

1 THEY WERE PUT AT THE PIER.

2 Q DID MR. COOK HAVE HIS OWN PIER?

3 A YES.

4 Q THE RAILROAD TIE WALL THAT HELD YOUR LAWN
5 INTACT, WAS THERE ANY TYPE OF WALL THERE BEFORE
6 YOU DID THE RAILROAD TIE WALL?

7 A NO.

8 Q WERE THERE ANY TYPE OF RAILINGS ON THE TOP OF
9 THAT GRASS AREA THAT WAS HELD UP BY THAT
10 RAILROAD TIE WALL?

11 A NO.

12 Q WHILE YOU LIVED ON THE PROPERTY WAS THERE EVER
13 A FENCE ON THE PROPERTY LINE IN THAT AREA
14 BETWEEN YOUR HOUSE AND THE COOK HOUSE. ON THAT
15 SIDE OF YOUR PROPERTY WAS THERE EVER A FENCE?
16 OTHER THAN THE CONCRETE WALL?

17 A NO.

18 Q DID THE COOK FAMILY EVER TELL YOU TO STOP USING
19 THAT AREA BETWEEN YOUR HOUSE AND THE RETAINING
20 WALL THE CONCRETE WALL?

21 MR. CARNEY: OBJECTION. YOU MAY
22 ANSWER.

23 A NO.

24 Q DID YOU EVER TELL THE COOK FAMILY OR EVEN
25 COLLINS, THE COLLINS FAMILY, TO EVER STOP USING

1 THAT AREA?

2 A NO.

3 Q LET ME BACK UP. WHEN MR. AND MRS. COLLINS
4 BOUGHT THE PROPERTY NEXT DOOR TO YOU, YOU WERE
5 STILL LIVING AT 341 WORTON?

6 A YES.

7 Q YOU REMEMBER HOW LONG YOU LIVED THERE WHILE
8 THEY LIVED THERE?

9 A I GUESS FOUR MONTHS. I'M NOT SURE.

10 Q DURING THAT TIME PERIOD, DID THE COLLINS USE
11 THAT RAMP AREA?

12 A NO.

13 Q TO YOUR RECOLLECTION, THEY NEVER USED IT?

14 A NO.

15 Q YOU HAVE ANY IDEA WHAT THE PURPOSE OF THAT WALL
16 --- THE CEMENT WALL WAS THAT WAS PUT UP BEFORE
17 YOU MOVED IN TO 341 WORTON?

18 A I HAD TO ASSUME --- I WOULD BE ASSUMING,
19 BECAUSE I DON'T KNOW. I WOULD ASSUME THAT IT
20 WAS TO KEEP EROSION FROM PILING INTO THE BOTTOM
21 OF HIS PROPERTY TO TRY TO FORCE IT OUT INTO THE
22 WATER.

23 Q HIS PROPERTY BEING MR. COOK'S PROPERTY?

24 A YES.

25 Q DID YOU EVER HAVE ANY DISCUSSIONS WITH THE

1 COOKS ABOUT THE WALL?

2 A THE ONLY DISCUSSION I HAD WITH GEORGE WAS WHEN
3 I WAS GONNA BUILD THE BULKHEAD THE WATER HAD
4 STARTED ERODING AROUND HIS BULKHEAD AND I SAY,
5 "WELL, I'LL TIE IT INTO YOUR BULKHEAD SO THE
6 WATER CAN'T GET DOWN THERE." YOU SEE, IT WAS
7 UNDERMINING HIS BULKHEAD, SO THAT'S WHY, IF YOU
8 SEE THAT THERE'S SOME CURVE IN THIS WHEN I
9 BROUGHT IT BACK TO MEET HIS BULKHEAD.

10 MR. LANZI: FOR THE RECORD, MR. MYERS
11 IS REFERRING TO EXHIBIT "1" OR EXHIBIT
12 "2", DEFENDANT'S EXHIBIT "2" AND
13 POINTING TO THE AREA BETWEEN THE
14 COLLINS PROPERTY AND THE SENEZ
15 PROPERTY.

16 Q CLOSEST TO THE WATER, IS THAT AN ACCURATE
17 DESCRIPTION?

18 A YES.

19 Q ARE YOU REFERRING TO THE BULKHEAD THAT'S
20 CLOSEST TO THE WATER?

21 A YES.

22 Q ALL RIGHT. COULD YOU AGAIN. I KNOW YOU DID IT
23 FOR MR. CARNEY, BUT IF YOU WOULD FOR ME, SHOW
24 ME WHERE YOU BUILT THIS BULKHEAD ALONG YOUR
25 PROPERTY IN THE AREA NEAR THE WATER?

1 A THERE IS A CONCRETE FENCE. A CONCRETE WALL.
2 LOW CONCRETE WALL THAT RUNS THE WHOLE LENGTH OF
3 THE PROPERTY AND CAME DOWN TO THE FRONT ON THE
4 SOUTH SIDE OF THE PROPERTY. I JOINED THAT AND
5 THEN WHEN OUT TO, WHATEVER WAS ALLOWED. AT THE
6 TIME THIS WAS FULL OF RIP RAP WHEN I MOVED IN
7 THERE. SO, THE PILE DRIVER TOOK IT OUT TO THE
8 END OF THE RIP RAP, TOOK IT ACROSS AND BROUGHT
9 IT BACK ON THE INSIDE OR WHAT BE THE SOUTH SIDE
10 OF THE LAUNCHING RAMP AND I WAS GOING TO LEAVE
11 IT THAT WAY.

12 Q WAS THAT REFERRED TO THE, I'LL CALL IT A DOUBLE
13 LINE, ON THE SURVEY?

14 A YES. AND WHAT HAPPENED WAS, THE WATER WAS
15 WASHING OUT GEORGE'S, SO I HAD THIS BUILT TO
16 STOP THAT.

17 Q SO THEN YOU ADDED A BULKHEAD ON THE COOK
18 PROPERTY?

19 A YES. WELL, WE DIDN'T KNOW IT WAS THE COOK'S
20 PROPERTY.

21 Q IN THE AREA SHOWN ON THE SURVEY, WHICH IS ALSO
22 A DOUBLE LINE?

23 A YES.

24 Q WHICH WOULD FALL ON THE COOK SIDE BASED ON THE
25 SURVEY THAT WE'RE LOOKING AT.

1 A IT'S DEPENDING ON WHERE THE END OF THEIR
2 BULKHEAD. NOW, I DON'T KNOW HOW THAT BULKHEAD
3 GOES WITH THE PROPERTY LINE. I WENT TO THE END
4 OF HIS BULKHEAD, WHICH WE ASSUMED WAS THE END
5 OF HIS PROPERTY AND PUT IT IN THERE TO STOP THE
6 WASHOUT.

7 Q WAS THERE A BULKHEAD THERE BEFORE?

8 A NO.

9 Q TO YOUR KNOWLEDGE?

10 A NO.

11 Q NO. OKAY. DID YOU HAVE ANY TYPE OF ZONING
12 HEARINGS WHILE YOU LIVED ON THE PROPERTY, DO
13 YOU RECALL?

14 A I'M SURE THAT THE ONLY THING THE ZONING GOT
15 INVOLVED WITH --- I'M NOT --- NOT THAT I KNOW
16 OF. NOT THAT I REMEMBER. I'M SURE JUST THE
17 OTHER THING WOULD'VE BEEN PERMITS TO DO THE
18 BUILDING AND THE ELECTRIC. IT HAD --- THOSE
19 THINGS WERE STICKING ON THE WALLS, BUT NOT
20 ZONING.

21 Q BEAR WITH ME FOR ONE SECOND. DO YOU REMEMBER
22 ANY TYPE OF NECESSITY TO ASK BALTIMORE COUNTY
23 FOR A VARIANCE WOULD BE FOR YOUR GARAGE, DO YOU
24 RECALL THAT?

25 A YES.

1 Q AND THAT'S FOR THE GARAGE THAT WAS --- THAT'S
2 EXISTING OR WAS EXISTING WHEN YOU SOLD THE
3 PROPERTY?

4 A YES.

5 Q THERE WAS A RUNOFF PROBLEM ON YOUR PROPERTY OR
6 COMING FOR YOUR PROPERTY ONTO THE COOK PROPERTY
7 AT SOME POINT DURING YOUR OWNERSHIP?

8 A NO, IT WAS INTO THE RIVER.

9 Q THE WATER RAN OFF YOUR DRIVEWAY AND INTO THE
10 RIVER?

11 A AT THE POINT --- WHERE ARE WE NOW? ARE YOU
12 HERE?

13 Q JUST IN GENERAL. DID YOU HAVE A RUNOFF PROBLEM
14 WHEN YOU WERE.

15 A YEAH, SURE. THERE WAS A RUNOFF PROBLEM IN THE
16 WHOLE AREA.

17 Q SO, YOU BUILT THE RAILROAD TIE WALL AND THAT
18 HELPED THE EROSION WITH THE LAWN? YOU SAID
19 THAT EARLIER, IS THAT CORRECT?

20 A YES, BASICALLY. YES.

21 Q TO YOUR KNOWLEDGE DID ANY OF THE RUNOFF COMING
22 FROM YOUR PROPERTY END UP IN THE COOK PROPERTY?

23 A I'M SURE IT DID.

24 Q WHEN THE NEW WALL, NEW CONCRETE WALL WAS BUILT
25 WITH THE SLOTS OR THE HOLES IN THERE, DID THAT,

1 IN FACT, CAUSE MORE WATER TO COME INTO THE COOK
2 PROPERTY, IF YOU KNOW?

3 A I DON'T KNOW.

4 Q DON'T KNOW. DID YOU AND MR. OOOK EVER TRY TO
5 DO ANYTHING TO HELP THE RUNOFF, A KINDA MUTUAL
6 THING?

7 A IT'S NOT A MUTUAL THING. I TRIED THE WHOLE
8 TIME I WAS THERE TO STOP IT, BUT THERE'S NO WAY
9 BECAUSE IT CAME OFF OF HIS PROPERTY TO START
10 WITH AROUND THE BACK HERE. IT CAME OFF THIS
11 PROPERTY AND IT FLEW AROUND THE BACK. AND I
12 WAS THE LITTLE SPOT. SO, I GOT THE WATER.
13 THAT WAS THE REASON I PUT A ROAD IN.

14 Q WHEN MR. COOK PUT THE NEW WALL IN WHILE YOU
15 WERE LIVING THERE, DID HE INDICATE WHY HE WAS
16 PUTTING THE NEW WALL?

17 A NO. NOT REALLY. I ASSUMED HE WAS TRYING TO
18 HOLD BACK THE WATER.

19 Q WHEN YOU LIVED AT 341 WORTON, DID YOU HAVE ANY
20 TYPE OF SECURITY CAMERA?

21 A NO.

22 Q OTHER THAN THE FEW EXTERIOR LIGHTS THAT YOU
23 MENTIONED EARLIER, DID YOU HAVE ANY OTHER FLOOD
24 LIGHTS ON THE PROPERTY?

25 A FLOOD LIGHTS? NO.

1 Q DID YOU EVER HAVE ANY LIGHTS THAT ---

2 A SECURITY LIGHTS? NO, I DON'T THINK I DID.

3 Q NO. YOU HAD A LIGHT ON THE BOATHOUSE AREA.

4 A UH-HUH (AFFIRMATIVE RESPONSE).

5 Q AND THEN I BELIEVE YOU SAID YOU HAD A LIGHT BY
6 THE STEPS IN THE BACK?

7 A I THINK WE TOOK THAT OUT AND WE PUT UP A BUG
8 KILLER THERE AND THAT LIGHT IS WHAT LIT IT,
9 BUT, NO, I CAN'T REMEMBER ANYTHING THAT I
10 WOULD'VE PUT IN. I HAD THE HOUSE WIRED. NO.
11 I DIDN'T --

12 Q DID YOU EVER GET ANY COMPLAINTS FROM THE COOKS
13 AS FAR AS THE LIGHTING --- THE OUTDOOR
14 LIGHTING?

15 A NO.

16 Q LET ME SHOW YOU THIS. CAN WE PLEASE GO OFF THE
17 RECORD?

18 **OFF THE RECORD**

19 Q I'M GOING TO SHOW YOU WHAT HAS BEEN MARKED AS
20 PLAINTIFF'S EXHIBIT "2", WHICH YOU HAVE. DO
21 YOU RECOGNIZE THAT PHOTOGRAPH?

22 A NO.

23 Q YOU WOULD NOT SAY THAT IS THE HOUSE THAT YOU
24 LIVED IN AT 341 WORTON?

25 MR. CARNEY: OBJECTION. YOU MAY ANSWER

1 THE QUESTION.

2 A NO.

3 Q THE CONCRETE --- THAT'S FINE, I JUST ---

4 A NO WAY.

5 Q THOUGHT I'D ASK. THE CONCRETE WALL YOU TALKED
6 ABOUT, THAT WAS REPLACED TO YOUR RECOLLECTION
7 ONE TIME WHILE YOU LIVED THERE BY MR. COOK?

8 A YES.

9 Q ARE YOU FAMILIAR WITH DENNIS AND SHARON
10 DANIELCZYK?

11 A DANIELCZYK.

12 Q I'M GOING TO SPELL IT. D-A-N-I-E-L-C-Z-Y-K.

13 A DANIELCZYK.

14 Q DANIELCZYK?

15 A DANIELCZYK.

16 Q AND YOU ARE FAMILIAR WITH THEM?

17 A YES.

18 Q ARE YOUR FRIENDS WITH THEM?

19 A YES.

20 Q ARE THE FAMILY MEMBERS?

21 A NO. THEY'RE COOKS' FAMILY.

22 Q COOKS' FAMILY. WHAT'S THEIR RELATIONSHIP TO
23 THE COOKS?

24 A HIS DAUGHTER.

25 Q DID YOU DO ANY BOATING WITH DANIELCZYK?

- 1 A YES.
- 2 Q DID YOU ACTUALLY SHARE OWNERSHIP OF A BOAT?
- 3 A NO.
- 4 Q YOUR RELATIONSHIP WAS MORE OF A FRIENDLY
5 RELATIONSHIP WHERE YOU WENT BOATING?
- 6 A YES.
- 7 Q DID, I THINK YOU INDICATED EARLIER, IF I'M
8 WRONG --- I MAY BE WRONG, BUT DID YOU INDICATE
9 THAT YOU DID HELP DANIELCZYK GET THEIR BOAT
10 INTO THE WATER THROUGH THE SIDE YARD BETWEEN
11 YOUR HOUSE AND THE COOK HOUSE?
- 12 A AS I RECALL, YEAH. AS I SAID WHEN THEY ---
13 WHEREVER THEY PUT THE BOAT IN WAS WHERE IT WAS
14 CONVENIENT BECAUSE THEY KEPT IT AT THE PIER.
15 IT WASN'T, IT WASN'T LIKE A FISHING BOAT THAT
16 GOES IN EVERY WEEK AND COMES OUT AT NIGHT.
- 17 Q SO, AT THE BEGINNING OF THE SEASON OR AT THE
18 END OF THE SEASON YOU WOULD HELP?
- 19 A YES.
- 20 Q NOW, WHEN YOU SOLD --- WHEN YOU WENT TO GO
21 SELLING YOUR PROPERTY, DID YOU ADVERTISE IT
22 WITH A BOAT RAMP? DO YOU REMEMBER?
- 23 A NO. I DON'T REMEMBER.
- 24 Q WELL, IT WAS YOUR INTENTION OR YOUR
25 UNDERSTANDING THAT YOU WERE SELLING YOUR

1 PROPERTY WITH THE BOAT RAMP?

2 A YES.

3 Q DO YOU RECALL MRS. COLLINS AND MAYBE ONE OF THE
4 COLLINS' GRANDCHILDREN EVER USING THE BOAT RAMP
5 WHILE YOU LIVED AT 341 WORTON?

6 A NO. IT COULD'VE HAPPENED, BUT I DON'T REMEMBER
7 IT.

8 Q DO YOU RECALL SHOWING THE COLLINS' YOU HAD A
9 TRACTOR AND AN OUTBOARD MOTOR. DO YOU RECALL
10 ANY OF THAT AS YOU WERE GOING TO SELL YOUR
11 PROPERTY?

12 A SURE.

13 Q DID YOU GET ALONG WELL WITH THE COLLINS?

14 A YEAH.

15 Q DID YOUR WIFE, I GUESS, I'M TRYING TO
16 UNDERSTAND THE QUESTION. DID YOUR WIFE EVER
17 OFFER MRS. COLLINS USE OF YOUR WATER SOURCE?
18 DO YOU RECALL ANY OF THAT WHERE APPARENTLY MRS.
19 COLLINS NEEDED TO USE YOUR WATER AND HOSE TO
20 HELP WITH THE PLANTING?

21 A I'M SURE SHE WOULD HAVE IF THEY NEEDED IT.

22 Q DO YOU RECALL ANYBODY ELSE USING THE BOAT RAMP
23 OTHER THAN YOURSELF AND THOSE TIMES WHEN YOU
24 HELPED PEOPLE BRING THEIR BOATS INTO THE WATER?

25 A NO.

1 Q AFTER YOU MOVED --- AFTER YOU MOVED FROM 341
2 WORTON, DO YOU RECALL SPEAKING WITH STEVE
3 COLLINS BY PHONE?

4 A YES.

5 Q AT THAT TIME, DO YOU REMEMBER DISCUSSING WITH
6 MR. COLLINS WHY THAT CONCRETE WALL WAS BUILT
7 BETWEEN THE PROPERTIES, BETWEEN YOUR PROPERTY
8 AND THE COLLINS' PROPERTY?

9 A NO.

10 Q WOULD YOU HAVE CATEGORIZED YOUR CONVERSATION,
11 THAT FIRST CONVERSATION, A FRIENDLY
12 CONVERSATION WITH MR. COLLINS?

13 A YES.

14 Q DO YOU RECALL TELLING MR. COLLINS THAT OTHERS
15 ACTUALLY DID USE THE BOAT RAMP INCLUDING MRS.
16 COLLINS?

17 A THAT MRS. COLLINS HAD USED THE BOAT RAMP?

18 Q YES.

19 A I DON'T REMEMBER THAT.

20 Q YOU DON'T REMEMBER THE CONVERSATION OR MRS.
21 COLLINS USING THE BOAT RAMP?

22 A I DON'T REMEMBER MRS. COLLINS USING THE BOAT
23 RAMP.

24 Q DID YOU SPEAK WITH --- FIRST OF ALL, DID YOU
25 SPEAK WITH ANY ATTORNEYS THAT REPRESENT MR.

1 COLLINS, OTHER THAN MYSELF, MR. AND MRS. ---

2 A I DON'T KNOW.

3 Q YOU DON'T RECALL?

4 A I DON'T HAVE NAMES.

5 Q YOU RECALL SPEAKING WITH THE ATTORNEYS THAT
6 REPRESENT MR. SENEZ?

7 A YES.

8 MR. LANZI: FOR THE RECORD, INDICATING
9 MR. MYERS POINTING TO MR. CARNEY.

10 Q YOU DON'T RECALL SPEAKING WITH ANYONE OTHER
11 THAN MR. CARNEY?

12 A YES. THERE WAS ANOTHER ATTORNEY, I GUESS, THE
13 FIRST ATTORNEY. I'VE BEEN CALLED SIX TIMES, I
14 GATHER.

15 Q AND ALL BY ATTORNEYS FOR MS. SENEZ?

16 A I'VE BEEN CALLED BY MS. SENEZ. I'VE BEEN
17 CALLED BY STEVE.

18 Q BY STEVE?

19 A YES.

20 Q DID YOU EVER --- DO YOU RECALL TALKING TO ANY
21 ATTORNEYS FOR STEVE?

22 A NO.

23 Q ALMOST DONE.

24 A THANK YOU.

25 Q I HAVE A FEW PICTURES TO GO THROUGH AND THEN WE

1 SHOULD BE DONE. NOW, YOU INDICATED EARLIER
2 THAT YOUR PROPERTY WAS LOWER THAN THE COOK
3 PROPERTY? THE GRADE OF YOUR PROPERTY WAS
4 ACTUALLY LOWER, IS THAT CORRECT?

5 A THE GRADE OF THE PROPERTY LOWER? YOU'LL HAVE
6 TO DEFINE WHERE.

7 Q WELL, IN THAT PART OF YOUR PROPERTY WHICH WOULD
8 BE ON THE WATERSIDE OF YOUR HOME AND OF THE
9 COOK HOME.

10 A YES.

11 Q WOULD THE GRADE BE LOWER OR HIGHER ON YOUR
12 SIDE?

13 A HIGHER.

14 Q IT'S HIGHER.

15 A YES.

16 Q DO YOU RECALL HOW WIDE YOUR BOAT OR BOAT
17 TRAILER WAS THAT YOU USE TO USE TO TAKE DOWN
18 THE SIDE OF YOUR HOUSE?

19 A I'M ASSUMING EIGHT FOOT.

20 Q MR. CARNEY ASKED YOU ABOUT DEFENDANT'S EXHIBIT
21 "3", WHICH SHOWS THE BOATHOUSE, DO YOU REMEMBER
22 THAT?

23 A YES.

24 Q YOU WERE NOT LIVING --- I'LL PUT IT THIS WAY,
25 THE PROPERTY DID NOT LOOK LIKE THIS WHEN YOU

1 LIVED THERE, CORRECT?

2 A NO.

3 Q SO THIS PICTURE YOU HAVE NO RECOLLECTION OR NO
4 KNOWLEDGE OF THE NEW --- THE NEW WALL WHICH
5 REPLACED YOUR RAILROAD TIE WALL?

6 A I HAVE NO KNOWLEDGE.

7 Q NO KNOWLEDGE. OKAY. LOOKING AT THIS PICTURE,
8 WOULD YOU SAY THAT NEW GRASS AREA WITH THE
9 STONES OFF THE SIDE REPLACED YOUR RAILROAD ---
10 WOULD YOU SAY THAT AREA IS LARGER OR THE SAME
11 SIZE OR SMALLER THAT WHAT YOU HAD THERE WITH
12 THE RAILROAD TIES?

13 A YOU MEAN THE HORIZONTAL SECTION?

14 Q CORRECT.

15 A I WOULD SAY IT WAS SMALLER.

16 Q YOU WOULD SAY THE NEW AREA IS ACTUALLY SMALLER?

17 A YES.

18 Q YOU HAVEN'T ACTUALLY BEEN OUT THERE SINCE THEN.

19 A NO. THE ONLY THING THAT WOULD TELL ME THAT IS
20 YOU SHOWED ME A PICTURE OF THE RAILROAD TIES
21 STICKING OUT FROM THE BUILDING. THIS IS
22 OBVIOUSLY STRAIGHT TO THE BUILDING AS FAR AS I
23 CAN SEE IT, SO IT WOULD BE LESS AREA.

24 Q SO SHOWS IT'S FLUSH.

25 A YES.

1 Q FLUSH TO THE BUILDING.

2 A YES.

3 Q CAN YOU TELL WHETHER THAT GRASS AREA ACTUALLY
4 GETS CLOSER TO THE WATER THAN WHAT YOUR GRASS
5 AREA WAS?

6 A NOT WITHOUT MEASURING IT.

7 Q THAT'S FINE. WHEN MR. COOK REPLACED THE
8 CONCRETE WALL, HE DID THAT AT HIS OWN EXPENSE?

9 A YES.

10 Q AND YOU NEVER HAD ANY DISPUTE WITH MR. COOK
11 OVER THE WALL, THE CONCRETE WALL?

12 A NO.

13 Q WAS THERE SOMETHING THAT YOU HAD IN THE GRASS
14 AREA THAT ACTUALLY DID HAVE SOME RAILINGS
15 AROUND IT? I'M TRYING TO GET CLEAR ON THAT.
16 ON THE ONE HAND, YOU INDICATED THE GLASS AREA
17 SURROUNDED BY RAILROAD TIES DID NOT HAVE
18 RAILINGS, BUT WAS THERE ANOTHER AREA IN THE
19 BACK THAT DID HAVE RAILINGS?

20 A ON THE SIDE OF THE HOUSE. IN FRONT OF THE
21 HOUSE.

22 Q WHICH SIDE?

23 A THE WHOLE FRONT.

24 Q THE FRONT BEING THE STREET SIDE?

25 A THE FRONT BEING THE WATER --- THE WATER SIDE.

1 Q THE WATER SIDE.

2 A THAT WAS --- THERE WAS A RAIL THAT WENT FROM
3 THE PROPERTY LINE ON THE SOUTH SIDE TO AN
4 OPENING NEXT TO THE JALOUSIE ROOM.

5 Q CAN YOU SHOW ME THAT ON THE SURVEY?

6 A FROM HERE TO HERE. SO THERE WAS A DECK ---
7 THERE'S A DECK THAT COMES AROUND THIS WHOLE
8 AREA AND THIS WAS A SAFETY RAIL IN THE FRONT OF
9 IT.

10 Q SO REFERRING TO THE SURVEY, YOU'RE REFERRING TO
11 THE SIDE OF THE PROPERTY THE OPPOSITE FROM THE
12 COLLINS AND COOK PROPERTY, CORRECT?

13 A YES. YES.

14 Q THERE WERE NO RAILINGS ON THE SIDE OF THE
15 COLLINS' PROPERTY?

16 A NO, PLANTINGS ONLY.

17 Q WERE THERE ANY RAILINGS BACK --- THIS COMES
18 DIRECTLY OUT OF YOUR PORCH TOWARDS THE WATER.
19 WERE THERE ANY RAILINGS THAT WAY?

20 A I MIGHT'VE BEEN FORCED TO PUT A RAILING ON THE
21 RAMP, BEFORE I SOLD IT, BECAUSE I KNOW I HAD TO
22 PUT A RAILING ON THE STEPS DOWN THE FRONT OF
23 IT.

24 Q WHO WOULD'VE FORCED YOU TO DO THAT?

25 A WELL, PROBABLY INSURANCE WOULD'VE ENFORCED IT,

1 BECAUSE YOU CAN'T BUILD A RAMP WITHOUT SOME
2 KIND OF RAILING ON IT AS FAR AS I KNOW. I
3 WOULD PROBABLY HAVE DONE IT JUST FOR THE FACT
4 THAT IT WOULD BE A SAFETY FACTOR AND PART OF
5 THE SALE.

6 Q EXPLAIN TO ME AGAIN, WHAT EXISTED, AND YOU
7 COULD REFER TO THIS SURVEY, EXISTED COMING OUT
8 OF YOUR HOUSE AND THEN TAKE ME THROUGH THE
9 PORCH AND THEN WHAT'S BACK THERE? EXACTLY WHAT
10 WAS BACK THERE WHILE YOU LIVED THERE?

11 A YOU CAME OUT OF THE PORCH AND THERE WAS A
12 DOORWAY HERE. YOU WALKED OUT ONTO A DECK.
13 THERE WAS A RAMP HERE. GOING DOWN TO A
14 WALKWAY. THEY WENT DOWN THROUGH A PAIR OF
15 STEPS THAT WENT DOWN TO THE LOWER LEVEL.

16 Q SO, THE DECK REFERRING TO THE SURVEY WOULD BE
17 ON THE --- WE'RE REFERRING THIS TO THE SOUTH
18 SIDE?

19 A YES.

20 Q SO THE DECK WOULD BE ON THE SOUTH SIDE OPPOSITE
21 FROM THE COLLINS SIDE OR THE COOK SIDE?

22 A YES. WELL, NOT THE ENTIRE DECK.

23 Q HOW BIG WAS THE DECK THAT YOU ARE REFERRING TO?
24 AND LET'S DISTINGUE BETWEEN THE DECK AND THE
25 LAWN?

1 A IT WOULD BE SIXTEEN FEET. THE ORIGINAL
2 BUILDING WAS TWENTY-TWO. THE SOLARIUM WAS
3 EIGHT AND I'M SURE THIS WAS SEVEN OR EIGHT
4 BEYOND THAT, SO IT WOULD'VE BEEN FIFTEEN TO
5 SIXTEEN FEET FROM THE END OF THE COVERED ---
6 WELL, IT'S ALL COVERED. SO FROM THE END OF THE
7 JALOUSIE TO THE FENCE THAT I PUT UP ON THIS
8 SIDE.

9 Q WAS THAT A WOOD DECK?

10 A YES.

11 Q THEN THE AREA THAT'S MARKED "PATIO" ON THE
12 SURVEY, WAS THAT GRASS?

13 A WALKWAY AND GRASS.

14 Q WALKWAY AND GRASS. AND THEN YOU SAID YOU HAD A
15 LOWER AREA? STEPS DOWN TO A LOWER AREA?

16 A WELL, THIS AREA IS LOWER THAN THIS.

17 Q AND THAT LOWER AREA WENT DIRECTLY TO THE WATER?

18 A YES.

19 Q THERE WAS NO STRUCTURE THERE?

20 A NO.

21 Q DID YOU KNOW A TONY LHOTSKY, L-H-O-T-S-K-Y? IS
22 THAT NAME FAMILIAR?

23 A HUH-UH (NEGATIVE RESPONSE).

24 Q DID YOU KNOW A DENNIS DUKE OR MICHAEL DUKE?

25 A NO.

1 Q NO. HOW ABOUT A LINDA RAUBACH, R-A-U-B-A-C-H?

2 A NO.

3 Q REMEMBER ANY RAUBACHS?

4 A NOT OFF HAND, NO.

5 Q NO. DID YOU EVER DISCUSS THE DESIGN OF THE
6 REPLACEMENT BLOCK WALL WITH MR. COOK?

7 A NO.

8 Q DID MR. COOK BUILD IT HIMSELF OR DID HE HAVE A
9 CONTRACTOR?

10 A HE HAD SOMEBODY BUILD IT.

11 Q WAS THERE ANY TYPE OF BRIDGE BETWEEN THE COOKS'
12 BACKYARD AND THE AREA OF THE RAMP THAT'S SHOWN
13 ON THE SURVEY?

14 A NO.

15 Q NO. DO YOU RECALL SEEING ANYONE FROM THE COOK
16 FAMILY EVER WALKING TOWARDS THE WATER AND THEN
17 ACROSS THE CONCRETE WALL INTO THE AREA IN FRONT
18 OF THE BOAT RAMP? DO YOU EVER RECALL THAT?

19 A I WOULDN'T HAVE THOUGHT ANYTHING OF IT IF THEY
20 DID.

21 Q YOU JUST DON'T RECALL WHETHER THEY DID OR NOT?

22 A NO.

23 Q DOWN TO PICTURES.

24 MR. LANZI: I'M GOING TO HAVE THIS
25 MARKED PLAINTIFF "3". AND I'LL JUST

1 ASK THAT WE GET A COPY.

2 Q MR. MYERS, I'M GOING TO SHOW YOU THIS MARKED AS
3 PLAINTIFF'S "3", DO YOU RECOGNIZE THAT WHAT'S
4 SHOWN ON THE PHOTOGRAPH?

5 A YES.

6 Q IS THAT THE BULKHEAD THAT YOU BUILT?

7 A YES.

8
9 PHOTOGRAPH OF BULKHEAD BUILT BY
10 MR. MYERS MARKED FOR IDENTIFICATION
11 AND INTRODUCED INTO EVIDENCE AS
12 PLAINTIFF'S EXHIBIT "3".

13
14 Q THAT'S ALL I'M GOING TO ASK ABOUT THAT ONE,
15 JUST CLARIFICATION.

16 MR. LANZI: HAVE THIS MARKED, WHAT ARE
17 WE, "4" AND "5"?

18 Q I'M GOING TO ASK YOU TO TAKE A LOOK AT THOSE
19 PHOTOGRAPHS. YOU RECOGNIZE WHAT'S SHOWN ON THE
20 PHOTOGRAPHS?

21 A YES.

22 Q NOW, IF YOU DON'T MIND, I'M GOING TO LOOK AT
23 THIS ONE. REFERRING TO WHAT'S MARKED AS
24 PLAINTIFF'S "4", THAT FENCE WAS NOT THERE WHEN
25 YOU LIVED ON THE PROPERTY, IS THAT CORRECT?

1 A THAT'S CORRECT.

2
3 PHOTOGRAPH OF WALL MARKED FOR
4 IDENTIFICATION AND INTRODUCED
5 INTO EVIDENCE AS PLAINTIFF'S
6 EXHIBIT "4".
7

8 Q NOW THAT WALL THAT'S SHOWN IN THE PHOTOGRAPH
9 BETWEEN YOUR OLD PROPERTY AND THE COLLINS
10 PROPERTY, IS THAT THE WALL THAT WAS THERE WHEN
11 YOU WERE LIVING THERE?

12 A AS FAR AS I CAN TELL. IT LOOKS LIKE IT, YES.
13 NICE PLANTS.

14 Q WHEN YOU WERE CUTTING THE GRASS OR MAINTAINING
15 THAT AREA ON YOUR SIDE OF THE WALL ---

16 A UH-HUH (AFFIRMATIVE RESPONSE).

17 Q --- YOU DID NOT HAVE ANY KNOWLEDGE AT THAT TIME
18 WHERE THE EXACT PROPERTY LINE WAS, IS THAT
19 CORRECT?

20 A NO. YES. IT'S CORRECT.

21 Q THANK YOU. NOW, I'M GOING TO ASK YOU TO LOOK
22 AT EXHIBIT "5", AND DO YOU RECOGNIZE WHAT'S
23 SHOWN IN THAT PHOTOGRAPH?

24 A I RECOGNIZE THE RAMP. YES.
25

1 PHOTOGRAPH OF RAMP MARKED FOR
2 IDENTIFICATION AND INTRODUCED
3 INTO EVIDENCE AS PLAINTIFF'S
4 EXHIBIT "5".

5
6 Q AND THAT'S THE RAMP THAT YOU BUILT?

7 A YES.

8 Q YOU SAID EARLIER THE FENCE WAS NOT THERE.

9 A THAT'S RIGHT.

10 Q WAS THERE A GATE THERE?

11 A NO.

12 Q THERE WAS NOT? CAN SEE THAT PLEASE?

13 MR. LANZI: JUST GO OFF THE RECORD FOR
14 ONE MINUTE.

15 **OFF THE RECORD**

16 Q AS YOU SAID EARLIER YOU OWNED A TWENTY-EIGHT
17 FOOT LONG PONTOON BOAT ---

18 A YES.

19 Q --- WHEN YOU LIVED AT --- ON WORTON. IS THAT
20 CORRECT?

21 A YES.

22 Q AND HOW WIDE DO YOU THINK A TWENTY-EIGHT FOOT
23 WIDE ---

24 A I THINK IT'S EIGHT FOOT, BECAUSE IT'S TRAILER-
25 ABLE SO IT CAN'T BE OVER EIGHT FOOT AND IT JUST

1 ABOUT GOT THROUGH THE TOLL BOOTHS ON 95.

2 Q DID YOU HAVE ANY PROBLEMS AT ALL GETTING IT
3 DOWN THE SIDE OF THE HOUSE BETWEEN YOUR HOUSE
4 AND THE COOKS AND THE COOKS WALL?

5 A VERY CAREFULLY. VERY CAREFULLY.

6 Q SO IT WAS A TIGHT FIT?

7 A OH, YEAH. IT WASN'T --- IT WASN'T --- IT WAS
8 --- THERE WAS ROOM, BUT THERE WAS A HITCH IN
9 THERE IN THE WALL AND THAT HITCH USED TO GET
10 ME. TOO MUCH INFORMATION, I'M SORRY.

11 Q WHEN MR. COOK PUT IN THE REPLACEMENT WALL, WERE
12 YOU THERE WHEN THE CONSTRUCTION WAS GOING ON?

13 A NO.

14 Q HOW QUICKLY DID THE PUT IT UP, DO YOU REMEMBER?

15 A I HAVE NO IDEA.

16 Q DO YOU HAVE ANY OR DO YOU KNOW WHY MR. COOK PUT
17 THE WALL WHERE HE PUT IT AND NOT ON THE
18 PROPERTY LINE?

19 MR. CARNEY: OBJECTION. YOU MAY
20 ANSWER. IF YOU KNOW.

21 A I HAVE NO IDEA WHY. I ASSUME HE DIDN'T KNOW
22 WHERE IT WAS EITHER.

23 Q WITH THE GRADE-IN ON YOUR YARD AND THE COOK
24 YARD, DID YOU HAVE TO DO SOME GRADING YOURSELF
25 FROM YOUR DRIVEWAY DOWN TO THE WATER LINE TO

1 HELP WITH THE EROSION ISSUE? IN OTHER WORDS,
2 DID YOU BUILD YOUR PROPERTY UP FROM THE POINT
3 AT THE END IN YOUR DRIVEWAY DOWN TO THE WATER
4 TO HELP WITH THE EROSION?

5 A NO. I CUT IT DOWN.

6 Q YOU TOOK DIRT AWAY?

7 A YES.

8 Q AND THAT HELPED WITH THE EROSION ISSUE?

9 A IT KEPT MY --- BEFORE IT WAS A SLOPE --- A
10 FORTY-FIVE DEGREE SLOPE TOWARD HIS WALL. WHEN
11 I TOOK THE DIRT OUT, I TOOK IT SPREADING AND
12 THEN, OF COURSE, I HAD TO STONE IT TO KEEP IT
13 FROM LEAVING.

14 Q TOWARDS HIS WALL, MEANING TOWARDS THE COOK
15 WALL?

16 A YEAH. ORIGINALLY.

17 Q THAT'S ALL I HAVE.

18 RE-DIRECT EXAMINATION BY MR. CARNEY:

19 Q JUST A FEW QUESTIONS IN RESPONSE TO MR. LANZI'S
20 QUESTIONS, MR. MYERS. FIRST OF ALL I'D LIKE TO
21 PUT A STIPULATION ON THE RECORD THAT MR. LANZI
22 AND I DISCUSSED EARLIER. WE'RE GOING TO
23 CHARACTERIZE INTO THIS DEPOSITION WHAT'S CALLED
24 A DE BENE ESSE DEPOSITION. THAT'S LATIN, WE
25 GET PAID EXTRA WHEN WE SPEAK LATIN. SO THAT WE

1 WILL BE ABLE TO --- MR. LANZI AND OR I --- WILL
2 BE ABLE TO USE YOUR TESTIMONY AT TRIAL SINCE
3 YOU ARE NOT A COMPELLABLE WITNESS. WE CAN'T
4 MAKE YOU COME TO BALTIMORE COUNTY AND TESTIFY.

5 A NO WAY.

6 Q SO THIS WILL BE YOUR TESTIMONY, IF WE CHOOSE OR
7 NEED TO USE.

8 MR. LANZI: ARE YOU ON THE RECORD NOW?

9 MR. CARNEY: YES, WE'RE ON THE RECORD.

10 Q YOU INDICATED THAT YOU HAD THE PROPERTY
11 SURVEYED ABOUT THE TIME THAT YOU WERE GOING TO
12 PUT THE PROPERTY ON THE MARKET?

13 A YES, SIR.

14 Q AND WHEN THAT WAS DONE THE DISCREPANCY
15 REGARDING WHERE THE WALL WAS, WAS BROUGHT TO
16 YOUR ATTENTION.

17 A IT APPEARED.

18 Q SO YOU KNEW FROM THAT POINT FORWARD AND WHEN
19 YOU STILL MAINTAINED THAT PROPERTY, CUTTING THE
20 GRASS, DOING WHATEVER YOU DID THERE, THAT'S
21 FINE. I'M GOING TO SHOW YOU DEFENDANT'S
22 DEPOSITION, EXHIBIT NUMBER "3" AND ASK YOU ---
23 YOU INDICATED THAT THE WALL WITH THE BULK-
24 HEADING THAT YOU DID ACROSS THE FRONT OF YOUR
25 PROPERTY CAME AROUND AND --- IS THAT WHERE IT

- 1 STOPS RIGHT HERE?
- 2 A IT STOPPED ON THE INSIDE OF THE --- ON THE
- 3 INSIDE OF THE LAUNCHING RAMP.
- 4 Q AND THEN DID YOU CURVE IT AROUND AS IS DEPICTED
- 5 HERE IN EXHIBIT NUMBER "3"?
- 6 A WHERE'S THE CURVE?
- 7 Q I'M SORRY. RIGHT HERE. THIS BULKHEADING RIGHT
- 8 THERE.
- 9 A NO, THAT IS A SECTION OF BULKHEAD BY ITSELF.
- 10 SELF-STANDING. THIS. SELF-STANDING.
- 11 Q DID YOU PUT THAT IN OR WAS THAT THERE?
- 12 A NO, I PUT THAT IN.
- 13 Q YOU PUT THAT IN?
- 14 A I PUT THAT IN TO STOP THE EROSION THERE.
- 15 Q AND TO TRY TO KEEP EROSION --- TO TRY TO KEEP
- 16 THE COOKS, NOW COLLINS PROPERTY FROM ERODING?
- 17 A YES. I DIDN'T KNOW IT WAS COLLINS PROPERTY.
- 18 WELL, BASICALLY IT WAS TO KEEP THAT FROM
- 19 ERODING THERE. AT THE TIME I DIDN'T KNOW WHOSE
- 20 PROPERTY IT WAS.
- 21 Q BUT THE EROSION WAS COMING FROM THE
- 22 COOK/COLLINS PROPERTY, NOT FROM YOUR PROPERTY.
- 23 YOU WERE TRYING TO PREVENT EROSION FROM YOUR
- 24 NEIGHBORS.
- 25 A YES, WELL, IT WAS --- RIGHT. WHAT IT WAS

1 UNDERMINING IS BULKHEAD AT THAT POINT, RIGHT
2 THERE.

3 Q AND HE DIDN'T COMPENSATE YOU FOR DOING THAT.
4 IT'S SOMETHING YOU DID GRATUITOUSLY, CORRECT?

5 A YES. REMEMBER, HE OWNED THE --- NEVER MIND.

6 Q YOU INDICATED MR. COOK, NOW MR. COLLINS, HAVE
7 THEIR OWN PIER, CORRECT?

8 A YES.

9 Q DID THEY MAINTAIN OR KEEP A BOAT AT THAT PIER
10 OR ANY KIND? THE QUESTION IN TWO PARTS. DID
11 MR. COOK KEEP A BOAT THERE?

12 A YES.

13 Q DID MR. COLLINS KEEP A BOAT THERE?

14 A I DON'T KNOW.

15 Q YOU DON'T RECALL THEM EVER USING THE LAUNCH
16 RAMP TO LAUNCH A BOAT? YOU ALREADY TESTIFIED
17 TO THAT, IN FACT.

18 A NO, I DON'T.

19 Q YOU DON'T RECALL WHETHER OR NOT YOU EVER SAW A
20 BOAT THAT THEY OWNED TIED UP TO THEIR PIER?

21 A I NEVER SAW ONE THAT I KNOW OF. IN MY MEMORY
22 I'VE NEVER SEEN ONE.

23 Q YOU INDICATED THAT CERTAIN PEOPLE WOULD USE
24 YOUR LAUNCH RAMP WHILE THE PUBLIC RAMP WAS
25 CLOSED?

- 1 A YES, RIGHT.
- 2 Q DO YOU RECALL ABOUT WHAT TIME WE'RE TALKING
- 3 ABOUT. WHAT TIME FRAME?
- 4 A NO.
- 5 Q WAS IN THE '90'S OR IN THE '80'S?
- 6 A PROBABLY BOTH.
- 7 Q SO WAS IT CLOSED PERIODICALLY FOR WHATEVER
- 8 REASON?
- 9 A WELL, THEY REBUILT IT UP TO THE END OF THE
- 10 ROAD. SENECA ROAD WAS A LAUNCHING RAMP THAT
- 11 EVERYBODY IN THE NEIGHBORHOOD USED AND WHEN THE
- 12 DRIFTWOOD AND THE OTHER ONE GOT TOGETHER THEY
- 13 BLOCKED IT OFF WITH PILINGS AND THEY COULDN'T
- 14 LAUNCH UNTIL THEY HAD A COURT CASE AND OPENED
- 15 IT UP. SO IT WAS ANY --- WHAT EVER PERIOD OF
- 16 TIME IT WAS, I COULDN'T TELL YOU, BUT IT WAS
- 17 BLOCKED AT THAT TIME. EVERYTHING ELSE COST
- 18 MONEY.
- 19 Q YOU NEVER CHARGED ANYBODY TO LAUNCH THEIR
- 20 VESSELS FROM YOUR RAMP, DID YOU?
- 21 A NO.
- 22 Q AND ANYONE WOULD LAUNCH THEIR VESSEL FROM YOUR
- 23 RAMP DID SO AFTER FIRST SECURING YOUR
- 24 PERMISSION, IS THAT NOT CORRECT?
- 25 A YES.

1 Q THIS WAS NOT OPEN TO THE PUBLIC THAT THEY COULD
2 WANDER DOWN YOUR PROPERTY.

3 A OH, NO, NO, NO, NO, NO. AND IT DIDN'T HAPPEN
4 THAT OFTEN.

5 Q MR. LANZI ASKED YOU WHETHER OR NOT YOU HAD TO
6 APPLY FOR A VARIANCE RELATIVE TO YOUR GARAGE.

7 A YES.

8 Q YOU INDICATED THAT, YES, YOU DID HAVE TO SO
9 APPLY. WAS THAT VARIANCE GRANTED?

10 A YES.

11 Q IS THAT VARIANCE IN PLACE IN PERPETUITY?

12 A YES.

13 Q FOREVER, AS FAR AS YOU KNOW?

14 A YES.

15 Q WHEN THE WALL WAS BUILT BY MR. COOK AFTER IT
16 FELL DOWN, WAS THE RUNOFF AT LEAST, IN PART,
17 FROM YOUR PROPERTY ONTO HIS ABATED? AT LEAST
18 IN PART?

19 A I WOULD SAY YES. I'M NOT --- NO WAY TO PROVE
20 THAT.

21 Q WAS IT YOUR BELIEF?

22 A IT WAS MY BELIEF.

23 Q MR. LANZI ASKED YOU ABOUT YOUR TESTIMONY THAT
24 YOU --- YOUR PROPERTY WAS, I THINK HE DESCRIBED
25 YOUR PROPERTY AS THE LOW SPOT BETWEEN THE

1 PROPERTY ON YOUR SOUTH SIDE AND THE PROPERTY ON
2 YOUR NORTH SIDE. AM I CORRECT IN BELIEVING
3 THEN THAT YOUR PROPERTY WAS LOWER IN THE MIDDLE
4 THAN THE TWO PROPERTIES ON EITHER SIDE?

5 A YES.

6 Q WOULD THERE BE RUNOFF FROM BOTH PROPERTIES ONTO
7 YOUR PROPERTIES?

8 A YES.

9 Q AND THEN IS IT YOUR TESTIMONY THAT THAT WATER
10 WOULD THEN COURSE DOWN YOUR DRIVEWAY INTO THE
11 WATER?

12 A YES.

13 Q AND THAT WAS THE PURPOSE OF YOU PUTTING UP YOUR
14 RAILROAD TIE WALL.

15 A YES.

16 Q AND IT'S YOUR BELIEF, SINCE YOU DIDN'T PUT IT
17 UP, THAT'S WHY THE WALL BETWEEN THE TWO
18 PROPERTIES, 339 AND 341 WAS ERECTED?

19 A I WOULD THINK.

20 Q MR. LANZI MENTIONED CERTAIN CONVERSATIONS OR
21 ASKED YOU ABOUT CERTAIN CONVERSATIONS THAT YOU
22 HAD OR DIDN'T HAVE WITH CERTAIN LAWYERS FOR THE
23 PLAINTIFF AND THE DEFENDANT. IN YOUR
24 CONVERSATION --- THE TWO CONVERSATIONS THAT
25 I'VE HAD WITH YOU, DID I DISCUSS AND TELL YOU

1 HOW TO TESTIFY HERE TODAY?

2 A NO.

3 Q DID I TELL YOU WHAT I WANTED YOU TO SAY?

4 A NO.

5 Q DID I PUT WORDS IN YOUR MOUTH IN ANY WAY SHAPE
6 OR FORM?

7 A NO.

8 Q THE PICTURES THAT MR. LANZI SHOWED YOU THAT
9 HAVE BEEN MARKED AS PLAINTIFF'S EXHIBIT'S
10 NUMBER "4" AND "5" RESPECTIVELY. NUMBER "4"
11 SHOWS A WOODEN FENCE AND IT ALSO SHOWS THE
12 BLOCK WALL.

13 A YES.

14 Q YOU'VE TESTIFIED THAT THAT APPEARS TO BE THE
15 BLOCK WALL THAT YOU RECALL EXISTING WHEN YOU
16 OWNED THE PROPERTY?

17 A YES.

18 Q YOU'VE NEVER SEEN THE FENCE BEFORE?

19 A NO.

20 Q THE FENCE --- WOULD THE FENCE APPEAR TO BE ON
21 YOUR PROPERTY, YOUR FORMER PROPERTY AT 341, OR
22 NOT TO BE ON YOUR PROPERTY AT 341?

23 MR. LANZI: OBJECTION. YOU CAN ANSWER.

24 A IT WOULD APPEAR TO BE ON MY PROPERTY.

25 Q AND EXHIBIT NUMBER '5", AGAIN, THAT SHOWS THE

1 LAUNCHING RAMP, AT LEAST IN PART?

2 A YES.

3 Q AND THERE'S A --- IS THERE A GATE THERE IN THAT
4 PICTURE?

5 A IT APPEARS TO BE.

6 Q YOU DID NOT CONSTRUCT THAT GATE YOURSELF?

7 A NO.

8 Q DURING YOUR CLEARED OF OWNERSHIP. AND THE LAST
9 THING I'M GOING TO SHOW YOU, EXHIBIT NUMBER
10 "3". THE BULKHEADING THAT WE TALKED ABOUT IN
11 EXHIBIT "3". DOES THAT APPEAR TO BE THE SAME
12 AS WHEN YOU MADE THOSE IMPROVEMENTS?

13 A AS MUCH AS I CAN SEE OF IT.

14 Q DOES IT APPEAR TO BE ALTERED OR CHANGED IN ANY
15 FASHION THAT YOU'RE AWARE OF?

16 A NOT THAT I CAN SEE. NOT THAT I CAN SEE.
17 YOU'RE TALKING ABOUT THE ONE IN THE WATER
18 BULKHEAD?

19 Q YES, SIR.

20 A YES. NO, THAT'S ---

21 Q THAT'S ALL I HAVE. THANK YOU.

22 MR. LANZI: I HAVE ONE OR TWO MORE.

23 RE-CROSS EXAMINATION BY MR. LANZI:

24 Q THE BULKHEAD THAT YOU JUST REFERRED TO THAT
25 APPEARS TO BE THE SAME, ARE YOU REFERRING TO

1 THE BULKHEAD ON DEFENDANT'S EXHIBIT "3" THAT IS
2 THE ONLY VISIBLE BULKHEAD IN THIS PHOTOGRAPH?

3 A YES.

4 Q JUST FOR CLARIFICATION, ON PLAINTIFF'S EXHIBIT
5 "4", WHICH IS THE PHOTOGRAPH OF THE SENEZ
6 FENCE, YOU STATED ON QUESTIONING BY MR. CARNEY
7 THAT THE FENCE APPEARS TO BE ON WHAT YOU
8 CONSIDER YOUR PROPERTY?

9 A YES.

10 Q IS THAT CORRECT? AND THAT WOULD BE BEFORE YOU
11 WERE AWARE OF THE PROPERTY LINE AS A RESULT OF
12 THIS SURVEY DONE BY MR. DEETS.

13 A YES.

14 Q OKAY. THAT'S ALL.

15 MR. CARNEY: I HAVE NOTHING IN RESPONSE
16 TO MR. LANZI'S QUESTIONS. MR. MYERS,
17 YOU HAVE THE RIGHT TO READ YOUR
18 DEPOSITION TRANSCRIPT WHEN THE COURT
19 REPORTER HAS IT TYPED UP AND TO FILL
20 OUT WHAT'S CALLED AN ERRATA SHEET.
21 THAT MEANS YOU GET TO CORRECT ANY
22 MISTAKES IN WHAT YOU MAY HAVE SAID.
23 CORRECT SOME SPELLINGS. YOU CAN'T
24 CHANGE YOUR TESTIMONY IN ANYWAY, SHAPE
25 OR FORM. YOU ALSO HAVE THE RIGHT TO

1 WAIVE THE READING AND THE SIGNING OF
2 YOUR DEPOSITION. I'M NOT YOUR LAWYER.
3 I ACTUALLY CAN'T TELL YOU WHAT TO DO.
4 IT'S CUSTOMARY IN MANY CASES FOR
5 PEOPLE TO WAIVE THE READING AND
6 SIGNING, BUT YOU HAVE EVERY RIGHT TO
7 DO IT. I DON'T NOT WHAT YOUR PERSONAL
8 PRACTICE IS. DOES HE HAVE TO COME TO
9 YOUR OFFICE TO DO IT?

10 COURT REPORTER: HE'S SUPPOSE TO.

11 MR. CARNEY: THAT MEANS YOU HAVE TO
12 COME TO THE COURT REPORTER OFFICE
13 WHICH IS IN ---

14 MR. MYERS: LET ME JUST WAIVE IT AND
15 MAKE ONE MORE COMMENT.

16 MR. CARNEY: OKAY.

17 MR. MYERS: I THINK THE UTMOST --- THE
18 UNHAPPIEST THING THAT I SEE AS
19 NEIGHBORS FIGHTING AND I DON'T WANT TO
20 HEAR ANYMORE FROM ANYBODY. NOBODY.

21 MR. CARNEY: I UNDERSTAND.

22 MR. MYERS: IF I HEAR ANYMORE FROM
23 ANYBODY, I'M NOT ANSWERING. I THOUGHT
24 I WOULD COME HERE TODAY AND TELL YOU
25 WHAT I KNOW.

1 MR. CARNEY: AND YOU'VE CERTAINLY DONE
2 THAT. AND WE APPRECIATE IT, AS I SAID
3 EARLIER AND I THANK YOU.

4
5 COPY OF NEWSPAPER CLIPPING
6 MARKED FOR IDENTIFICATION
7 AND INTRODUCED INTO EVIDENCE
8 AS PLAINTIFF'S EXHIBIT "2".

9
10
11 (THIS DEPOSITION WAS CONCLUDED AT 3:40 P.M.)

12
13 (SIGNATURE WAIVED)
14 ARTHUR L. MYERS

1 SOUTH CAROLINA,

2 CERTIFICATE

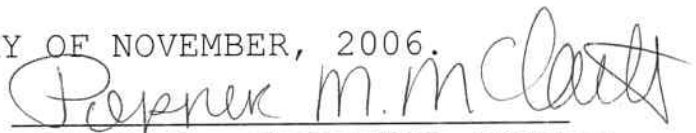
3 Horry COUNTY,

4 I, PEPPER M. MCCARTHY, A NOTARY PUBLIC AND
5 VERBATIM REPORTER IN AND FOR THE STATE OF SOUTH
6 CAROLINA DO HEREBY CERTIFY THAT **ARTHUR L. MYERS** WAS
7 DULY SWORN PRIOR TO THE TAKING OF THIS DEPOSITION
8 AND THAT THE FOREGOING NINETY-SIX (96) PAGES
9 CONSTITUTE A TRUE AND ACCURATE TRANSCRIPTION OF THE
10 EVIDENCE AS GIVEN BY SAID WITNESS AND IS TAKEN DOWN
11 AND TRANSCRIBED BY ME. I FURTHER CERTIFY THAT THE
12 PERSON WERE PRESENT AS STATED IN THE CAPTION.

13 I FURTHER CERTIFY THAT I'M NOT FOR COUNSEL OR
14 NOR IN THE EMPLOY OF ANY OF THE PARTIES TO THIS
15 ACTION NOR AM I INTERESTED EITHER DIRECTLY OR
16 INDIRECTLY IN THE RESULTS THE THEREOF.

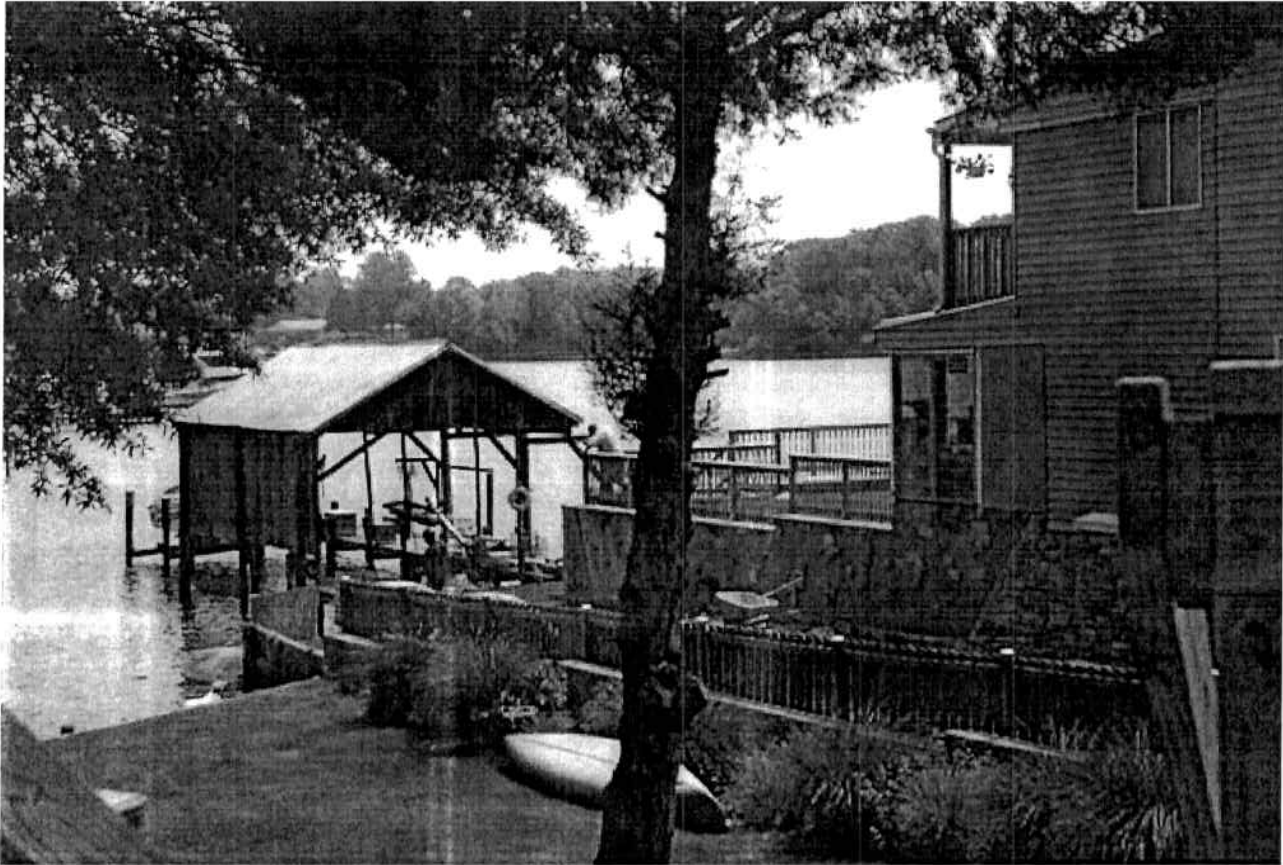
17 I FURTHER CERTIFY THAT I AM NOT RELATED BY
18 BLOOD OR MARRIAGE TO ANY OF THE PARTIES TO THIS
19 ACTION.

20 THIS THE 13TH DAY OF NOVEMBER, 2006.

21 

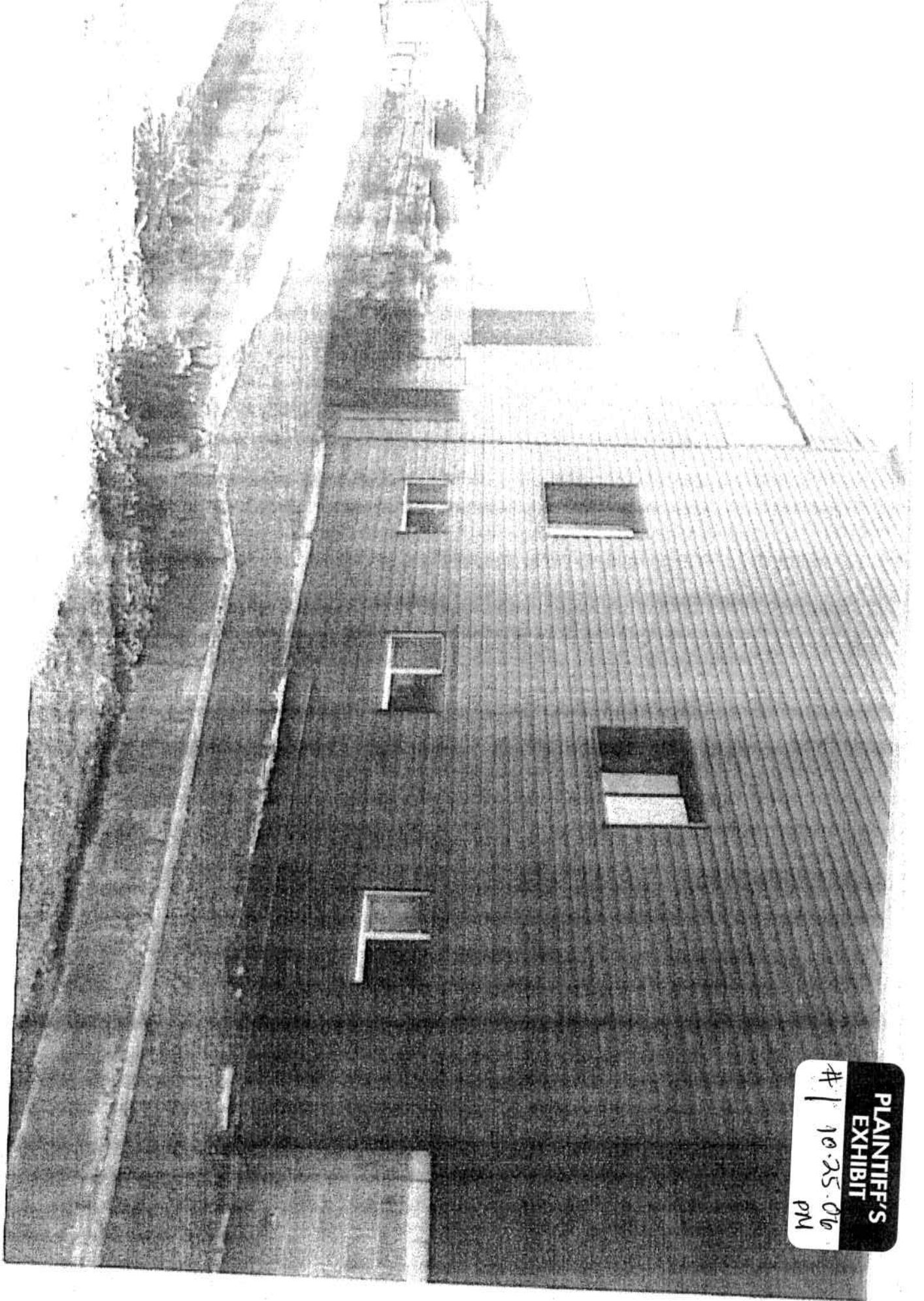
22 PEPPER M. MCCARTHY, NOTARY
23 PUBLIC & VERBATIM REPORTER

24 MY COMMISSION EXPIRES:
25 JANUARY 29TH, 2012.



**DEFENDANT'S
EXHIBIT**

#3 10-25-06
PM



PLAINTIFF'S
EXHIBIT
#1 10.25.06
PM

PLAINTIFF'S
EXHIBIT

#2 10.25.06
PM

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6

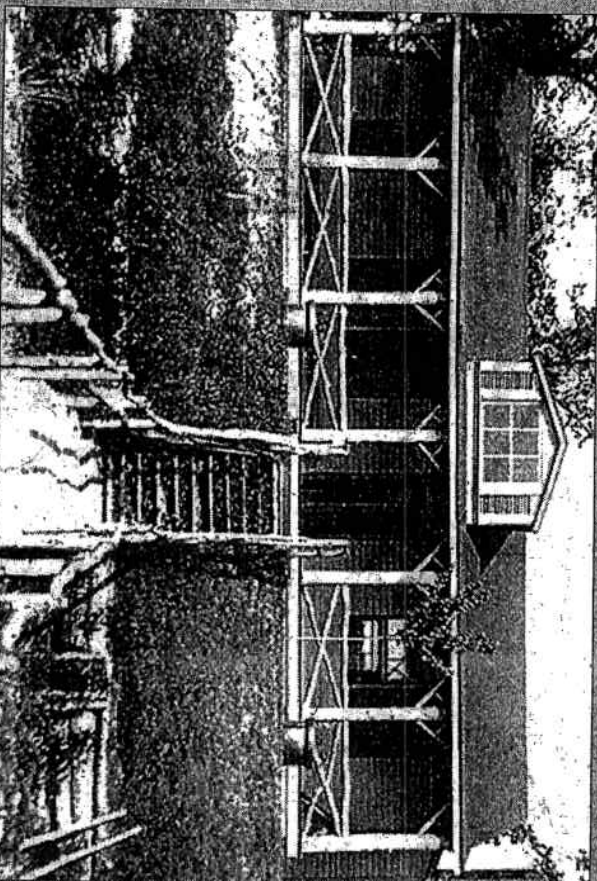


PHOTO COURTESY BCPH

Mystery photo

This photo is listed only as "Clubhouse - Essex" in the archives of the Baltimore County Public Library. If the building, which appears to be on the waterfront, looks familiar and you can provide any further information, please call Jackie Nickel at 410-686-1358 or email jackienickel@comcast.net.



PLAINTIFF'S
EXHIBIT
3 10.26.06
PM



#4



#5