

EXHIBIT 6



Forensic Construction Consulting / Construction Expert Witness



Expert Opinion Report

**Gallery Community Association v. K. Hovnanian at Gallery, LLC
Case No. CV2020-008714**

SCG Client: Liberty Constructors, LLC (Concrete)

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LIBERTY-SCG-000006

SCOPE OF RETENTION / BACKGROUND

Shelton Consulting Group, LLC (Shelton) was retained by Shorall McGoldrick Brinkmann on behalf of its client Liberty Constructors, LLC (Liberty Constructors).

Shelton was asked to investigate claims of construction defects brought by Plaintiff Gallery Community Association's (Gallery/Plaintiff) as detailed in its expert report. Plaintiff's expert report was prepared by SBSA, LLC, a Charles Taylor Company (SBSA), dated June 23, 2021. Plaintiff also retained Nautilus Contracting & Consulting (Nautilus) as its cost of repair expert. Nautilus prepared a Preliminary Estimate of Costs on behalf of Plaintiff/Gallery Community Association which is dated July 23, 2021.

Defendant K. Hovnanian at Gallery, LLC (K. Hovnanian) retained Bert L. Howe & Associates, Inc. (Howe) as its general contractor standard of care expert and Peterson Geotechnical Group (Peterson) as its Geotechnical and Civil Engineering expert. Howe prepared a Defense Response Report dated August 11, 2021, and a Preliminary Defense Cost of Defense Scope Estimate (Howe CORE). Peterson prepared a Civil and Geotechnical Engineering Evaluation report dated August 10, 2021.

The subject of this action is a residential townhome development constructed by K. Hovnanian known as The Gallery which is located south of the intersection of North 71st Street and East Earll Drive in Scottsdale Arizona (Gallery/Project). The Project consists of four separated three-story buildings with a total of 18 residential dwelling units. Shelton understands this project was constructed between 2016 and 2017.

The scope of our retention is to perform a visual inspection of the Project, document the condition of Property at the time of the visual inspection and provide an expert opinion report responding to Plaintiff's allegations of construction defects as related to Liberty Constructors scope of work at the Project (concrete).

INVESTIGATION

Shelton reviewed and relied upon documents provided by Liberty Constructors and/or its attorney in the preparation of this preliminary report. The documents include, but are not limited to:

- Construction and Design Compliance Report prepared by SBSA, dated June 23, 2021
- Preliminary Estimate of Costs prepared by Nautilus General Contractors, Inc., July 23, 2021 (Plaintiff Cost of Repair Estimate)
- Architectural Drawings by Otak, Inc, dated March 11, 2016 and revised June 8, 2016 and August 2, 2016
- Gallery Improvement Plan prepared by Hoskin Ryan Consultants, Inc. (As-Built Plan)
- Defense Response Report dated August 11, 2021 prepared by Bert L. Howe & Associates, Inc. (Bert Howe Report)
- Preliminary Defense Cost of Defense Scope Estimate prepared by Bert L. Howe & Associates, Inc. dated 8/22/2021 "print date" (Bert Howe Cost of Repair Estimate)
- Civil and Geotechnical Engineering Evaluation report dated August 10, 2021 prepared by Peterson Geotechnical Group (Peterson Report)

Shelton initially visited the Property and performed a visual inspection Tuesday, October 26, 2021.

This matter is in the preliminary stages of discovery. Further investigation and discovery may bring to light additional information which may have a bearing on Shelton's opinions. Accordingly, this report is not intended to represent Shelton's complete opinion in this matter but is merely a preliminary opinion until further information is obtained regarding the specific claims against defendants. Shelton reserves the right to supplement or amend this disclosure as discovery continues.

The inspection conducted by Shelton was performed in accordance with generally accepted methods and standards for forensic construction consultants. The findings and conclusions presented in this Report are based on visual inspections, review of available project documents and information, and our knowledge and experience. Should additional relevant information or defects become known, this Expert Opinion Report may be modified or supplemented as appropriate.

ANALYSIS

The following opinions provided by Shelton shall respond to and follow the list of alleged defective work as provided in the Construction and Design Compliance Report prepared by SBSA, dated June 23, 2021, the Defense Response Report dated August 11, 2021 prepared by Bert L. Howe & Associates, Inc., and the Civil and Geotechnical Engineering Evaluation report dated August 10, 2021 prepared by Peterson Geotechnical Group.

Specifically, Shelton shall provide response opinions to those alleged defects as related to Liberty Constructors' scope of work (concrete) and any other alleged defects that have been fully or partially allocated to Liberty Constructors. To the extent that any additional alleged construction defects are allocated to Liberty Constructors that Shelton has been made aware of, Shelton reserves the right to respond to those allegations.

SBSA Report:

A. STRUCTURAL

2. LATERAL FORCE RESISTING SYSTEM (LFRS)

The buildings at the Gallery site are three-story 3-plex and 5-plex townhomes. The foundation system includes 8-inch-thick post-tensioned slab-on-ground for each building footprint. The superstructure is constructed of conventional 2x wood stud framing and prefabricated engineered floor and roof trusses. The LFRS is comprised of the roof and floor diaphragms and gypsum wall board and wood-sheathed braced or shear walls.

a. Non-Compliant LFRS

The LFRS is a system of framing members and connections that are intended to transfer the lateral forces, which are developed from wind or seismic loads, from the roof and floor diaphragms of a building through collectors and ultimately into the foundation systems that transfer loads to the supporting soils. For an LFRS to function as a complete system, it must provide a continuous load path as the code mandates. This continuous load path system includes the use of properly designed and installed floor and roof diaphragms, collectors, shear walls, blocking, straps, hold-downs, anchorage from the

bottom of the shear wall to the level below or foundation, and other mechanical connectors. The building's lateral resistance is part of the occupant safety criteria and building performance criteria. Failure to design and construct a complete LFRS based on the site-specific design criteria results in the potential for building damage and loss of use due in part to increased damages.

*Intrusive examination revealed the framing at Unit 3111 of Building D of the Gallery site was constructed without the proper LFRS that was clearly detailed on structural braced/shear wall plans. The architectural plans label Building D as plan type 31-1211. **The structural braced/shear wall plans for the front of the second floor of plan type 31-1211 specify a braced/shear wall type 4, which is a continuous 3/8-inch minimum rated sheathing behind the pop-out wall with .113 x 2-3/8-inch nails spaced per the braced/shear wall schedule. The braced/shear wall plan required one CMSTC16 or two CS16 straps at each end of the exterior sheathing installed with required fasteners to provide minimum tensile capacity of 3410-pounds-force.** [emphasis added]*

As constructed, the cladding was installed over open stud framing without the required exterior sheathing at the second floor level between the triple panel slider window in the great room and the pop-out wall. Fasteners in the CS16 strap connecting the exterior sheathing below the triple panel window were missing and the steel strap had buckled. The buckled steel strap and the missing exterior wood sheathing failed to comply with the braced/shear wall plan specified on the structural drawings. The non-compliant condition more likely than not reduces the structural integrity of the LFRS, as intended by the Structural Engineer of Record (EOR) and requires repairs. [emphasis added]

Where non-compliant LFRS exists, the as-built condition falls short of the prescriptive requirements of the relevant codes, design, and industry standards and, therefore, the developer, contractor, and subcontractors who performed the work fell below the standard of care.

Bert Howe Report:

1. STRUCTURAL

2.0 Lateral Force Resisting System (LFRS)

2.0A Non-Compliant LFRS

Plaintiff Description:

Intrusive examination revealed the framing at Unit 3111 of Building D of the Gallery site was constructed without the proper LFRS that was clearly detailed on structural braced/shear wall plans. [emphasis added]

Plaintiff Location:

Unit 3111

Defense Analysis and Repair Recommendations:

*SBSA asserts the shear panel was missing and a framing strap was not properly fastened at unit 3111 which likely "reduces the structural integrity of the building". SBSA bases this allegation on its observations **during its destructive testing of the building envelope at one unit, unit 3111. With this observation at one unit, SBSA extrapolates that all the units at every building have the same condition and require repair.** BHA disagrees with SBSA's extrapolation practice. [emphasis added]*

BHA was present for SBSA's destructive testing at a pot shelf beneath the XOX window unit at unit 3111. The pot shelf overlaps the juncture between the first and second floors. Inspecting inside the pot shelf, BHA documented one framing strap between the first and second floors was buckled slightly. BHA also observed the fasteners were covered by the horizontal framing of the pot shelf. It is unknown to BHA how SBSA determined "fasteners in the CS16 strap connecting the exterior sheathing below the triple panel window were missing" as the fasteners were not exposed. BHA did observe [sic] other straps at unit 3111 exposed by SBSA that were completely fastened and secure. In addition, framing inspections were conducted by the local building officials, as well as third-party engineers, and the framing was found to be compliant at every building.

SBSA also removed stucco from on top of the pot shelf and approximately 18" up the wall adjacent to the window unit. BHA documented open framing behind the stucco. BHA also observed a strip of exterior sheathing was installed inside the pot shelf between the first and second floors, as well as at the top of the second-floor wall across the juncture with the third-floor wall.

*SBSA claims a defect exists without providing any evidence the omission of some strap fasteners and a single shear panel has compromised the structural integrity of the building. BHA is unaware of any calculations or other analyses SBSA made to support this claim. SBSA simply did not observe what they expected to find and deemed the deficiency a defect. BHA disagrees with SBSA's assumption that a building's structural integrity is automatically compromised by the omission of some fasteners and a portion of a shear panel. Further, unit 3111 is the center unit of a five-plex. For SBSA to not consider the structural integrity of the entire building as a whole and to opine "the non-compliant condition more likely than not reduces the structural integrity of the LFRS, as intended by the Structural Engineer of Record (EOR)" is unreasonable. SBSA does not provide any evidence the structure is not performing. **In fact, SBSA removed stucco from several locations and found framing straps in place and properly fastened. BHA disagrees that a technical deficiency, in and of itself, is a defect. No structural repairs are needed.** [emphasis added]*

Shelton Responses to the SBSA and Howe Reports:

A. STRUCTURAL

2. LATERAL FORCE RESISTING SYSTEM (LFRS)

a. Non-Compliant LFRS

This condition as alleged by SBSA is specific to the Lateral Force Resisting System (LFRS). The alleged deficiency is reported to be limited to one specific location at the Project. This single site specific condition is reported to occur at the connection of the second and third floors at Unit 3111. This condition as reported by SBSA occurs at a wood framing to wood framing connection at the building exterior wall. There is no concrete at this location in any of the buildings and Liberty Constructors did not perform any wood framing work at the Project.

There are no allegations by SBSA nor Howe that any deficiencies exist in the LFRS system that are related to the concrete scope of work in any way. There are no allegations of deficient construction materials or workmanship related to the concrete scope of work within this section of the SBSA or Howe reports.

Lacking any claims of deficient materials and/or workmanship related to the concrete scope of work, and lacking any evidence that any deficiencies exist within the concrete scope of work for the Lateral Force Resisting System (LFRS), Non-Compliant LFRS, it is Shelton opinion that Liberty Constructors work is not related to the defect allegation in any way.

To the extent the trier of fact finds in favor of Plaintiff specific to this alleged defect, Liberty Constructors should not be allocated any responsibility for this alleged defect nor any associated cost of repair.

SBSA Report:

B. CIVIL

1. GRADING AND DRAINAGE

a. Drainage Bounded by Concrete Flatwork

Proper grading and dispersal of runoff and other collected flows around the perimeter of a building is important in minimizing the amount of water that infiltrates into the soil adjacent to its foundation and, subsequently, under the foundation elements and the building itself. Building codes and the industry over the last 50 years define a protective/backfill zone around a building's perimeter as the first 6- to 10-feet away from the structure. This backfill zone is well defined in engineering and construction literature beginning as early as 1973. The US Department of Housing and Urban Development (HUD) Land Planning Data Sheet Handbook 4140.3 is one of the publications that first defined many of the concepts associated with site grading. These grading concepts include lot types (A, B, and C), block and lot grading, and protective slopes. Additionally, Handbook 4140.3, within the section titled "Block and Lot Drainage," defines the areas within the backfill zone of a building's foundation as foundation protective zones. It states that their purpose is to drain roof water and other surface water away from all building walls and backfilled areas.

These protective zone areas are subject to stringent requirements set by building codes, site-specific geotechnical reports, and industry standards. The purpose of these protective zone requirements is to minimize the impact of water on a building's foundation elements by ensuring that adequate drainage is provided in this area so that any roof runoff and surface water that collects next to the building is efficiently and rapidly directed away. Rapid removal of water in this area minimizes the potential for infiltration into the backfill adjacent to the foundation elements. Water that infiltrates into the protective zone soil causes damage in several ways, including increased hydrostatic pressure that may exceed the design capacity of foundation walls and settlement of the backfill soil, resulting in vertical movement of adjacent slab-on-ground concrete flatwork.

Infiltration of water into the soil in the protective zone is increased when no means are provided to allow water (concentrated and non-concentrated runoff flows) to cross bounding structures such as concrete flatwork. This increased infiltration affects the performance of the flatwork and the structure's foundation systems, and water that is permitted to pond within the protective zone (either during or post-construction) can result in significantly higher soil movements than anticipated in the design. At the Gallery site, there are unpaved areas next to the buildings at the front elevations where the grading is such that the ground surface is below the concrete flatwork (sidewalks and driveways). This condition creates bounded conditions because the concrete prevents positive drainage away from the foundations. Because the ground surface is lower than the flatwork, water ponds to depths up to several inches in the protective zone. Both the geotechnical report and the structural drawings provide recommendations to not allow ponding of water next to the post-tensioned slab-on ground foundations of the buildings because of the potential for adverse effects due to the collapsible soils, and this is violated by the condition where concrete flatwork impounds roof and surface flows next to the foundations. The Protex report specifically identified these bounded areas as "undrained landscape islands" that must be avoided. In addition to the rainfall runoff, the condensate from the roof-mounted AC units is also captured in the roof drains and routed to the undrained islands. This creates ongoing conditions of high moisture content in the soil adjacent to the buildings.

As noted above, SBSA reviewed the Natural Resources Conservation Service Web Soil Survey (WSS) for the site and the existing Mohall Loam has a somewhat limited rating for construction of buildings without basement due to its shrink-swell potential. Therefore, minimizing the quantity of water trapped next to the foundations is an important consideration in maintaining the performance of the buildings and site elements.

At the Gallery site, the drainage bounded by the concrete flatwork creates a condition where large quantities of water are able to infiltrate into the bearing soils below the foundations, sidewalks, and driveways. This condition constitutes a deficiency that directly violates the requirements of the site-specific geotechnical report and impairs the functionality of the site to direct drainage flows away from the structures. Without the necessary repairs, it is reasonable to assume that this condition will impair the bearing

capacity of soils below the buildings' post tension slabs on grade, resulting in a loss of structural integrity of the slabs and the supported building elements.

Where drainage is bounded by concrete flatwork, the as-built condition falls short of the prescriptive requirements of the relevant codes, design, and industry standards and, therefore, the developer, contractor, and subcontractors who performed the work fell below the standard of care.

Bert Howe Report:

II. CIVIL

1.0 Grading and Drainage

1.0 A Drainage Bounded by Concrete Flatwork

Plaintiff Description:

There are unpaved areas next to the buildings at the front elevations where the grading is such that the ground surface is below the concrete flatwork (sidewalks and driveways). This condition creates bounded conditions because the concrete prevents positive drainage away from the foundations.

Defense Analysis and Repair Recommendations:

This allegation is being addressed by PGG. See PGG report.

Peterson Geotechnical Report:

SBSA Allegation:

B.1.a - Drainage Bounded by Concrete Flatwork

PGG Response:

In general, SBSA alleges that landscaped areas bound by concrete flatwork (common sidewalk, entry sidewalk, driveway, and building foundations) in front of some of the units trap surface runoff, which could potentially lead to a moisture content increase in the soils beneath the flatwork and building foundations and cause post-construction movement and damage.

In our opinion, SBSA fails to recognize that earthwork recommendations by ProTex were provided to mitigate the potential for post-construction movement to occur. SBSA's concern is based upon what ProTex found during their evaluation of the in-situ condition of the soils at the site; earthwork recommendations were provided to mitigate those findings. Further, it is our understanding that SBSA has not advanced any soil borings, collected any soil samples, or performed any laboratory testing. Nowhere in their report do they identify any distress to the interior or exterior finishes of the homes or the concrete flatwork at the site as having been the result of post-construction soil movement. As such, SBSA has not alleged that there is any resultant damage, and they are not able to demonstrate that there is the potential for postconstruction movement should the soils beneath the flatwork or building foundations experience an increase in their moisture content or become saturated.

Furthermore, based on our observations, it appears most of the water in these areas will flow towards the curb/sidewalk and into the street. In addition, we found no indication of soil movement in the flatwork or residences indicating that this condition had resulted in problems.

We also reviewed special inspection reports by ProTex performed during construction at the site. Reports dated November 21, 2016, March 24, 2017, June 15, 2017, and October 18, 2017, indicate that drainage inspections were performed by ProTex near the completion of the project and the drainage was found to be in compliance with the plans and specifications. [emphasis added]

Shelton Responses to the SBSA, Howe and Peterson Reports:

B. CIVIL

1. GRADING AND DRAINAGE

a. Drainage Bounded by Concrete Flatwork

Shelton is in general agreement with the opinions provided by Peterson Geotechnical in response to the Drainage Bounded by Concrete Flatwork allegation.

The concrete flatwork at the Project was constructed by Liberty Constructors according to the approved construction drawings. This is further evidenced by the As Built Gallery Improvement Plan prepared by Hoskins Ryan Consultants. This As Built drawing is sealed by Brandon Jones, Registered Land Surveyor #50044¹.

Shelton also agrees with Peterson that the inspection reports by ProTex performed during construction at the site. Reports dated November 21, 2016, March 24, 2017, June 15, 2017, and October 18, 2017, indicate that drainage inspections were performed by ProTex near the completion of the project and the drainage was found to be in compliance with the plans and specifications.

SBSA failed to provide any evidence or opinion that any damage has occurred, or is likely to occur, as related to this condition. Additionally, the slope of the landscaped areas bound by concrete flatwork in front of some of the units is such that any rain water, including discharge from roof drains, will flow freely across the concrete flatwork to the appropriate drainage provisions as designed. The as-built conditions are consistent with the design for the Project.

To the extent the trier of fact finds in favor of Plaintiff specific to this alleged defect, Liberty Constructors should not be allocated any responsibility for this alleged defect nor any associated cost of repair.

¹ Bates #KHOV00001499

SBSA Report:

B. CIVIL

2. CONCRETE FLATWORK

The concrete flatwork constructed on this site provides egress, building access, roadway drainage conveyance, and pedestrian walkways. The flatwork provides this function through geometric considerations and durability. The connection of the roadway, curbs, walkways, and driveway aprons creates a unique situation where consideration must be given to the cross-slopes and longitudinal slopes, and the integrated systems must be carefully designed and coordinated to meet the specific requirements of the codes and jurisdictional standards.

a. Non-Compliant Cross-Slope of Sidewalks

A concrete sidewalk is constructed on the west side of 71st Street in front of lots 1 - 8. Per the Hoskin Ryan Consultants "Gallery Improvement Plan" drawings, the sidewalk was required to be constructed with a maximum cross-slope of 2.0-percent versus a standard maximum slope of 1.5-percent in conformance with the Maricopa Association of Governments (MAG) Detail 230.

Where sidewalk cross-slopes exceed the maximum allowable values, the as-built condition falls short of the prescriptive requirements of the relevant codes, design, and industry standards and, therefore, the developer, contractor, and subcontractors who performed the work fell below the standard of care in the construction.

b. Non-Compliant Longitudinal Slope of Sidewalks

As noted previously, sidewalks leading to the stairways in Tracts D and E were constructed from the street to the stairs. As measured by SBSA, the longitudinal slopes of the sidewalks at some locations exceed the maximum allowable. Per ANSI A117.1 guidelines, the maximum allowable slope for a ramp that is part of an accessible route is 8.33-percent, and the slopes measured are excessive. The sidewalks as constructed exceed the allowable maximum slopes for ramps and are non-compliant both as ramps and as sidewalks. The sidewalk slopes are excessive and range from 10- to 15.5-percent and are attributable to poor construction. Where these conditions occur, complete removal and replacement with code-compliant construction is required.

Where non-compliant longitudinal slope of sidewalks occur on the site, the as-built condition falls short of the prescriptive requirements of the relevant codes, design, and industry standards and, therefore, the developer, contractor, and subcontractors who performed the work fell below the standard of care.

c. Non-Compliant Landings

Stairways are subject to strict criteria defined in the 2012 IRC. The requirements for stair risers, landings, and treads are all clearly defined in building code requirements. Stairways are constructed at the ends of each building to provide access to the upper floors of the buildings.

Landings are required to be constructed at the tops and bottoms of stairways to provide pedestrian safety by providing low-sloped, stable surfaces as pedestrians approach and depart stairways. These landings are required to be constructed with minimal slopes so as to not create a ponding hazard for pedestrians that would occur if constructed with perfectly flat grades. The 2012 IRC limits the maximum allowable slope of a landing to 2-percent in any direction and the minimum length in the direction of travel to 36-inches.

At the Gallery site, the landings at the bottoms of the stairs were constructed with slopes exceeding the 2.0-percent maximum as shown on the Civil Observation Drawings. These landings do not provide the prescriptive surface required at stairs and ramps to allow for safe usage of the sidewalk.

Where non-compliant landings occur on the site, the as-built condition falls short of the prescriptive requirements of the relevant codes, design, and industry standards and, therefore, the developer, contractor, and subcontractors who performed the work fell below the standard of care.

Bert Howe Report:

2.0 Concrete Flatwork

2.0A Non-Compliant Cross-Slope of Sidewalks

Defense Analysis and Repair Recommendations:

This allegation is being addressed by PGG. See PGG report.

2.0 Concrete Flatwork

2.0B Non-Compliant Longitudinal Slope of Sidewalks

Defense Analysis and Repair Recommendations:

This allegation is being addressed by PGG. See PGG report.

2.0 Concrete Flatwork

2.0C Non-Compliant Landings

Defense Analysis and Repair Recommendations:

This allegation is being addressed by PGG. See PGG report.

Peterson Geotechnical Report:

SBSA Allegation:

B.2.a - Non-compliant Cross-Slope of Sidewalks

B.2.a - Non-compliant Longitudinal Slope of Sidewalks

B.2.c - Non-Compliant Landings

PGG Response:

Due to the similarity of the allegations, these responses have been combined. In general, SBSA alleged that the cross-slopes and longitudinal slopes as well as the dimensions of (or

lack thereof) landings in the concrete flatwork violated various accessibility codes. SBSA notes discrepancies between slopes depicted in the HRC plans, MAG standards, and City of Scottsdale standards.

However, what SBSA omits is that the Gallery is a gated community with private streets and sidewalks. As such, MAG standards and City of Scottsdale standards are not applicable as there is no public right-of-way. ADA standards also do not apply to the private sidewalks at the Gallery.

During our evaluation, we noted that the distance between the asphalt street and the front of the homes in Buildings A and B on the west side of the street was relatively short. Due to the elevation change across this distance (which provides flood protection for the interior of the homes) a relatively steep slope is present; the entry sidewalks between the entry door and the street sidewalk follow this slope.

During our evaluation we also noted that many of the homes have entry doors on the second floor that are accessed by a set of stairs; in addition, the homes are three-story dwellings with interior stairs and no elevators. It appears that SBSA is attempting to apply ADA standards which do not apply to this gated development.

While the repair recommendations by SBSA may make the short stretch of concrete flatwork accessible, what is left unmentioned in their report is that it would provide an accessible route to a set of stairs. In other cases, SBSA has acknowledged that due to the elevation change across the portion of flatwork that they are recommending removing and replacing, that the replacement panel would include steps. Both of these instances illustrate the conflict between the SBSA recommendations.

Shelton Responses to the SBSA, Howe and Peterson Reports:

B. CIVIL

2. CONCRETE FLATWORK

a. Non-compliant Cross-Slope of Sidewalks

b. Non-compliant Longitudinal Slope of Sidewalks

c. Non-Compliant Landings

Shelton is in general agreement with the opinions provided by Peterson Geotechnical in response to the concrete flatwork defect allegations included in the SBSA Report. Specifically, Shelton agrees that MAG standards and Scottsdale standards for public area do not apply to Gallery as a private gated community. Similarly, ADA requirements do not apply to the Gallery community, this Project was not designed nor intended to be ADA compliant.

The concrete flatwork at the Project was constructed by Liberty Constructors according to the approved construction drawings. This is further evidenced by the As Built Gallery Improvement Plan prepared by

Hoskins Ryan Consultants. This As Built drawing is sealed by Brandon Jones, Registered Land Surveyor #50044².

The finished heights of the concrete garage floor slab, interior concrete floor slabs and the landing heights at exterior stairs is determined by the design professionals for the Project. This is a high density project whereby the distance between the street sidewalks, the garage floors and the entryway to the individual units is extremely short by design. Therefore, the slope of the sidewalks is a necessity rather than a defect and is consistent with the Project design as evidenced by the approval from the City of Scottsdale and the approved As Built drawings.

To the extent the trier of fact finds in favor of Plaintiff specific to this alleged defect, Liberty Constructors should not be allocated any responsibility for this alleged defect nor any associated cost of repair.

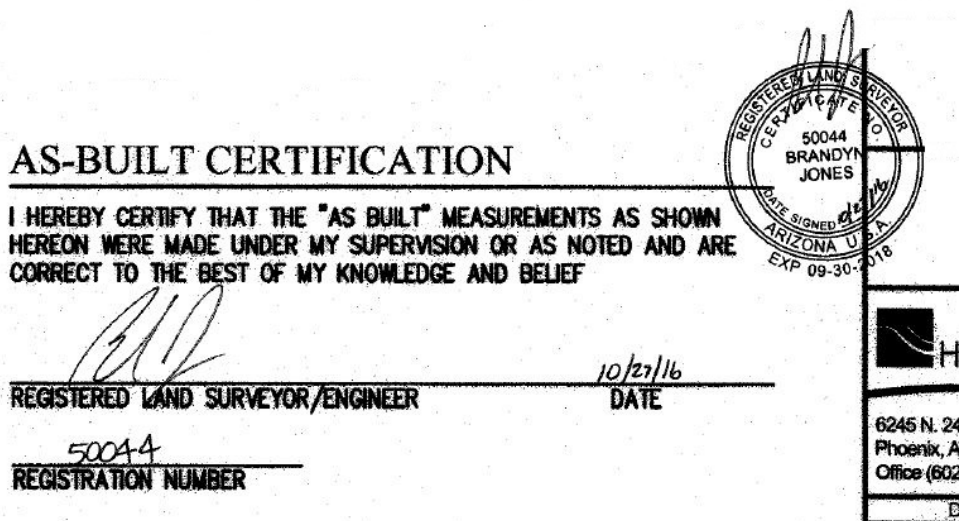


Figure 1: As Built Certification included on the Gallery Improvement Plan As-Built Drawings.

CONCLUSION

Specific to the alleged defects addressed within the body of this report, it is Shelton’s opinion that: a) SBSA failed to provide sufficient evidence of any defects related to the concrete scope of work as completed by Liberty Constructors, b) Shelton is in general agreement with the defenses presented by both Howe and Peterson, c) SBSA failed to provide any evidence of damage nor the potential for damage related to any of the alleged defects, and, c) to the extent the trier of fact finds in favor of Plaintiff specific to any of the alleged defects discussed in this report, Liberty Constructors should not be allocated any responsibility for those alleged defects nor any associated cost of repair.

² Bates #KHOV00001499



LIMITATIONS

The opinions contained in this report are solely derived in accordance with current standards of professional practices. Except as otherwise described herein, our opinions are based solely on a brief visual inspection, and the review of documents and photographs.

Standard of Care is time-dependent. This report has been prepared in accordance with the duty of care of forensic construction consultants as of the date on this report. We reserve the right to amend our opinions as additional information comes to our attention. This matter is in the preliminary stages of discovery. Further investigation and discovery may bring to light additional information which may have a bearing on Shelton's opinions. Accordingly, this report is not intended to represent Shelton's complete opinion in this matter but is merely a preliminary opinion until further information is obtained regarding the specific claims. Shelton reserves the right to supplement or amend this disclosure as discovery continues.

The services performed are solely for the use of our client, Liberty Constructors, LLC, c/o Shorall McGoldrick Brinkmann. Therefore, no person or entity other than our client may rely on the opinions contained in this report without our prior written consent.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'AS', written over a light blue horizontal line.

Alan Shelton
Shelton Consulting Group, LLC
alan@sheltoncg.com

AZ ROC #252589
AZ Home Inspector # 38095