thank you for your help in this matter.

attachment

Mail Message



Close

Previous

Next

HOWARD COUNTY HEALTH DEPARTMENT

Delete

Properties

From: Lou Ruzzi**To:** Mark Rifken *Diane L. Matuszak, M.D., M.P.H., County Health Officer***CC:** Greg Mellon, Barbara Cook**Date:** Friday - September 28, 2001 5:29 PM**Subject:** Re: Coggins

Mark:

I am not comfortable with the idea of taking Coggins to court just to show that the County is "doing something/anything, to further the process," especially where there are questions of whether there is sewage being discharged and, if so, proving the source of the discharge. I understand that Coggins does not know of MDE's inspection & opinion, but there is no doubt that this info would come out at some point during the court process, probably during your cross-exam. Our chances of prevailing are nil if an MDE official, trained as an expert in identifying sewage, concludes that he did not believe there is a sewage discharge occurring. As for the "DPW idea," our authority to use County personnel/equipment to locate the pipe on private property is non-existent. Our options are few: 1) approach Coggins for permission to do the dye test, smoke test, or other means of pinpointing his septic as the discharge source; or 2) suggesting that the Stroh's proceed with digging the discharge pipe back to the property line. Also, we need to confirm that the substance is, in fact, fecal matter.

LOU

>>> Mark Rifken 09/28/01 09:37AM >>>

Lou,

RE: the DPW idea:

that "the MDE official inspected & did not believe that the discharge is sewage" may be important, but Coggins does not know of his inspection;

that "Coggins might be setting us up to be a party to a lawsuit with the Stroh's, in what amounts to a neighborhood dispute" is a possibility, but the use of DPW equipment and personnel was my idea.

<<Are there any other tests that can be done to determine whether there is a sewage discharge - I know the original dye test was inconclusive 7 yrs. ago - does Health or MDE have any other means to test?>>
No tests are known to be reliable and effective, even though Van Wensil suggests otherwise. Greg disputes her assertion. And we never did a dye test--we did a smoke test (which was inconclusive). We can do a dye test, but again, we put ourselves in the same "box" as we did with the smoke test: If we don't observe dye, that doesn't mean we don't have a sewage discharge.

Given these obstacles, I suggest we go to court. We need to do something--anything to further this process.

Mark

Bureau of Environmental Health

3525-H Ellicott Mills Drive • Ellicott City, Maryland 21043-4544

Water and Sewerage, Permits (410) 313-1771 Community Environmental Health Program (410) 313-1773

(410) 313-2640, TDD (410) 313-2323 TOLL FREE - 1-877-4MD-DHMH

http://172.16.64.232/servlet/webacc?action=Item.Read&User.context=iwqqUgjmddGq&It... 10/19/2001

FAX TRANSMISSION

OFFICE OF LAW
3430 Courthouse Drive
Ellicott City, MD 21043
410-313-2104
Fax: 410-313-3292

To: Mark Rifkin
Environmental Health

Date: September 13, 2001

Fax #: (410) 313-2648

Pages: 3, including this cover sheet

From: Louis P. Ruzzi
Senior Assistant County Solicitor

Subject: William Coggins, 6078 Old Lawyers Hill Road, Elkridge, MD

Please see attached. Call me after you have had an opportunity to read this.

The information contained in this facsimile message is confidential and, if addressed to our client or certain counsel, is subject to the attorney-client or work product privilege, and is intended only for the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS PROHIBITED. If you have received this communication in error, please notify us immediately by telephone at the above number, and return the original message to us at the above address via the U.S. Postal Service.

LAW OFFICES
COGGINS, HARMAN & HEWITT
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SUITE 800
 8000 FAIRVIEW ROAD
 SILVER SPRING, MARYLAND 20910-3171
 (301) 587-0880
 FACSIMILE (301) 493-4880

WILLIAM E. HEWITT, JR.

WASHINGTON OFFICE
 SUITE 300-G STREET LOBBY
 855 15TH STREET, N.W.
 WASHINGTON, D.C. 20007-5701

VIRGINIA OFFICE
 254A N. WASHINGTON STREET
 FALLS CHURCH, VA 22048

September 10, 2001

Lou Ruzzi, Esq.
 Office of Law, Howard County
 3430 Courthouse Drive
 George Howard Building
 Ellicott City, MD 21043

Re: Notice of Violation directed to William Coggins
 6078 Old Lawyers Hill Road
 Elkridge, MD 21075

RECEIVED
 01 SEP 12 AM 11:15
 HOWARD COUNTY
 OFFICE OF LAW

FOR SETTLEMENT PURPOSES ONLY

Dear Mr. Ruzzi:

This will acknowledge our conference of September 4, 2001 with representatives of the Howard County Health Department and receipt of your letter of September 5, 2001. In 1994 identical issues were raised by the Health Department regarding the source of alleged sewage on property owned by the Strows. After Mr. Coggins consented to testing, the 1994 Notice of Violation was dismissed as the source of the alleged sewage could not be identified.

Now, seven (7) years later a similar complaint is being lodged. At the meeting on September 4, 2001 Mr. Coggins stated that he has been assured that the pipe which is located on the Strows' property is not an overflow pipe from his septic tank system. It is also my understanding that after the 1994 incident the Strows buried the existing pipe on their property.

In order for Mr. Coggins to satisfy you and the Health Department's concern that the alleged pipe is not an overflow pipe from his existing septic system, the Strows will excavate and expose the existing pipe on their property to the boundary line of their property with Mr. Coggins' property. If in doing this work they inadvertently cross Mr. Coggins' property he will not maintain any action of trespass for that limited entry.

There are legal issues and claims that affect adjoining landowners in this matter and Mr. Coggins is not waiving any rights or causes of action he may have against the owners of adjoining properties by allowing any inadvertent intrusion as stated above.

September 10, 2001

Page Two

This letter is for settlement purposes only and is not to be deemed an admission of liability on the part of Mr. Coggins. Please advise me and my client as to when this work is to be scheduled. We would like to have at least a weeks notice.

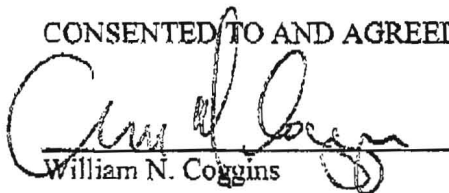
Very truly yours,

COGGINS, HARMAN & HEWITT

By: 

William E. Hewitt, Jr.

CONSENTED TO AND AGREED:


William N. Coggins

WEH:ssz

weh\clients\William Coggins\Cor\Ruzzi-09-10

Howard County, Maryland

Office of Law

3430 Court House Drive
Ellicott City, Maryland 21043
(410) 313-2100

September 5, 2001

VIA MAIL AND FACSIMILE: (301) 587-2880

William E. Hewitt, Esquire
Coggins, Harman & Hewitt
Suite 600
8905 Fairview Road
Silver Spring, Maryland 20910-4171

RE: *William Coggins*
6078 Old Lawyers Hill Road

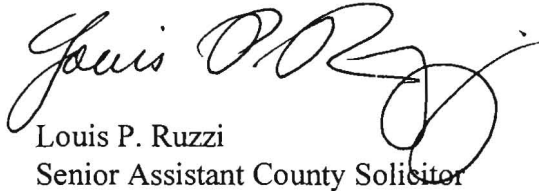
Dear Mr. Hewitt:

The purpose of this letter is to request written confirmation of the understanding reached yesterday regarding Mr. Coggins' consent to allow entry onto his property by the adjacent property owners, the Strows. The scope of this consent is limited to entry as needed to perform the digging or excavation work on or near the boundaries of the two properties, as discussed at yesterday's meeting. Mr. Coggins verbally agreed that he would not raise an issue of trespassing in connection with this work. As we also discussed, the Health Department will be in contact with the Strows regarding the scheduling of this work and will advise you when it is to be performed.

Please have your client sign below to confirm his consent to entry onto his property for the purpose stated above.

Very truly yours,

HOWARD COUNTY OFFICE OF LAW


Louis P. Ruzzi
Senior Assistant County Solicitor

LPR:cm
cc: Mark Rifkin

I hereby agree to allow entry onto my property at 6078 Old Lawyers Hill Road for the limited purpose described above.

William N. Coggins

Beut

LAW OFFICES
COGGINS, HARMAN & HEWITT
A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

SUITE 600
8905 FAIRVIEW ROAD
SILVER SPRING, MARYLAND 20910-4171
(301) 587-2880
FACSIMILE (301) 495-4990

WILLIAM E. HEWITT, JR.

WASHINGTON OFFICE
SUITE 330 - G STREET LOBBY
855 15TH STREET, N.W.
WASHINGTON, D.C. 20005-5701

VIRGINIA OFFICE
254A N. WASHINGTON STREET
FALLS CHURCH, VA 22048

August 29, 2001

Howard County Health Department
Bureau of Environmental Health
3525-H Ellicott Mills Drive
Ellicott City, Maryland 21043

Re: Notice of Violation 08/20/01
6078 Old Lawyers Hill Road
Tax Map 32, Parcel 55
Owner: William N. Coggins
6078 Old Lawyers Hill Road
Elkridge, MD 21075

Gentlemen:

Enclosed please find Request for Formal Hearing pursuant to a Notice of Violation dated August 20, 2001. As attorney for the property owner I have contacted Lou Ruzzi, Esq. and an informal meeting has been scheduled. Please do not schedule a hearing until both sides have had an opportunity to informally discuss the issues.

Very truly yours,

COGGINS, HARMAN & HEWITT

By: 
William E. Hewitt, Jr.

WEH:ssz

Enclosure

wehclients\William Coggins\Cor\HwdCty-08-29

LAW OFFICES
COGGINS, HARMAN & HEWITT
A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

SUITE 600
8905 FAIRVIEW ROAD
SILVER SPRING, MARYLAND 20910-4171
(301) 587-2880
FACSIMILE (301) 495-4990

WILLIAM E. HEWITT, JR.

WASHINGTON OFFICE
SUITE 330 - G STREET LOBBY
655 15TH STREET, N.W.
WASHINGTON, D.C. 20005-5701

VIRGINIA OFFICE
254A N. WASHINGTON STREET
FALLS CHURCH, VA 22046

August 29, 2001

Howard County Health Department
Bureau of Environmental Health
3525-H Ellicott Mills Drive
Ellicott City, MD 21043-4544

Re: Notice of Violation 08/20/01
6078 Old Lawyers Hill Road
Tax Map 32, Parcel 55
Owner: William N. Coggins
6078 Old Lawyers Hill Road
Elkridge, MD 21075

REQUEST FOR FORMAL HEARING

Pursuant to the Notice of Violation dated August 20, 2001 the property owner requests a formal hearing in this matter.

Very truly yours,

COGGINS, HARMAN & HEWITT

By: 

William E. Hewitt, Jr.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Request for Formal Hearing was mailed, postage prepaid, this 29th day of August, 2001 to: Lou Ruzzi, Esq., Office of Law, Howard County, 3430 Courthouse Drive, George Howard Building, Ellicott City, MD 21043 and to Mark E. Rifkin, R.S., Water & Sewerage Program, Bureau of Environmental Health, 3525-H Ellicott Mills Drive, Ellicott City, MD 21043.


William E. Hewitt, Jr.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. William Coggins
6078 Old Lawyers Hill Road
Elkridge, MD 21075

2. Article Number (Copy from service label)

7000 0600 0026 9093 8123

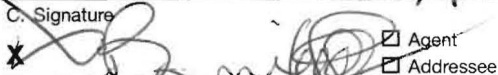
COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

8/22/01

C. Signature

 Agent
 Addressee

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below. No

3. Service Type

- Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

- Sender: Please print your name, address, and ZIP+4 in this box •

**Howard County Health Department
Bureau of Environmental Health
3525-H Ellicott Mills Drive
Ellicott City, MD 21043**



Coggins, Harman & Hewitt
8905 Fairview Road, Suite 600
Silver Spring, MD 20910
301-587-2880 phone
301-495-4990 fax
chhlaw587@aol.com
www.chhlawoffice.com

Fax

To: Mark E. Rifkin, R.S.

From: William N. Coggins

Fax: 1-410-313-2648

Pages: 34

Phone: 1-410-313-1771

Date: August 24, 2001

Re: William N. Coggins

CC:

File No:

Urgent For Review Please Comment Please Reply Please Recycle

PLEASE SEE ATTACHED.

THE INFORMATION TRANSMITTED BY THIS FACSIMILE IS CONSIDERED ATTORNEY PRIVILEGED AND CONFIDENTIAL. IT IS INTENDED FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU SHOULD BE AWARE THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU.

LAW OFFICES
COGGINS, HARMAN & HEWITT
A PARTNERSHIP OF PROFESSIONAL CORPORATIONS
SUITE 600
8905 FAIRVIEW ROAD
SILVER SPRING, MARYLAND 20910-4171
(301) 587-2880
FACSIMILE (301) 495-4990

WILLIAM N. COGGINS

WASHINGTON OFFICE
SUITE 330 - G STREET LOBBY
655 15TH STREET, N.W.
WASHINGTON, D.C. 20005-5701

VIRGINIA OFFICE
254A N. WASHINGTON STREET
FALLS CHURCH, VA 22046

August 24, 2001

Via Fax and First Class Mail

Mark E. Rifkin, R.S.
Water & Sewerage Program
Bureau of Environmental Health
3525-H Ellicott Mills Drive
Ellicott City, MD 21043-4544

Re: Notice of Violation Directed to William Coggins
6078 Old Lawyers Hill Road
Elkridge, MD 21075

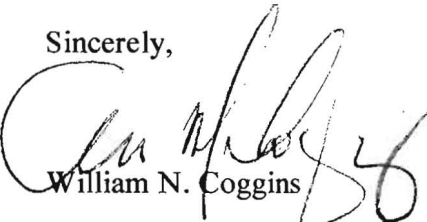
Dear Mr. Rifkin:

Although I disagree with the "facts" and conclusions stated in your letter to me dated August 20, 2001, I have this date had the septic tank on the above-referenced property pumped by Jack Fyock --Septic Service, Inc., P.O. Box 89, Tridelphia Road, Glenelg, MD 21737. I enclose herewith a copy of both sides of their card, the reverse of which was signed on behalf of the company by Don Martin indicating that he in fact pumped the septic tank today and was paid by check number 2073.

Earlier today, I had the opportunity to speak with Lou Ruzzi of the Office of Law, Howard County, Maryland and am forwarding him copies of this correspondence together with the enclosures. As I proposed to you, I likewise requested of Mr. Ruzzi that a meeting between us occur sometime next week. In that regard, we all have agreed to check our schedules to determine the time and date of that meeting.

I look forward to meeting with you on this matter.

Sincerely,


William N. Coggins

cc: ✓ Lou Ruzzi, Esquire
Office of Law, Howard Co. Maryland
William E. Hewitt, Esquire
Coggins, Harman & Hewitt



Phone 988-9270 • 531-2939

Fax # 410-531-1256

Jack Fyock Septic Service, Inc.

SEPTIC PUMPING INSTALLED AND REPAIRS

Complete Sewer and Drain Service

P.O. Box 89, Tridelphia Rd.

Glenelg, MD 21737

Pumped septic tank at
6078 Old Lawyers
Hill on 8-24-07
For Mr. Coggins CK-#
2073
P.D. Jim Martin

LAW OFFICES
COGGINS, HARMAN & HEWITT
A PARTNERSHIP OF PROFESSIONAL CORPORATIONS
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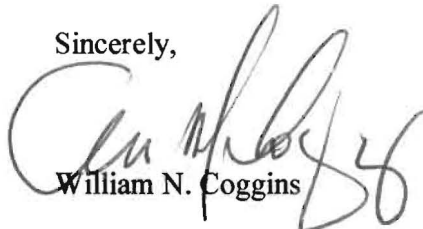
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Sincerely,



William N. Coggins

cc: Lou Ruzzi, Esquire
Office of Law, Howard Co. Maryland
William E. Hewitt, Esquire
Coggins, Harman & Hewitt

9/4/01 MTG W/COGGINS + HIS LAWYER^(HEWITT) @ OFFICE OF
LAW; AFTER 60-90 min THEY FINALLY AGREED
MR TO INVESTIGATE ANY PIPE ON COGGINS PROPERTY
ONCE STROW DIGS PIPE TO LOT LINE TO
w/ VERIFY THAT PIPE ACTUALLY EXTENDS TO LOT LINE
Greg (AND BY EXTENSION ONTO COGGINS' PROPERTY)
Mellon



HOWARD COUNTY HEALTH DEPARTMENT

Diane L. Matuszak, M.D., M.P.H., County Health Officer
August 20, 2001

Mr. William Coggins
6078 Old Lawyers Hill Road
Elkridge, MD 21075

RE: **NOTICE OF VIOLATION**
Overflowing Septic System
6078 Old Lawyers Hill Road
Tax Map 32, Parcel 55

Dear Mr. Coggins:

On August 9, 2001, as a registered sanitarian from this office, I conducted an inspection at the boundary between your property at the referenced address and an adjacent property in response to a report of an overflowing septic system. On that date, I observed sewage discharging out of the ground at a location approximately five to ten feet downhill of your property boundary.

This condition is in violation of Section 12.110 of the Howard County Code.

As the sewage discharge creates a condition, which is, or may be, hazardous to the public health you are hereby ordered to immediately effect repairs within fifteen days of receipt of this letter. Since the installation of a drainfield is believed to be necessary, you must also apply to this office for a septic system repair permit, the fee for which is \$25.00. **You must immediately (within 48 hours) provide documentation to this office that the septic tank contents have been pumped by a licensed sewage scavenger. Until repairs are completed, you must continue pumping, as often as necessary, to prevent future sewage overflows. Depending on water usage and other factors, this may be as often as once or twice weekly.**

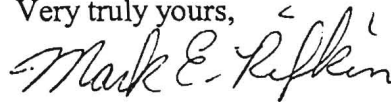
In 1994, attempts were made to address this issue, but the source of the discharge could not be confirmed at that time. Although this office issued a letter withdrawing the Notice of Violation, that letter stipulated that there would be no "further investigation of this matter as long as there is no further discharge." This office has been able to observe the cessation of the discharge after a request was issued to pump your septic tank, but the discharge was observed to recur after a brief period. This suggests a cause-and-effect relationship: pumping the tank relieves the pressure on the drainfield, thereby temporarily ceasing the discharge, but since the septic tank has a limited capacity, the discharge recurs after the septic tank fills with water (about one week). Since the discharge is believed to be an overflow line from the drainfield, the only permanent solution is disconnection of this overflow line and installation of any necessary drainfields.

If you believe that the condition described above is not and could not be a hazard to health, or that the Health Department is not acting in compliance with pertinent laws and regulations, you may request a formal hearing before the Board of Health within ten (10) days of receipt of this letter. If you wish to discuss the evidence, the regulations, or your individual circumstances, you are encouraged to request a meeting with us by calling (410) 313-2640 and scheduling an appointment.

The investigation of this complaint and the enforcement powers of the Health Department are set forth in Section 12 of the Howard County Code, a copy of which is available for your investigation at this office. Be advised that failure to abate the discharge could result in future court action or other penalties.

If you have any questions, please contact me at (410) 313-2640.

Very truly yours,

A handwritten signature in cursive script that reads "Mark E. Rifkin".

Mark E. Rifkin, R.S.

Water & Sewerage Program

MR

cc: Lou Ruzzi, Office of Law
File

prev. Voris, Dougherty, Simpkinson

REGION _____

AREA _____ RATING _____

ACKNOWLEDGMENT AND CONTROLS	DATE

Howard County Department of Health
BUREAU OF ENVIRONMENTAL HEALTH

DISPOSITION	DATE

RECORD OF INVESTIGATION

LOCATION Old Lawyers Hill Rd ZIP _____

OWNER OCCUPANT Coggins ADDRESS _____ PHONE _____

COMPLAINANT Stow ADDRESS _____ PHONE _____

REASON FOR INVESTIGATION continuing sewage discharge
across property line

RECEIVED BY MR DATE 8/8/01 ASSIGNED TO MR/KG DATE 8/9

DATE OF INVESTIGATION 8/9/01 TIME 3:00 WEATHER very hot & humid

REPORT 8/9/01 MET COMPLAINANT, SEWAGE DISCH. WET,
BUT NOT ACTIVE AT THIS TIME; DISCH LIKELY ACTIVE
EARLY THIS DATE (MR)

DATE SUBMITTED _____ SANITARIAN _____

Click here for a plain text ADA compliant screen.

	Maryland Department of Assessments and Taxation HOWARD COUNTY Real Property Data Search	Go Back View Map New Search Ground Rent
---	--	--

Account Identifier: District - 01 Account Number - 163892

Owner Information

Owner Name:	COGGINS WILLIAM N	Use:	RESIDENTIAL
		Principal Residence:	YES
Mailing Address:	6078 OLD LAWYERS HILL RD ELKRIDGE MD 21075-6923	Deed Reference:	1) / 2800/ 312 2)

Location & Structure Information

Premises Address	Legal Description
6078 OLD LAWYERS HILL RD ELKRIDGE 21075	1.50 ACRES 6078 OLD LAWYERS HILL RD ELKRIDGE

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Group	Plat No:
32	21	55						82	Plat Ref:

Special Tax Areas	Town Ad Valorem Tax Class	A/V, METRO FIRE TAX
--------------------------	----------------------------------	---------------------

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1875	2,730 SF	1.50 AC	

Stories	Basement	Type	Exterior
2	YES	STANDARD UNIT	FRAME

Value Information

	Base Value	Value		
		As Of 01/01/2003	As Of 07/01/2003	As Of 07/01/2004
Land:	83,500	120,470		
Improvements:	84,350	117,840		
Total:	167,850	238,310	191,336	214,822
Preferential Land:	0	0	0	0

Transfer Information

Seller: COGGINS NEIL B	Date: 02/04/1993	Price: \$0
Type: NOT ARMS-LENGTH	Deed1: / 2800/ 312	Deed2:
Seller: COGGINS NEIL B JR	Date: 03/22/1983	Price: \$0
Type: NOT ARMS-LENGTH	Deed1: / 1149/ 285	Deed2:
Seller: SIMPKINSON CHARLES H &	Date: 11/24/1982	Price: \$117,500
Type: IMPROVED ARMS-LENGTH	Deed1: / 1130/ 186	Deed2:

Exemption Information

Partial Exempt Assessments	Class	07/01/2003	07/01/2004
County	000	0	0
State	000	0	0
Municipal	000	0	0

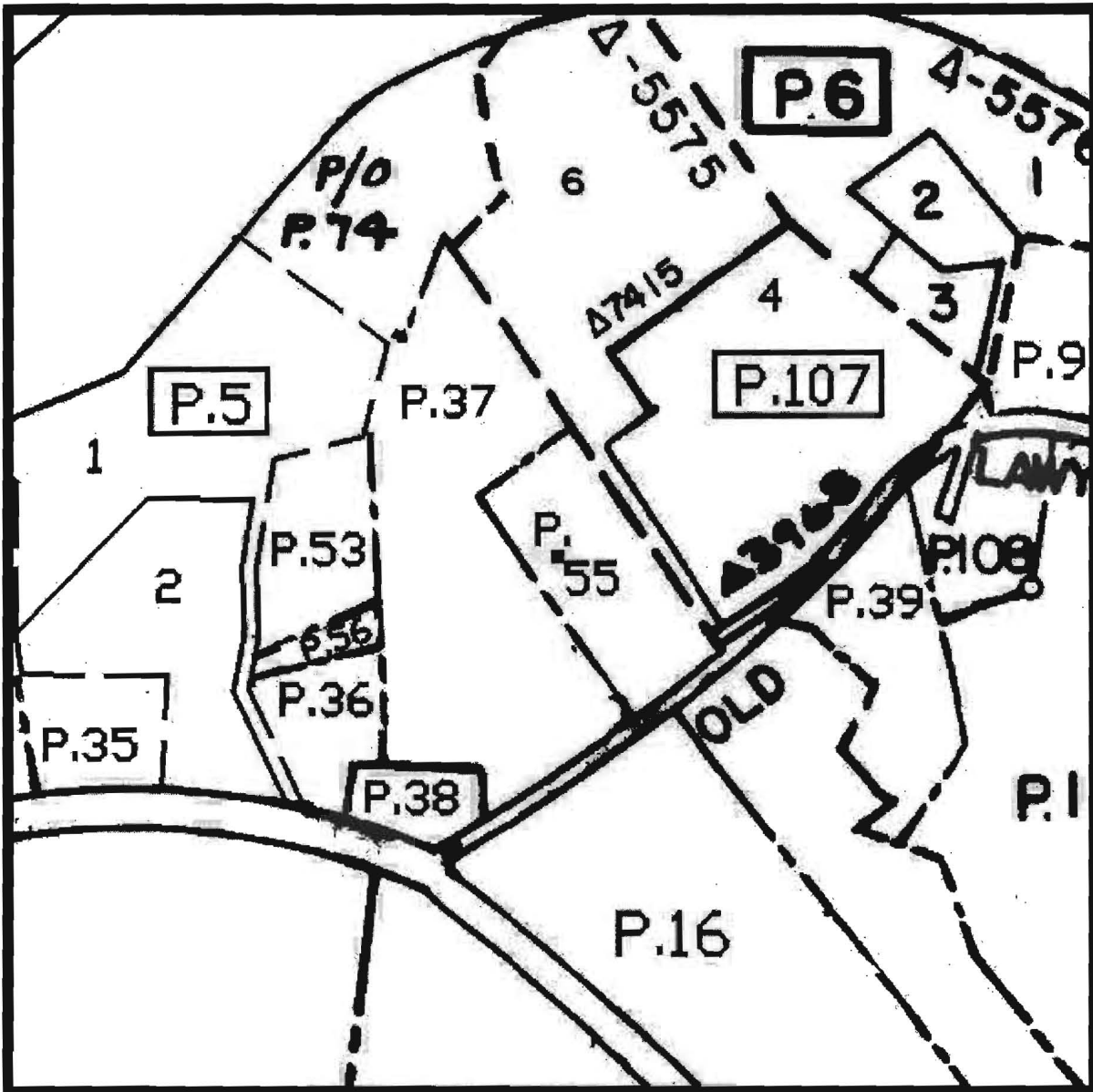
Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

* NONE *

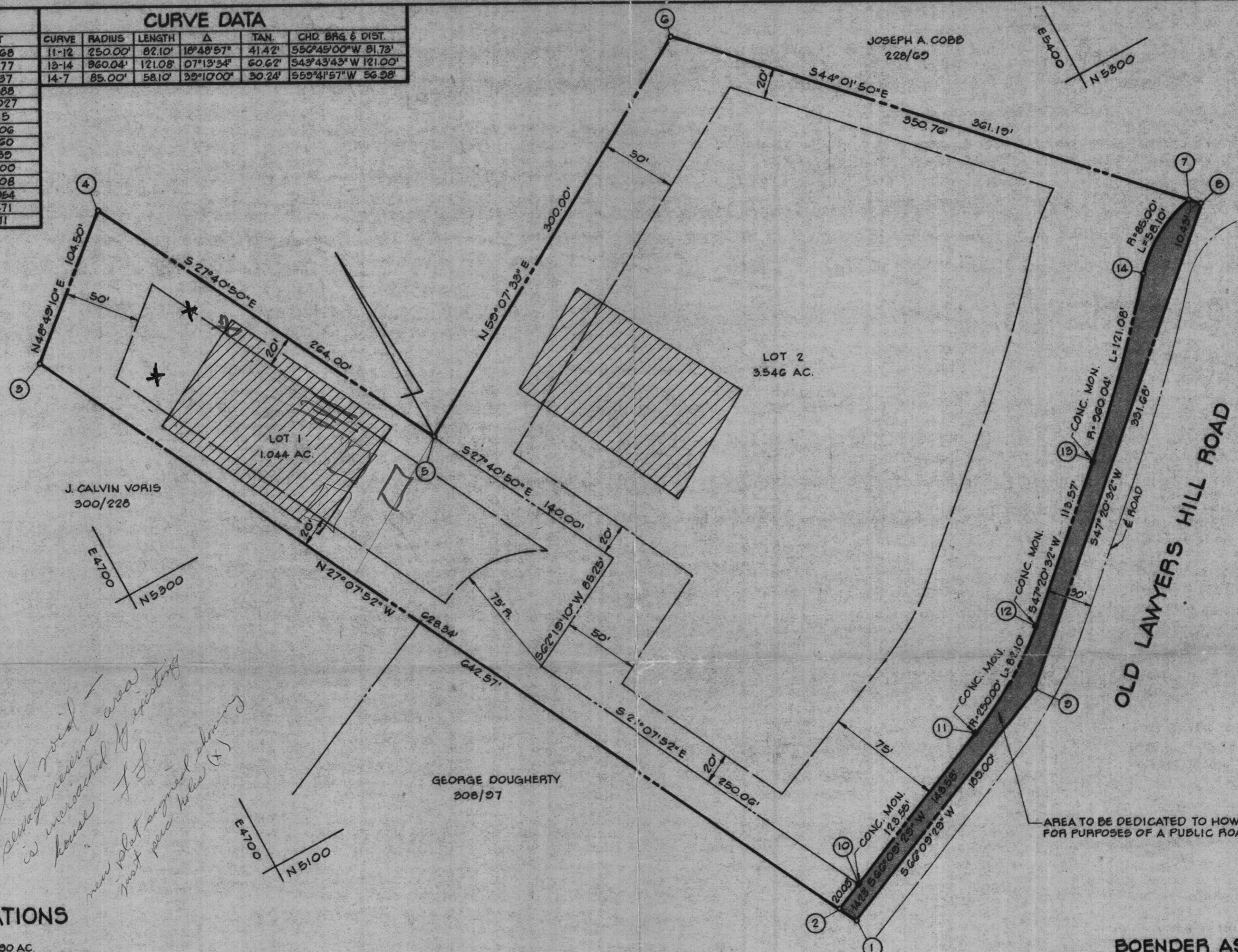
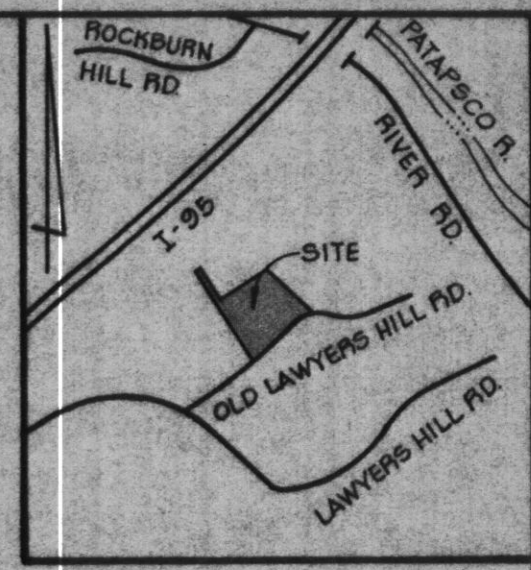


District - 01 Account Number - 163892



Property maps provided courtesy of the Maryland Department of Planning ©2001 - 2002.
For more information on electronic mapping applications, visit the Maryland Department of Planning
web site at www.mdp.state.md.us/webcom/index.html

COORDINATES		CURVE DATA						
NO.	NORTH	EAST	CURVE	RADIUS	LENGTH	Δ	TAN.	CHD BRG & DIST.
1	4867.391	5013.768	11-12	250.00'	82.10'	16°48'57"	41.42'	55°45'00"W 81.73'
2	4900.054	5007.277	13-14	960.04'	121.08'	07°13'54"	60.62'	54°43'43"W 121.00'
3	5459.255	4720.737	14-7	85.00'	58.10'	39°10'00"	30.24'	55°34'57"W 56.28'
4	5528.062	4799.388						
5	5294.277	4922.027						
6	5448.225	5179.515						
7	5196.039	5423.306						
8	5188.536	5430.560						
9	4963.787	5186.639						
10	4908.151	5025.600						
11	4958.093	5195.608						
12	5002.902	5206.954						
13	5079.855	5290.471						
14	5167.291	5374.111						



GENERAL NOTES

- DEED REFERENCE: 390/3
- COORDINATES SHOWN HEREON ARE ASSUMED.
- THIS AREA INDICATES A PRIVATE SEWAGE EASEMENT OF APPROXIMATELY 10,000 SQ. FT. AS REQUIRED BY THE MARYLAND STATE DEPARTMENT OF HEALTH AND MENTAL HYGIENE FOR INDIVIDUAL DISPOSAL IMPROVEMENTS OF ANY NATURE IN THIS AREA ARE RESTRICTED UNTIL PUBLIC SEWAGE IS AVAILABLE AND SERVICING ANY RESIDENTIAL STRUCTURES CONSTRUCTED ON THESE BUILDING SITES THIS EASEMENT SHALL BECOME NULL AND VOID UPON CONNECTION TO A PUBLIC SEWAGE SYSTEM.
- THE LOTS SHOWN HEREON COMPLY WITH THE MINIMUM OWNERSHIP WIDTH AND LOT AREA REQUIRED BY THE MARYLAND STATE DEPARTMENT OF HEALTH AND MENTAL HYGIENE.
- ALL PERC TEST HOLES HAVE BEEN FIELD LOCATED.
- FOR FLAG OR PIPE STEM LOTS, REFUSE COLLECTION, SNOW REMOVAL AND ROAD MAINTENANCE ARE PROVIDED TO THE JUNCTION OF THE FLAG OR PIPE STEM AND THE ROAD RIGHT OF WAY AND NOT ONTO THE FLAG OR PIPE STEM DRIVEWAY.
- SUBJECT TO V.P. 77-77.

Plat void - sewage easement area is encroached by house - new plat signed showing just perc holes (x)

AREA TABULATIONS

- TOTAL NO. OF LOTS: 2
- TOTAL AREA OF LOTS: 4.590 AC.
- TOTAL AREA OF ROAD DEDICATION: 0.190 AC.
- TOTAL AREA OF PLAT: 4.780 AC.

RECEIVED
SEP 21 1977
DIVISION OF LAND DEVELOPMENT
OF HOWARD COUNTY

BOENDER ASSOCIATES, INC.

SUITE 102
TOWN & COUNTRY PROFESSIONAL BLDG.
ELLCOTT CITY, MD. 21045

APPROVED: FOR PRIVATE WATER AND PRIVATE SEWAGE SYSTEMS, HOWARD COUNTY HEALTH DEPARTMENT. <i>Signed by Dr. J. A. ...</i> 10-17-77	DATE
COUNTY HEALTH OFFICER	DATE
APPROVED: HOWARD COUNTY OFFICE OF PLANNING AND ZONING.	DATE
DIRECTOR	DATE
APPROVED: FOR PUBLIC STORM DRAINAGE SYSTEMS AND PUBLIC ROADS, HOWARD COUNTY DEPARTMENT OF PUBLIC WORKS.	DATE
DIRECTOR	DATE

OWNERS STATEMENT

WE, JOHN S. MEHRING AND RUTHE HALL MEHRING, HIS WIFE, OWNERS OF THE PROPERTY SHOWN AND DESCRIBED HEREON, HEREBY ADOPT THIS PLAN OF SUBDIVISION AND IN CONSIDERATION OF THE APPROVAL OF THIS FINAL PLAT BY THE OFFICE OF PLANNING AND ZONING ESTABLISH THE MINIMUM BUILDING RESTRICTION LINES, AND GRANT UNTO HOWARD COUNTY, MARYLAND, ITS SUCCESSORS AND ASSIGNS, 1) THE RIGHT TO LAY, CONSTRUCT AND MAINTAIN SEWERS, DRAINS, WATER PIPES AND OTHER MUNICIPAL UTILITIES IN AND UNDER ALL ROADS AND STREET RIGHT OF WAYS AND THE SPECIFIC EASEMENT AREAS SHOWN HEREON; 2) DEDICATE TO PUBLIC USE THE BEDS OF THE STREETS AND/OR ROADS AND OPEN SPACE AND FLOOD PLAINS WHERE APPLICABLE, AND FOR ONE DOLLAR CONSIDERATION, HEREBY GRANT THE RIGHT AND OPTION TO HOWARD COUNTY TO ACQUIRE THE FEE SIMPLE TITLE TO THE BEDS OF THE STREETS AND/OR ROADS AND OPEN SPACE AND FLOOD PLAINS WHERE APPLICABLE; 3) THAT NO BUILDING OR SIMILAR STRUCTURE OF ANY KIND SHALL BE ERRECTED ON OR OVER SAID DRAINAGE EASEMENTS AND RIGHT OF WAYS AND 4) IT IS FURTHER AGREED THAT MAINTENANCE OF ALL WATERWAYS, DRAINAGE EASEMENTS AND/OR FLOOD PLAINS SHOWN HEREON ARE THE RESPONSIBILITY OF THE PROPERTY OWNER, ITS SUCCESSORS AND ASSIGNS.

WITNESS OUR HANDS THIS 16 DAY OF SEPTEMBER, 1977.

John S. Mehring
Ruthe Hall Mehring

John S. Mehring
Ruthe Hall Mehring

WITNESS

SURVEYORS CERTIFICATE

I HEREBY CERTIFY THAT THE FINAL PLAT SHOWN HEREON IS CORRECT, THAT IT IS A SUBDIVISION OF ALL OF THE LANDS CONVEYED BY C. AILEEN AMES TO JOHN S. MEHRING AND RUTHE HALL MEHRING, HIS WIFE, BY DEED DATED SEPTEMBER 27, 1962 AND RECORDED AMONG THE LAND RECORDS OF HOWARD COUNTY, MARYLAND IN LIBER 300 AT FOLIO 5 AND THAT ALL MONUMENTS ARE IN PLACE AS SHOWN IN ACCORDANCE WITH THE ANNOTATED CODE OF MARYLAND, AS AMENDED.

William G. Hartel 9/19/77
WILLIAM G. HARTEL, P.L.S. NO. 9436 DATE

OWNER & DEVELOPER

JOHN S. MEHRING
6060 OLD LAWYERS HILL ROAD
BALTIMORE, MD. 21227

LOTS 1 AND 2 MEHRING PROPERTY

TAX MAP 32 PARCEL 1B
1ST ELECTION DISTRICT HOWARD COUNTY, MD.
SCALE: 1"=50' SEPTEMBER, 1977