

Exhibit D

In the Matter Of:

GALLERY COMMUNITY Vs. K. HOVNANIAN AT GALLERY

CV2020-008714

STEFEN GUSTAFSON

August 24, 2022



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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

GALLERY COMMUNITY ASSOCIATION, an Arizona non-profit corporation, Case No. CV2020-008714

Plaintiff,

v.

K. HOVNANIAN AT GALLERY, LLC, an Arizona limited liability company;
K. HOVNANIAN ARIZONA OPERATIONS, LLC, an Arizona limited liability company;
K. HOVNANIAN DEVELOPMENTS OF ARIZONA, INC., an Arizona corporation;
K. HOVNANIAN COMPANIES OF ARIZONA, LLC, an Arizona limited liability company;
JOHN DOES I-X AND JANE DOES I-X, WHITE CORPORATIONS I-X; BLACK PARTNERSHIPS I-X; AND GRAY LIMITED LIABILITY COMPANIES I-X,

Defendants.

DEPOSITION OF
STEFEN GUSTAFSON

August 24, 2022

9:05 a.m.

Prepared by: Sandra Marruffo, R.P.R., AZ C.R. 50815

1 go.

2 Q. Okay. We've seen -- those look familiar. We
3 looked at those yesterday. And let me just ask -- here's
4 one -- I'm looking at page 89. It's page 56 of the PDF
5 set. It's GALLERY-NBC-JOBFILE_000089. In the legend,
6 you've got areas -- "Dissimilar Materials (LF) - 43.49."
7 Can you tell me, I guess, what you did to identify the
8 areas of dissimilar materials?

9 A. Yes, we understood that repair to be primarily
10 at the interface between the stone and the stucco and
11 that we're installing a flashing transition detail at
12 those areas. And this sheet, you'll see on the front
13 elevation, that blue crosshatched line, that is measuring
14 the -- the edge of the stone where it meets the stucco.

15 Q. Okay. It looks like for a lot of these, you're
16 just identifying all locations of stucco. Is that what
17 you're doing in these?

18 A. That's right.

19 Q. And that's because -- that's because SBSA
20 instructed you to remove all parts of the stucco and WRB
21 as part of their repair protocol, right?

22 A. That's correct.

23 Q. Okay. Is there any part of the repair protocol
24 that you had to fill in yourself or generate yourself? I
25 mean you or your team.

1 Q. Okay. And it looks like certain parts of the
2 repair you have identified as being included in Building
3 Envelope 1.0B, which is the -- I guess the large part of
4 the stucco repair. Can you explain why you have these --
5 why you have these items incorporated in that?

6 A. Well, I guess the -- the first part is
7 everything kind of on the left three-fourths of this page
8 is -- are the repair descriptions typed and outlined in
9 the SBSA report.

10 Q. Okay.

11 A. We just -- we just included them verbatim so
12 one could correlate between the two.

13 Q. Okay. Now, you've got -- you don't have any
14 particular takeoffs or quantities for the LFRS repair,
15 correct?

16 A. Yes, correct.

17 Q. You've got a -- you've got a \$200,000 direct
18 cost that is based on an allowance or contingency
19 described by Mr. Gustafson; is that correct? Is that
20 fair?

21 MS. MANSHIP: Objection. Form.

22 I think you meant Fronapfel.

23 MR. HOROWITZ: Oh, yeah, I certainly did.
24 Let me -- let me rephrase that.

25 Q. BY MR. HOROWITZ: Your figure for the LFRS cost

1 is based on the contingency instructions given by Ed
2 Fronapfel in the SBSA report, correct?

3 A. Yes.

4 Q. Can you explain to me how that works and how
5 you implemented that?

6 A. Sure. He --

7 Q. I apologize for the noise. I'm going to move,
8 but I'm still listening to you.

9 A. I'm good. They literally told us to include a
10 10 percent of the stucco repair cost for use as a
11 contingency for the repairs to this item.

12 Q. Okay.

13 A. That -- that total is roughly a hundred --
14 10 percent of that total is roughly 160 grand. We had
15 follow-up discussions with them on this asking if they
16 had -- took into account the other byproduct repairs that
17 this would cause, which are primarily adjustment to wall
18 plane and windows and doors and things like that and --
19 and they said, no, that was just for the structural
20 repairs only. So they instructed us to round this number
21 up to 200 grand from the 160 it was without the other
22 things. That's how this allowance was determined.

23 Q. Okay. Did they give any explanation of why --
24 or who was it who said to round it up from the
25 10 percent?

1 A. It was Jeff and Sameer --

2 Q. Okay. So --

3 A. -- in discussion --

4 Q. -- it was more than 10 percent of the stucco
5 repair --

6 A. What's that?

7 Q. -- once you're done with it?

8 A. I'm sorry. You cut out for a minute.

9 Q. It's more than 10 percent of the stucco repair
10 costs --

11 A. Right.

12 Q. -- correct?

13 A. I think the total stucco sections is like
14 1.6 million so 10 percent is roughly 160, and this was
15 rounded up from that to 200.

16 Q. Did Jeff and Sameer explain why they modified
17 the recommendation from the SBSA report?

18 A. No.

19 Q. Do you have an understanding of what the cost
20 and repair for this item represents?

21 A. This cost of this item -- this item represents
22 cost to complete repairs to shear walls and straps and
23 other structural components that they found missing at --
24 at a DT location that they're extrapolating to other
25 locations on the job. That's my understanding.

1 Q. Going on to the next section, Grading and
2 Drainage. And can you hear me all right?

3 A. Yes, you're loud and clear.

4 Q. I'm scrolling.

5 MS. RAI: Hey, Lou, what is the date of
6 the report that you're looking at?

7 (Mr. Horowitz' video screen is frozen.)

8 THE REPORTER: I think Lou is frozen.

9 MR. HOROWITZ: -- survey --

10 MS. MANSHIP: Oh, no.

11 (An off-the-record discussion was held
12 regarding Mr. Horowitz's internet signal strength.)

13 MS. MANSHIP: But I believe we're still on
14 the July 2021 cost of repair report.

15 MR. HOROWITZ: Yeah, I'm going to ask
16 about the July 2021 report. There are some changes in
17 the next one, and I'll ask about those specifically item
18 by item.

19 MS. RAI: Okay. Got it.

20 Q. BY MR. HOROWITZ: First, explain to me, what's
21 this \$10,000 allowance for?

22 A. I can't -- oh, is that you scrolling or me
23 scrolling?

24 Q. I'm not. Okay. That's just you.

25 A. It's just --

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CERTIFICATE OF REPORTER

STATE OF ARIZONA)
) ss:
COUNTY OF MARICOPA)

I, Sandra Marruffo, a Certified Reporter in the State of Arizona, do hereby certify that the foregoing Deposition was taken before me on August 24, 2022, in the County of Maricopa, State of Arizona; that an oath was duly administered to STEFEN GUSTAFSON pursuant to A.R.S. 41-324(B); that the questions propounded to the witness and the answers of the witness thereto were taken down by me in shorthand and thereafter reduced to typewriting; that the transcript is a full, true, and accurate record of the proceedings, all done to the best of my skill and ability; and that the preparation, production, and distribution of the transcript and copies of the transcript comply with the Arizona Revised Statutes and ACJA 7-206(J)(1)(g)(1) and (2).

The witness herein, STEFEN GUSTAFSON, has requested transcript review and signature.

I FURTHER CERTIFY that I am in no way related to any of the parties nor am I in any way interested in the outcome hereof.

IN WITNESS WHEREOF, I have set my hand in my office in the County of Maricopa, State of Arizona, this 6th day of September 2022.

Sandra L. Marruffo

Sandra Marruffo, RPR
AZ C.R. 50815

/s/

For Esquire Deposition Solutions
Registered Reporting Firm No. R1048

Job No. J8561611