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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,

Plaintiff,

v.

K. HOVNANIAN AT GALLERY, LLC, an Arizona limited liability company; et al.,

Defendants.

K. HOVNANIAN AT GALLERY, LLC, an Arizona limited liability company; et al.,

Third-Party Plaintiffs,

v.

DESERT VISTA, INC., an Arizona corporation; et al.

Third-Party Defendants.

Case No. CV2020-008714

PLAINTIFF'S RESPONSE TO K. HOVNANIAN'S MOTION *IN LIMINE* NO. 1 AND THIRD-PARTY DEFENDANTS RENCO, LLC DBA RENCO ROOFING AND DESERT VISTA, INC.'S JOINDER THEREIN

Assigned to Hon. Katherine Cooper

Plaintiff, Gallery Community Association (the "Association" or "Plaintiff"), by and through its attorneys Burg Simpson Eldredge Hersh & Jardine PC, hereby file this Response to Defendants/Third-Party Plaintiffs K. Hovnanian at Gallery, LLC and K. Hovnanian

Arizona Operations, LLC's (collectively "Defendants" or "K Hovnanian") Motion *in Limine* No. 1 regarding Plaintiff's Supplemental Defect and Repair Opinions and Third-Party Defendants Renco, LLC d/b/a Renco Roofing and Desert Vista, Inc.'s Joinder therein (collectively the "Motion *in Limine*").

On July 3, 2019, pursuant to A.R.S. § 33-2001, et seq. (the "Homeowners' Association Dwelling Act") and A.R.S. § 12-1361, et seq. (the "Purchaser Dwelling Act" or "PDA"), the Association gave notice to K Hovnanian of defective conditions at The Gallery project, including the "pool canopy drywall cracking." Exh. 1, p. 5 (Depo. Exh. 31, PDA Claim Letter dated July 3, 2019). The PDA requires the claimant to give "[a]n itemized list that describes each alleged construction defect with sufficient detail to allow the seller … to identify the alleged construction defect." A.R.S. § 12-1363(Q)(1).

Pursuant to A.R.S. § 12-1363(B), "the **seller [K Hovnanian]**… may inspect the dwelling to **determine the nature and cause** of the alleged construction defects **and the nature and extent of any repairs** or replacements necessary to remedy the alleged construction defects." (Emphasis added). After conducting its inspection of the Project, on February 5, 2020, K. Hovnanian served its notice of intent to repair, under A.R.S. § 12-1363(C), offering to repair the "[p]ool canopy drywall cracking." Exh. 2, p.1 (Depo. Exh. 33, K. Hovnanian Notice of Intent to Repair Letter dated February 5, 2020). K. Hovnanian attempted to repair the pool canopy drywall in June 2020.

After the PDA process was completed and Plaintiff's Complaint was filed, Plaintiff's experts, SBSA LLC, a Charles Taylor Company, conducted intrusive testing in March 2021. At that time, SBSA did not note any issues with the pool canopy drywall. Plaintiff's disclosure of liability expert witnesses and reports was made timely on the due date of June 23, 2021.

On July 7, 2021, Plaintiff's cost of repair experts, Nautilus Reconstruction Contracting & Consulting ("Nautilus"), conducted a visual inspection of the Project and photographed cracks at the pool canopy drywall. Exh. 3 (Nautilus Photos taken on July 7, 2021). Plaintiff's disclosure of cost of repair expert witnesses and reports was due on July

23, 2021. On July 23, 2021, Plaintiff timely disclosed that their damages included "the cost of repairing prior negligent repairs by Defendants to the pool canopy drywall" and disclosed their experts' cost of repair estimate which included the cost to repair the "Improper Wall & Ceiling Assembly and Fire Feature at Pool." (Defendants' MIL No. 1, Exh. B); Exh. 4, p. 13 (Nautilus Cost of Repair July 23, 2021, GALLERY-NBC_000010-22). At that time, the cost of repair for the pool wall and ceiling and fire feature was estimated to be $35,000 and the estimate noted this was an "[a]llowance pending further investigation."

Because Plaintiff's intrusive investigation was completed months prior, having SBSA return to conduct an investigation just for the pool canopy drywall would have been cost prohibitive. However, when homeowners began reporting numerous leaks in late July and August 2021, SBSA returned to the site on August 23, 2021 to investigate the leaks and observed peeling paint at the pool canopy, which was not there in July 2021. (Defendants' MIL No. 1, Exh. C., p. 20 and 21). SBSA identified the source of the damage at the pool canopy to "standing seam metal panel is bulged" and "unsealed" and "bulging edge" at the canopy metal roof. (Defendants' MIL No. 1, Exh. C., p. 20 and 23). SBSA noted that K. Hovnanian's prior repair of the pool canopy did not address the underlying issue that caused the original damage. (Defendants' MIL No. 1, Exh. C., p. 15). Under A.R.S. § 12-1363(B), it was K. Hovnanian's obligation during the PDA process "to **determine the nature and cause** of the alleged construction defects **and the nature and extent of any repairs** or replacements necessary to remedy the alleged construction defects." (Emphasis added). With the return of the drywall cracks and peeling paint at the pool canopy, SBSA opined that K. Hovnanian did not determine the underlying cause and correct repair of the original cracks in the pool canopy drywall.

In addition, SBSA's investigation of the leaks in August 2021 revealed several sources of water intrusion at the units, including roof leaks at units 3106 and 3104, a "water leak at from [sic] front door light switch and hole in interior drywall" and "light fixture protruding from stucco with openings around the perimeter" at unit 3104, "previous repair failed to seal openings in the roof membrane" at unit 3112, and "roof penthouse door,

unsealed joint at door threshold to jamb" at units 3106 and 3123. This was the first investigation of these newly reported water leaks at the units, which led to the identification of the unsealed joint at the roof penthouse doors at units 3106 and 3123.

Plaintiff disclosed SBSA's Supplemental Construction and Design Compliance Report on October 15, 2021, which noted the new leaks that occurred for the first time after in July and August 2021. On November 11, 2021, Plaintiff disclosed the revised cost of repair based upon SBSA's Supplemental Report. The revised cost of repair included an estimate for repairing the pool canopy and penthouse door issues based upon repair recommendations in the Supplemental Report.

The foregoing timeline shows that Plaintiff disclosed K. Hovnanian's improper repair of the pool canopy when it was discovered in July 2021. Plaintiff's timely disclosure and cost of repair dated July 23, 2021 noted the improper repair and gave a cost of repair estimate allowance for further investigation and repair of the issue. Once new leaks were reported for the first time in late July and August 2021, SBSA discovered signs of water damage at the pool canopy and leaks at the roof penthouse doors at units 3106 and 3123 and provided a supplemental report regarding these issues. Plaintiff's experts were deposed in August 2022, ten months after the disclosure of the Supplemental Report. There was no prejudice to Defendants with respect to the disclosure of defects that were first observed after the deadline for Plaintiff's original liability expert disclosure.

Finally, the Motion *in Limine* is untimely because it was brought over 15 months after Plaintiff disclosed SBSA's Supplemental Report and 10 months after Third-Party Defendants Renco, LLC dba Renco Roofing and Desert Vista, Inc. brought their Motion to Preclude K. Hovnanian's Untimely and New Expert Reports and Opinions ("Motion to Preclude") on March 29, 2022. The Motion to Preclude did not seek an order from the Court to exclude any of Plaintiff's expert disclosures. In addition, in responding to Third-Party Defendants' Motion to Preclude, K. Hovnanian did not move to have the Court exclude SBSA's Supplemental Report or Nautilus' revised cost of repair, nor did it do so after the Court granted the Motion to Preclude on July 29, 2022. Granting the Motion *in*

Limine would be prejudicial on the eve of trial and after an unwarranted delay.

Based upon the foregoing, the Court should deny K. Hovnanian's Motion *in Limine* No. 1.

RESPECTFULLY SUBMITTED this 30th day of January, 2023.

BURG | SIMPSON | ELDREDGE | HERSH | JARDINE PC

By: */s/ Penny J. Manship*
Craig S. Nuss, Esq.
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8310 South Valley Highway, Suite 270
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Attorneys for the Plaintiff Gallery Community Association

Copy of the foregoing E-FILED and sent via the TurboCourt eFiling system to:

Hon. Katherine Cooper
Maricopa County Superior Court
101 W. Jefferson, No. 413
Phoenix, AZ 85003

Copy of the foregoing E-FILED and E-MAILED via TurboCourt electronic mailing system this 30th day of January, 2023 to:

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/s/ Jessica Harmon
Jessica Harmon

EXHIBIT 1

CSC

Notice of Service of Process

null / ALL
Transmittal Number: 20052434
Date Processed: 07/08/2019

Primary Contact: Elizabeth Tice
Hovnanian Enterprises, Inc.
90 Matawan Rd
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Matawan, NJ 07747-2623

Electronic copy provided to: Shauna Ehlers
Laura Stricker

Entity:	K. HOVNANIAN DEVELOPMENTS OF ARIZONA, INC. Entity ID Number 3230104
Entity Served:	K. Hovnanian Developments of Arizona,Inc.
Title of Action:	Gallery Condominium Association vs. K. Hovnanian at Gallery, LLC
Document(s) Type:	Notice
Nature of Action:	Breach of Warranty
Case/Reference No:	Not Shown
Jurisdiction Served:	Arizona
Date Served on CSC:	07/05/2019
Answer or Appearance Due:	Other/NA
Originally Served On:	CSC
How Served:	Certified Mail
Sender Information:	Craig S. Nuss 303-792-5595

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

To avoid potential delay, please do not send your response to CSC
251 Little Falls Drive, Wilmington, Delaware 19808-1674 (888) 690-2882 | sop@cscglobal.com

EXHIBIT
31

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July 3, 2019

Via Certified Mail, Return Receipt Requested

K. Hovnanian at Gallery, LLC
c/o Corporation Service Company
8825 N 23rd Avenue, Suite 100
Phoenix, AZ 85021

K. Hovnanian Developments of Arizona, Inc.
c/o Corporation Service Company
8825 N 23rd Avenue, Suite 100
Phoenix, AZ 85021

Re: The Gallery
c/o The Management Trust
15010 N 78th Way, Suite 206
Scottsdale, AZ 85260

Dear K. Hovnanian at Gallery, LLC; K. Hovnanian Developments of Arizona, Inc.:

We represent the Gallery Condominium Association ("Association") regarding the defective original construction of The Gallery condominium project located in Scottsdale, Arizona. The purpose of this letter is to provide you with formal notice of the defective work and the Association's claim pursuant to the Homeowners' Association Dwelling Actions (A.R.S. § 33-2002, et seq.), the Purchaser Dwelling Act (A.R.S. § 12-1361, et seq.), and the Association's governing documents.

The Association has retained a forensic expert, SBSA, Inc. ("SBSA") to investigate the defective construction of the common elements at The Gallery. The following defects and deficiencies in the common elements at The Gallery have been identified by SBSA:

A. STRUCTURAL
- LATERAL FORCE RESISTING SYSTEM (LFRS)
  - Non-Compliant LFRS

B. CIVIL
- GRADING AND DRAINAGE
  - Non-Compliant Slope of Grade Away from Foundation

- Drainage Bound by Concrete Flatwork
- CONCRETE FLATWORK
  - Non-Compliant Isolation of Concrete Flatwork
- SITE STRUCTURES
  - Differential Movement of CMU Walls and Stairs

C. BUILDING ENVELOPE
- FAÇADE (EXTERIOR CLADDING AND SEALANTS) TYPE 1 – STUCCO
  - Missing Control/Movement Joints
  - Non-Compliant EPS Insulation Board for Stucco System
  - Non-Compliant WRB for Stucco System
  - Non-Compliant Slope at Parapet Caps
- MOISTURE-MANAGEMENT SYSTEM (BARRIERS, FLASHINGS, DRAINAGE, ETC.)
  - Non-Compliant Expansion Joints at Dissimilar Materials
  - No Weep Mechanism at Soffits
  - No Head Flashing
  - Non-Compliant Flashing to Stucco Interface
- ROOFING SYSTEM TYPE 1 – SPRAY POLYURETHANE FOAM (SPF)
  - Non-Compliant Slope to Roof Drains
  - Inadequate Support of Roof Air Conditioners
- ROOFING SYSTEM TYPE 2 – STUCCO OVER SELF-ADHERED MEMBRANE
  - Evidence of Water Entrapment
- ELEVATED DECKS, BALCONIES, OR WALKWAYS
  - Non-Compliant Slope of Balcony

These defective conditions are described in detail in the attached Notice of Claim Summary report dated July 2, 2019[1]. The SBSA report includes photographs of the defective conditions, which were observed project-wide. The defects impair the structural integrity, functionality or appearance of the dwelling and will continue to do so in the future if not repaired or replaced.

In addition, the Association has experienced the following defective conditions to the common elements for which it has incurred, or will incur, expenses to repair:

- Deviation from the landscaping plan, including the use of three different types of crushed granite;
- Pool canopy drywall cracking;
- CMU blocks showing through stucco in pool canopy walls;
- Defective pool lights;
- Defective pool fireplace;

[1] Attachments to the SBSA Notice of Claim Summary can be accessed using the following link: https://www.dropbox.com/sh/fy1ic7bjm7m4dso/AACI79uVE5zkDutQ1ylT9dmLa?dl=0

- Defective pedestrian gate;
- Defective entrance gate;
- Dead trees and plants;
- Defective irrigation;
- Missing bulbs in coach lights;
- Standing water at monument sign and rear of project; and
- Spray painting on pavement left by original contractors.

The Association anticipates that additional defects may be discovered during further investigation of the building systems. The Association reserves the right to supplement this notice pursuant to the Purchaser Dwelling Act.

The Association's claims against K. Hovnanian at Gallery, LLC, include but are not limited to, breach of implied warranty of workmanship and habitability and negligence, as well as breach of contract and misrepresentation, in its capacity as developer and declarant of the Association.

The Association looks forward to your timely response. The Association is willing to meet at a mutually acceptable place within The Gallery to discuss potential resolution of the claims. If you have any questions or would like to discuss this matter, please feel free to contact us.

Very truly yours,

BURG SIMPSON
ELDREDGE HERSH & JARDINE PC

Craig S. Nuss, Esq.
Penny J. Manship, Esq.

Enclosure

SB SA 5926 McIntyre Street Golden, Colorado 80403 Phone: 303.425.7272 Fax: 720.345.0250

July 2, 2019

Craig Nuss
Burg Simpson Eldredge Hersh Jardine PC
40 Inverness Drive East
Englewood, Colorado 80112

Project Number:	219061.00 (011)
Project Name:	Gallery
Location:	3124 North 71st Street Scottsdale, Arizona 85251
Subject:	Notice of Claim Summary

Dear Mr. Nuss:

Per your request, SBSA, Inc. (SBSA) conducted a preliminary site observation, including limited interior observations, limited exterior observations, and random intrusive testing, at Gallery, which is located in Scottsdale, Arizona. The initial observation was conducted on December 19, 2018 by Jerod B. Faris, MSCE, PE. Preliminary intrusive testing was performed on May 13, 2019 and May 14, 2019 by Jerod B. Faris, MSCE, PE, and Edward L. Fronapfel, MSCE, PE.

According to documents obtained from the City of Scottsdale Building Department, K Hovnanian Homes was the developer/contractor for the project. The restricted purpose of this limited evaluation was to examine the general construction and performance of the subject property and to provide preliminary information regarding the existence, approximate location (by description of the relevant building component only), and nature of the non-compliant construction at the property for purposes of the property owner or its agent developing a Notice of Claim or initial list of defects pursuant to SBSA's understanding of Arizona law.

HB Bill 2578 states, "*"construction defect" will mean "a material deficiency in the design, construction, manufacture, repair, alteration, remodeling or landscaping of a dwelling that is the result of one of the following: (a) a violation of construction codes applicable to the construction of the dwelling; (b) the use of defective materials, products, components or equipment in the design, construction, manufacture, repair, alteration, remodeling or landscaping of the dwelling; or (c) the failure to adhere to generally accepted workmanship standards in the community."*

The preliminary intrusive examinations were conducted to determine the presence and the condition of the underlying substrate and any water management systems behind the cladding systems and the integration to the roofing. The presence and proper installation of these components plays a vital role in the performance of the finish systems and in the overall weatherproofing capabilities of the systems to protect the structure.

Nautilus General Contractors, Inc. was the contractor who assisted SBSA with the preliminary testing and intrusive examination work. The unit owners and Craig Nuss were present on site during the observations and intrusive examination. No other parties or representative were present during our observations and intrusive examinations.

The original design plans, specifications, and related construction documents were not available for SBSA's review. Additional documents are required to determine the original design intent, as-built condition, and jurisdictional requirements for design requirements of the site. This summary is based on information obtained and reviewed to-date, and it is not meant to provide final engineering opinions regarding property conditions. Should additional information be made available or unknown conditions discovered, SBSA retains the right to periodically revise and supplement this report accordingly.

SUMMARY OF CONSTRUCTION NON-COMPLIANCE

Note: It should be noted that the non-compliant conditions outlined below are in no specific order of importance.

A. STRUCTURAL

The project consists of four buildings with three-story townhome units (Buildings A through D). Building A, located at the northwest corner of the site, has three total townhome units and the remaining three buildings each have five townhome units. There are a total of 18-units between the four buildings. The first level is a structural post-tensioned slab that serves as the shallow foundation system for the buildings as well as the floor system, including the garages. The superstructure is comprised of conventional wood framing.

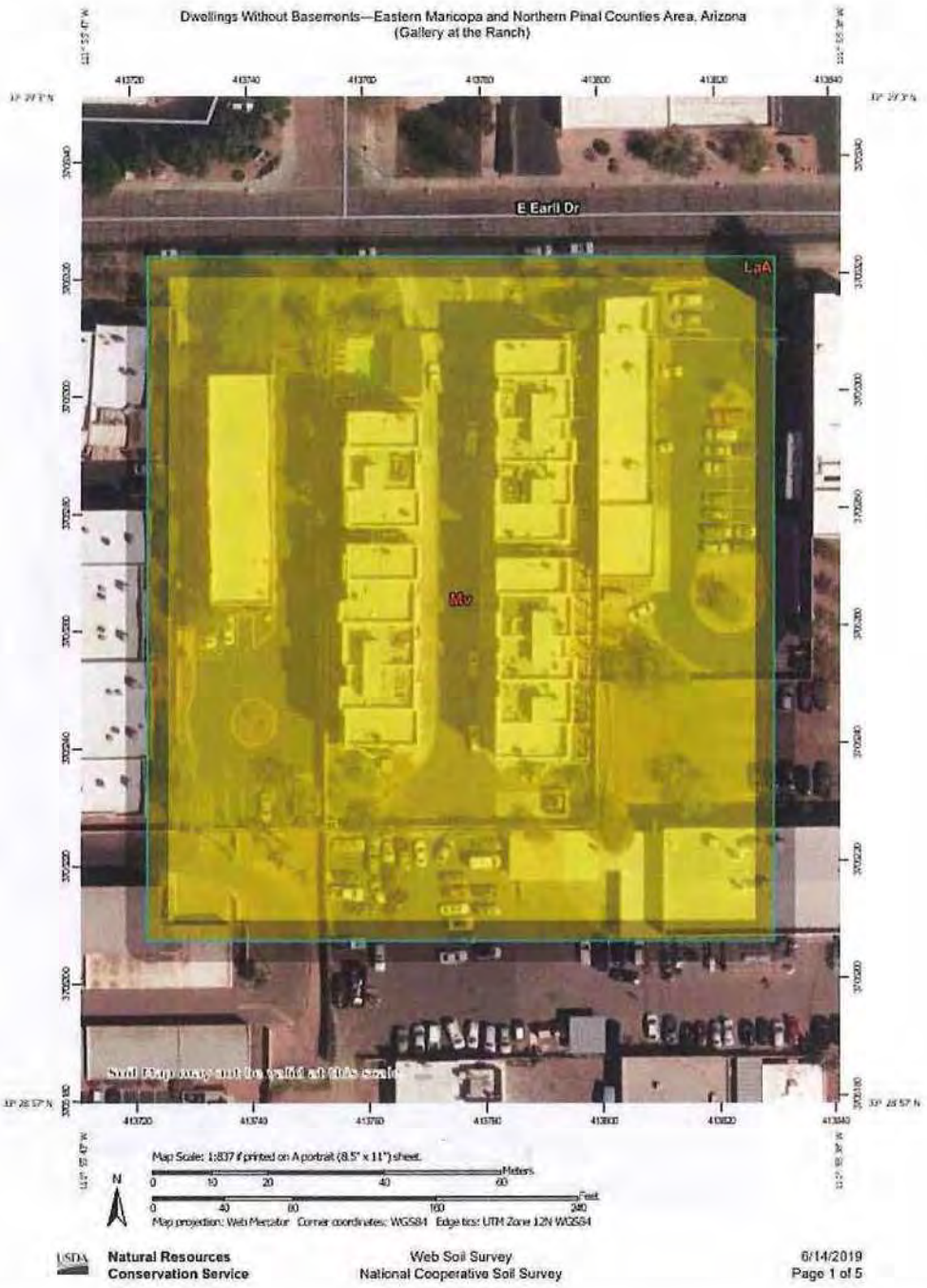
Full construction records have not yet been disclosed to determine the applicable designer and design intent for each site. The lateral force resisting system (LFRS) is unknown.

A complete evaluation of the structural elements will require review of the original soils report(s) and original construction drawings. These documents have not yet been provided for SBSA's review.

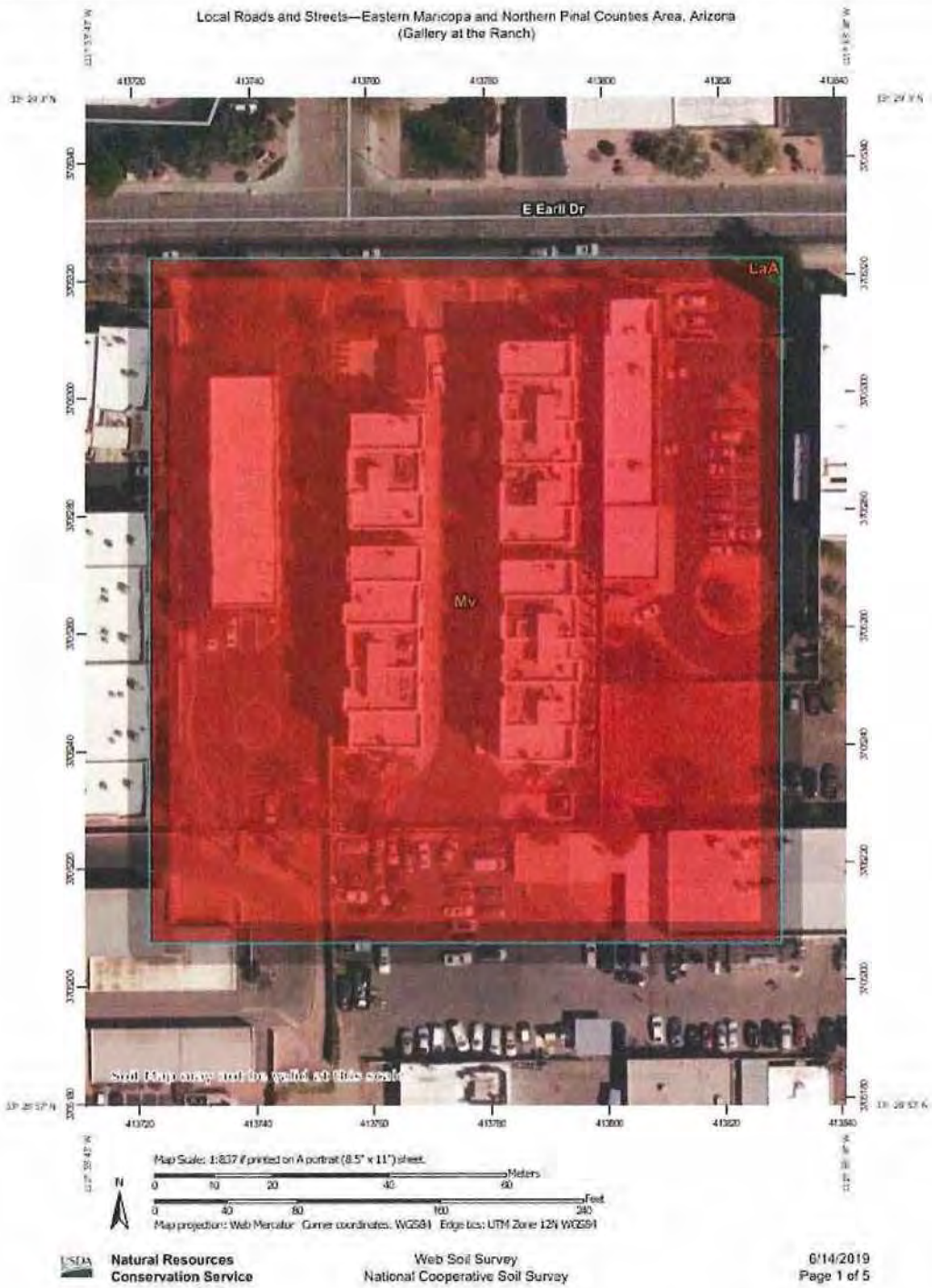
The following non-compliant conditions were discovered during SBSA's preliminary observations:

1. Geotechnical Report Review

No geotechnical report has been provided for review. A complete review of the soils report is required prior to final engineering conclusions. According the United States Department of Agriculture, Natural Resources Conservation Service, Web Soil Survey, the site is approximately 3-acres in size, and primarily Mohall loam (MLRA 40) underlies it. The soils are considered somewhat limited for shallow foundation systems, due to minor shrink swell issues (rated at 0.05), that would be moderately favorable for shallow foundation system use.



For roadway and streets, the site is considered limited due to the low strength of the on-site soils (rated at 1.00) and, to a lesser degree, the shrink swell associated with the loam.



2. LATERAL FORCE RESISTING SYSTEM (LFRS)

a. Non-Compliant LFRS

A complete LFRS is required by the Building Codes. This system must be created from the foundation to the roof to provide a complete load path. The following outlines SBSA's findings on the as-built systems. No plans have been provided for review at this time. A full review of the original design is required to determine what the intent was for the original LFRS.

December 19, 2018, Photo 14, OBS1, JBF, overview of the elevation showing limited panel size available for LFRS.

May 13, 2019, Disc IT1, Photograph 50, JBF, west elevation of Building D - Unit 3113, open stud framing with no exterior sheathing.

May 13, 2019, Disc IT1, Photograph 156, JBF, south elevation of Building C - Unit 3117, open stud framing with no exterior sheathing.

May 14, 2019, Disc IT3, Photograph 26, JBF, north elevation of Building A - Unit 3124, open stud framing with no exterior sheathing.

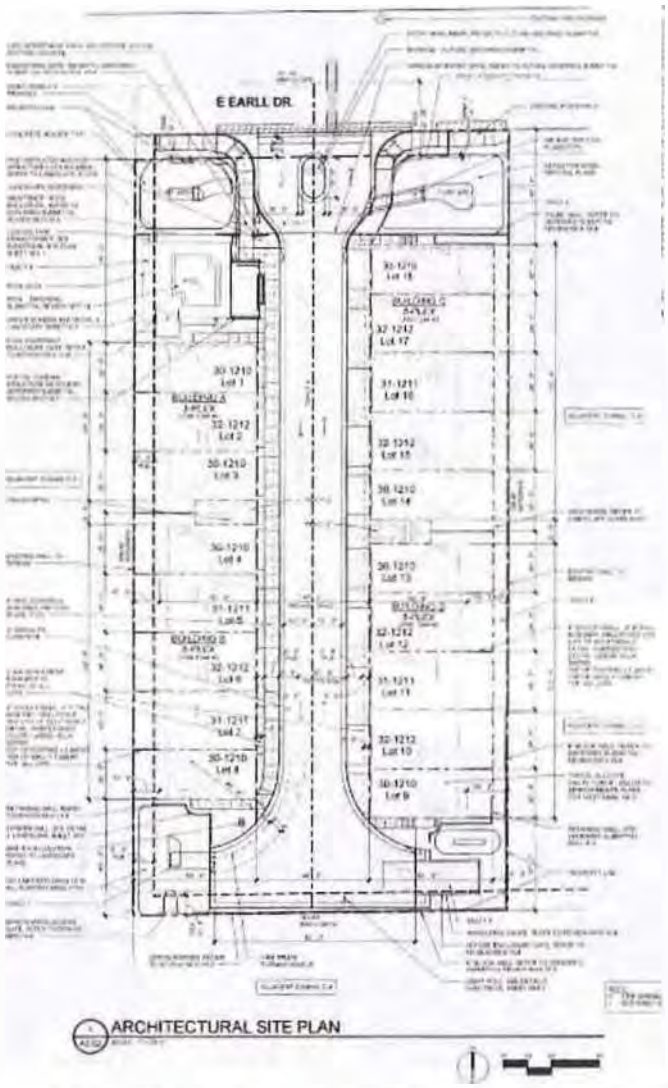
May 14, 2019, Disc IT3, Photograph 52, JBF, south elevation of Building B - Unit 3104, open stud framing with no exterior sheathing.

B. CIVIL

A site grading plan has not been reviewed at this time. A complete review of the as-built condition, site design, and any available grading documentation is required for a complete civil analysis. As shown on the Otak, Inc. Architectural Site Plan, the site contains retention ponds at each of the four corners. The buildings are located on the west and east elevations

of a center street with concrete sidewalks in front of each of the buildings. Concrete sidewalks to the front entries and driveways for the garages are present for each of the units on the street side. Concrete masonry unit (CMU) fences are present between the units and at the property lines. The rear yards of each unit are landscaped and a small landscaped area is present on the east side of the site between the rear yards and the property line. According to the Hydrometeorological Design Studies Center, NOAA Atlas 14 Point Precipitation Frequency Estimates, the 100-year 24-hour storm would be 3.52-inches. The ponds would have to serve to handle a peak flow of approximately 10-cubic-feet-per-second (cfs). The maximum depth by the Scottsdale requirements is 3-feet, and side slopes can be no more than a 4-to-1 ratio. The overall observation indicated that general compliance for the geometry had been obtained. The Stormwater Management Basin Design requires that the 100-year 2-hour storm be detained during the rainfall event. There should be as-built drawings certified by a Licensed Professional Engineer provided to the City of Scottsdale as part of the builder/developer's closeout. SBSA has not been provided with that document.

It is unclear from the site how the rear lots are graded to provide defined swales to either the north or south ponds. The CMU fencing and tight constraints limit the available surface area to construct defined channels.



The road slopes from a high point in the center roadway to the east and west. The overall site generally slopes from the north toward the south.

The following non-compliant conditions were discovered during SBSA's preliminary observations:

1. GRADING AND DRAINAGE

   a. **Non-Compliant Slope of Grade Away from Foundation**

      According to the Building Code, a minimum 5-percent slope and a 6-inch clearance must be provided in the protective zone (10-feet defined by the code) or an alternative drainage system must be provided. A full review of the original design is required to determine the intent of the original civil design.

December 19, 2018, Disc OBS1, Photograph 80, JBF, east elevation of Building D - Unit 3111, poor slope of grade away from foundation.

December 19, 2018, Disc OBS1, Photograph 156, JBF, west elevation between Buildings C and D, poor slope of grade between buildings.

May 13, 2019, Disc IT2, Photograph 120, ELF, Building B - Unit 3110, incorporation of drainage systems should have been considered in the design and the construction to take the roof drainage, rear lot drainage, and street and curb drainage to the detention ponds.

b. Drainage Bound by Concrete Flatwork

The drainage should be unimpeded to the points of discharge. On this site, the condensate flows and the drainage that strikes the building are directed into small landscape strips along the entries and garages. The water will migrate below the walks, curbs, and asphalt areas.

December 19, 2018, Disc OBS1, Photograph 154, JBF, east elevation of Building B, drainage adjacent to foundation bound by concrete flatwork.

December 19, 2018, Disc OBS1, Photograph 157, JBF, east elevation of Building A, condensate from high efficiency units drain water adjacent to foundation bound by concrete flatwork into the electrical vault.

2. CONCRETE FLATWORK

a. Non-Compliant Isolation of Concrete Flatwork

The construction should allow the non-foundation elements to move independent of the structurally supported system, including allowance for any MEP systems that penetrate the slabs while being connected to the building system.

December 19, 2018, Disc OBS1, Photograph 136, JBF, south elevation of Building A – Unit 3118, no isolation joint between concrete flatwork and structural foundation.

December 19, 2018, Disc OBS1, Photograph 137, JBF, east elevation of Building B – Unit 3116, no isolation joint between concrete flatwork and structural foundation.

3. SITE STRUCTURES

The site structures that are not part of the residential unit should be designed to accommodate movement of the soils and thermal changes in addition to allowing for code compliant step heights and slopes.

a. Differential Movement of CMU Walls and Stairs

December 19, 2018, Disc OBS1, Photograph 45, JBF, east stairs between Buildings C and D, cracking and separation of stair wall indicative of differential movement.

December 19, 2018, Disc OBS1, Photograph 47, JBF, east stairs between Buildings C and D, cracking and separation of stair wall indicative of differential movement.

December 19, 2018, Disc OBS1, Photograph 132, JBF, west stairs between Buildings A and B, cracking and separation of stair wall.

December 19, 2018, Disc OBS1, Photograph 134, JBF, west stairs between Buildings A and B, cracking and separation of stair wall indicative of differential movement.

C. BUILDING ENVELOPE

The exterior façades are primarily stucco with some units having adhered stone veneer on the first floor at the garage doors. According to the Otak, Inc. architectural elevations (Sheets A3.11 through A3.41), the stucco is the "*AMERIMIX FIBER BASE COAT STUCCO SYSTEM*

OR APPROVED EQUAL." SBSA code review is based on the Amerimix Fiber Base Coat Stucco system as referenced in ICC-ES Evaluation Report ESR-3529. Based on the preliminary intrusive testing performed, the stucco was generally 1/2-inch thick and was installed over 1-inch expanded polystyrene (EPS) insulation board where open framing was used and over 1/2-inch EPS insulation board where a solid substrate was present. One layer of GMCraft 10 Grade D building paper was present behind the EPS insulation regardless of the substrate:

May 13, 2019, Disc IT1, Photograph 127, JBF, north elevation of Building B – Unit 3116, 1/2-inch thick stucco over 1/2-inch EPS insulation over GMCraft 10 paper over solid wood framing at face and 1-inch EPS at bottom where open framing is present.

The manufacturer of the adhered stone veneer is not known at this time. The main roof systems over the habitable space is a Spray Polyurethane Foam (SPF) roofing system with a pedestrian coating over some portions. The larger eyebrow accents under windows utilized a self-adhered membrane below the stucco, and the elevated balconies utilized a pedestrian coating over the structural wood framing.

Each of the wall façades are moisture-managed systems. The façades themselves do not provide the weather protection. Instead, the weather-resistive barrier (WRB) and related flashings behind the façades limit air and water intrusion into the building assemblies. Proper installation and integration of these materials is critical to the long-term performance of the property. The roof, unlike the façade, is a barrier system that requires proper slope to drain the water to the drains and the drains to convey the water to the civil infrastructure.

The following non-compliant conditions were discovered during SBSA's preliminary observations:

1. FAÇADE (EXTERIOR CLADDING AND SEALANTS) TYPE 1 – STUCCO

   a. **Missing Control/Movement Joints**

   During curing, control joints aid in capturing hydration cracking. After the curing, the joints provide for movement provisions, which are particularly necessary with post-tension slab design for edge and center lift characteristics and their impact on the veneers.

December 19, 2018, Disc OBS1, Photograph 5, JBF, west elevation of Buildings C and D, no control/movement joints provided.

December 19, 2018, Disc OBS1, Photograph 13, JBF, east elevation of Buildings C and D, no control/movement joints provided.

December 19, 2018, Disc OBS1, Photograph 5, JBF, south elevation of Building D, vertical control joint only provided at corners of windows. This was common of north and south elevations at all buildings.

December 19, 2018, Disc OBS1, Photograph 110, JBF, east elevation of Buildings A and B, no control/movement joints provided.

December 19, 2018, Disc OBS1, Photograph 115, JBF, east elevation of Buildings A and B, no control/movement joints provided.

b. Non-Compliant EPS Insulation Board for Stucco System

May 13, 2019, Disc IT1, Photograph 53, JBF, west elevation of Building D – Unit 3113, 1/2-inch thick EPS insulation installed over gypsum sheathing does not incorporate vertical grooves and was not installed over two layers of Grade D paper, Tyvek StuccoWrap, or Tyvek DrainWrap. Thus, it is non-compliant with ESR-3529.

May 13, 2019, Disc IT1, Photograph 116, JBF, south elevation of Building B, 1/2-inch thick EPS insulation installed over OSB sheathing does not incorporate vertical grooves and was not installed over two layers of Grade D paper, Tyvek StuccoWrap, or Tyvek DrainWrap. Thus, it is non-compliant with ESR-3529.

c. Non-Compliant WRB for Stucco System

May 13, 2019, Disc IT1, Photograph 128, JBF, north elevation of Building B – Unit 3116, one layer of GMCraft 10 paper does not provide minimum water-resistance rating of 60-minutes in accordance with ESR-3529.

May 13, 2019, Disc IT1, Photograph 176, JBF, east elevation of Building C – Unit 3127, one layer of GMCraft 10 paper does not provide minimum water-resistance rating of 60-minutes in accordance with ESR-3529.

d. Non-Compliant Slope at Parapet Caps

May 13, 2019, Disc IT1, Photograph 33, JBF, Building C - Unit 3125, stucco does not slope at parapet cap.

May 13, 2019, Disc IT1, Photograph 98, JBF, Building C - Unit 3125, stucco does not slope at parapet cap.

2. **MOISTURE-MANAGEMENT SYSTEM (BARRIERS, FLASHINGS, DRAINAGE, ETC.)**

The primary exterior claddings include stucco and adhered stone veneer. None of these materials are considered to be a barrier system; therefore, it is expected that water will penetrate the face of the veneers as well as at interfaces between dissimilar materials.

Each product also can absorb and release some water to a limited degree. However, the hygrothermal effects of the products cannot be relied on as a means to handle the wetting and drying. The elevations, solar exposure, and shadows all impact each area and each elevation will behave differently. Proper water shedding detailing is a necessity to allow for durability and performance of the cladding systems in the protection of the building components.

In order to compensate for the expectation of water migration through the cladding face, the exterior claddings, as installed, rely on a secondary WRB to minimize air and manage moisture infiltration that occurs past the exterior sheathing and into the wall cavity. This WRB and related flashings are required by the building code, cladding manufacturers, and industry standards due to this expectation of cladding leakage. The WRB is a material that lies behind the façade claddings and over the exterior sheathing, and it is lapped in coordination with the flashing and weep systems to allow the water to move through the system and discharge away from the building with flashing and/or weep mechanism. These components in whole make up the moisture-management system.

In order to fully evaluate the moisture-management system, intrusive testing is required.

a. Non-Compliant Expansion Joints at Dissimilar Materials

May 13, 2019, Disc IT2, Photograph 33, ELF, west elevation of Building D – Unit 3115, no expansion joints provided between stucco and window. Cracking is present at this interface.

May 13, 2019, Disc IT2, Photograph 50, ELF, Building A – Unit 3122, no expansion joints provided between stucco and wood trim.

May 14, 2019, Disc IT3, Photograph 12, JBF, south elevation of Building B – Unit 3104, no expansion joints provided between stucco and window. A diagonal stucco crack is present at this location.

b. No Weep Mechanism at Soffits

December 19, 2018, Disc OBS1, Photograph 18, JBF, west elevation of Building D – Unit 3105, no weep mechanism at base of stucco at soffit.

December 19, 2018, Disc OBS1, Photograph 24, JBF, west elevation of Building D – Units 3111 & 3113, no weep mechanism at base of stucco at soffits.

December 19, 2018, Disc OBS1, Photograph 61, JBF, west elevation of Building C – Units 3125 & 3127, no weep mechanism at base of stucco at soffits.

December 19, 2018, Disc OBS1, Photograph 82, JBF, east elevation of Building D – Units 3109 & 3111, no weep mechanism at base of stucco at soffits.

December 19, 2018, Disc OBS1, Photograph 129, JBF, east elevation of Building A – Units 3122 & 3124, no weep mechanism at base of stucco at soffits.

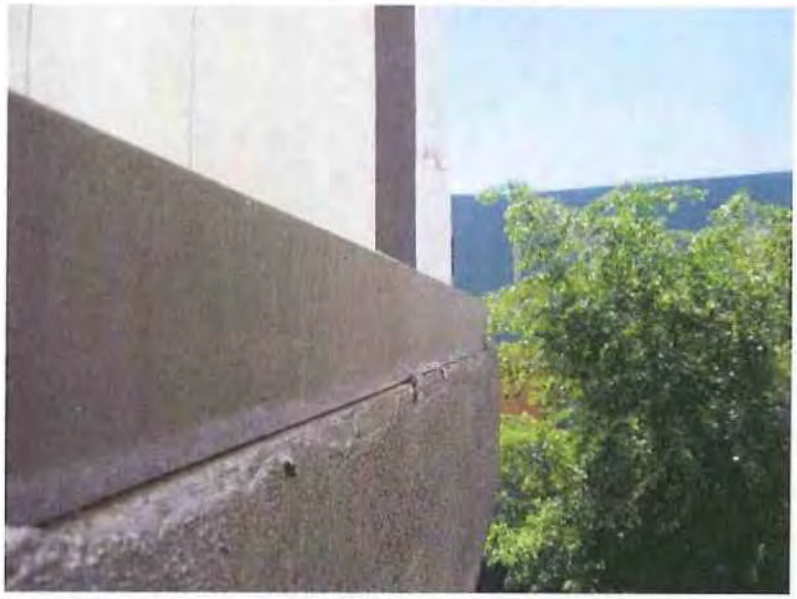
December 19, 2018, Disc OBS1, Photograph 40, JBF, west elevation of Building D – Unit 3115, no flashing or weep mechanism provided at top of garage door opening

c. No Head Flashing

May 13, 2019, Disc IT1, Photograph 142, JBF, north elevation of Building C - Unit 3127, no sheet metal flashing at head of window opening.

May 13, 2019, Disc IT2, Photograph 34, ELF, west elevation of Building D - Unit 3115, no sheet metal flashing at head of window opening.

d. Non-Compliant Flashing to Stucco Interface



May 13, 2019, Disc IT1, Photograph 110, JBF, north elevation of Building B – Unit 3116, metal flashing at leading edge of roof is inset from stucco.

May 13, 2019, Disc IT1, Photograph 145, JBF, east elevation of Building C – Unit 3127, metal flashing at leading edge of balcony is inset from stucco. Stucco built up beyond flashing at this location.

May 13, 2019, Disc IT1, Photograph 176, JBF, east elevation of Building C – Unit 3127, metal flashing at leading edge of balcony is inset from stucco. Stucco built up to approximately 1-inch thick beyond flashing at this location.

3. ROOFING SYSTEM TYPE 1 – SPRAY POLYURETHANE FOAM (SPF)

a. Non-Compliant Slope to Roof Drains

December 19, 2018, Disc OBS1, Photograph 176, JBF, Building A – Unit 3124, roof slope measured to be 1.7-percent away from drain and evidence of water ponding is present.

May 13, 2019, Disc IT1, Photograph 29, JBF, Building C - Unit 3125, insufficient slope of roof at drain resulting in ponding water.

May 13, 2019, Disc IT2, Photograph 79, ELF, Building A - Unit 3122, insufficient slope of roof at drain resulting in ponding water.

May 14, 2019, Disc IT4, Photograph 58, ELF, Building D – Unit 3113, insufficient slope of roof at drain resulting in ponding water.

b. Inadequate Support of Roof Air Conditioners

May 13, 2019, Disc IT2, Photograph 146, ELF, Building B – Unit 3110, roof built-up and flashing provided to accommodate additional air conditioner after original construction. Surface is uneven and inadequate for support of air conditioner unit.

4. Roofing System Type 2 – Stucco over Self-Adhered Membrane

a. Evidence of Water Entrapment

May 13, 2019, Disc IT2, Photograph 21, ELF, west elevation of Building D – Unit 3115, XtraFlash membrane under stucco. Stain through holes in membrane.

May 14, 2019, Disc IT4, Photograph 13, ELF, west elevation of Building C – Unit 3123, high moisture content in building paper below stucco over self-adhered membrane.

May 14, 2019, Disc IT4, Photograph 26, ELF, west elevation of Building C – Unit 3125, cracking of stucco on window shelf indicative of water entrapment.

5. ELEVATED DECKS, BALCONIES, OR WALKWAYS

a. Non-Compliant Slope of Balcony

December 19, 2018, Disc OBS1, Photograph 163, JBF, Building A – Unit 3124, balcony slope measured to be 1.1-percent away from leading edge and evidence of water ponding is present.

December 19, 2018, Disc OBS1, Photograph 167, JBF, Building A – Unit 3124, evidence of water ponding is present at leading edge of balcony.

Limitations of Liability:

All comments made are based on conditions seen at the time of these visual observations and based on information provided at the time of authoring this report. SBSA does not accept any responsibility for unknown or unknowable conditions within the existing site or structures. In addition, if the professional services of the consultant do not extend to the repair phase, then, by the acceptance of this report, it is agreed that the owner will defend, indemnify, and hold harmless SBSA from any claim or suit whatsoever. SBSA agrees to be responsible for its own or its employees' negligent acts, errors, or omissions.

This Notice of Claim Summary is based upon initial interior and exterior site observations, as well as preliminary intrusive testing. Additional work may be necessary before final engineering opinions can be rendered regarding non-compliant items, their probable causes, and any necessary repairs.

In addition, this report is a general summary of writings, recordings, photographs, and other information, which was available for review, and placed within the job file. To the extent assumptions were made relating to the contents of this report, not all such assumptions are stated within this report or in SBSA's job file. A description of such assumptions can only be identified if specific questions are directed at discrete issues because many of such assumptions are incorporated in SBSA's experience, training, education, and judgment.

Sincerely,

SBSA, Inc.
Firm # 16794-0

Jerod B. Faris MSCE, PE
Residential Project Manager

Edward L. Fronapfel
Jul 2 2019 4:07 PM

Edward L. Fronapfel, MSCE, PE, D-IBFES, CFCC, CBIE, EDI, CBCP, PTI, F.NAFE, F.ASCE
Owner/President

JBF:ELF:rb

Attachment: Observation Photographs

\\AUDREY-13\data\2019\21906100\011 - Preliminary Intrusive Testing\02 Reports and Attachments\Gallery Updated Notice of Claim Summary.docx

EXHIBIT 2

Christopher J. Feasel

WILENCHIK & BARTNESS
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
The Wilenchik & Bartness Building
2810 North Third Street
Phoenix Arizona 85004

chrisf@wb-law.com

Telephone: 602-606-2810 Facsimile: 602-606-2811

February 5, 2020

Via Email
Craig S. Nuss, Esq.
Penny J. Manship, Esq.
Burg Simpson, P.C.
2390 E. Camelback Rd., Ste. 403
Scottsdale, Arizona 85216
cnuss@burgsimpson.com
pmanship@burgsimpson.com

Re: K. Hovnanian/The Gallery

Dear Craig:

As you are aware, this firm represents K. Hovnanian Companies of Arizona, LLC, and any related entities (collectively "K. Hovnanian") in the above-referenced matter. We are in receipt of the homeowners' notice of purported defects dated July 3, 2019.

This letter shall further serve as notice that K. Hovnanian intends to enforce the terms of the parties' agreements, including, but not limited, to the requirement that the parties arbitrate any claims pursuant to the Home Builder's Limited Warranty as well as the limitation on remedies found in the Home Builder's Limited Warranty. K. Hovnanian may be willing to waive its right to arbitrate this matter. However, arbitration is the only right from the Limited Warranty that it may be willing to waive. All the other rights and obligations of the parties, including K. Hovnanian's right to repair, the limitation on remedies, and the provision that each party must bear its own attorneys' fees and costs, would remain in full force and effect. If the homeowners would be willing to proceed with litigation in lieu of arbitration with a written agreement that all the other rights of the Limited Warranty remain enforceable, K. Hovnanian may be likely to enter into such an agreement.

After completing inspections, K. Hovnanian and its experts do not believe that any condition alleged by the homeowners constitutes a construction defect or requires a repair. Nonetheless, K. Hovnanian, in a gesture of good faith, offers to repair the following alleged and discovered conditions:

Common Areas

(1) Pool canopy drywall cracking - repair drywall field cracks and paint to match existing finishes.
(2) Reset six (6) loose cap blocks at retaining wall near transformer.

EXHIBIT
33

(3) Remove and replace two chipped cap blocks in perimeter fence (near Unit 3117).
(4) Reinstall settled/displaced pavers around the pool entrance walkway.

3104 N. 71ts Street

(1) Service wall mounted HVAC unit and repair leak.
(2) Seal ducts at air handler.
(3) Seal void in SPF roofing at parapet wall.

3105 N. 71st Street

(1) Seal ducts at air handler.

3106 N. 71st Street

(1) Service wall mounted HVAC unit and repair leak.
(2) Seal ducts at air handler.
(3) Remove exterior penthouse door panel, adjust door panel, paint all edges, reinstall door panel.

3109 N. 71st Street

(1) Service wall mounted HVAC unit and repair leak.

3110 N. 71st Street

(1) Raise HVAC condenser unit, remove sheet metal cap, install ¾" plywood on roof support, cover plywood with sheet metal cap, seal penetrations, reset HVAC condenser unit.
(2) Service wall mounted HVAC unit and repair leak.
(3) Seal void in SPF roofing at parapet wall.
(4) Remove exterior penthouse door panel, adjust door panel, paint all edges, reinstall door panel.
(5) Remove and replace 2 cracked CMU with HL wide cracks that extend through the block.

3111 N. 71st Street

(1) Service wall mounted HVAC unit and repair leak.
(2) Seal ducts at air handler.
(3) Install gasket at in-counter disposal switch.

3112 N. 71st Street

(1) Seal ducts at air handler.
(2) Remove loose material at blistering SPF roofing and patch with new SPF.
(3) Remove unsealed sheet metal edges at HVAC roof supports and reinstall in continuous s bead of sealant.

3116 N. 71st Street

(1) Raise HVAC condenser unit, remove sheet metal cap, install ¾" plywood on roof support, cover plywood with sheet metal cap, seal penetrations, reset HVAC condenser unit.
(2) Seal void in SPF roofing at parapet wall.
(3) Remove loose materials at blister in deck coating, patch and reapply deck coating to match existing.

3117 N. 71st Street

(1) Repair groove in cold joint crack to at CMU walls and stairs, fill with high-grade flexible sealant, paint repair to match adjacent finishes.
(2) Remove loose material at blistering SPF roofing and patch with new SPF.
(3) Remove SPF roofing around short boot, install appropriate sleeve and boot, patch SPF roofing.
(4) Remove loose tub spout shroud, inject expandable foam into wall cavity to secure spout, reinstall spout shroud.

3118 N. 71st Street

(1) Seal ducts at air handler.
(2) Remove loose tub spout shroud, inject expandable foam into wall cavity to secure spout, reinstall spout shroud.
(3) Remove stucco at damage from HVAC condenser relocation to expose WRB, seal WRB and patch stucco, finish and paint repair to match adjacent finishes.

3121 N. 71st Street

(1) Raise HVAC condenser unit, remove sheet metal cap, install ¾" plywood on roof support, cover plywood with sheet metal cap, seal penetrations, reset HVAC condenser unit.
(2) Remove SPF roofing around short boot, install appropriate sleeve and boot, patch SPF roofing.

3122 N. 71st Street

(1) Remove loose material at blistering SPF roofing and patch with new SPF.
(2) Remove loose materials at blister in deck coating, patch and reapply deck coating to match existing.
(3) Remove loose tub spout shroud, inject expandable foam into wall cavity to secure spout, reinstall spout shroud.
(4) Clean sliding glass door track, chemically weld open track corner, prime and paint touch-up stained trim.

3123 N. 71st Street

(1) Raise HVAC condenser unit, remove sheet metal cap, install ¾" plywood on roof support, cover plywood with sheet metal cap, seal penetrations, reset HVAC condenser unit.
(2) Seal ducts at air handler.
(3) Remove SPF roofing around short boot, install appropriate sleeve and boot, patch SPF roofing.
(4) Remove exterior penthouse door panel, adjust door panel, paint all edges, reinstall door panel.
(5) Clean threshold at exterior penthouse door jamb, seal juncture between jamb and threshold and threshold to substrate, prime and paint stained trim.
(6) Remove loose tub spout shroud, inject expandable foam into wall cavity to secure spout, reinstall spout shroud.
(7) Remove grout/sealant from juncture of surround and tub, provide week holes while calking juncture, repair damaged drywall, finish and paint repair to match adjacent finishes.

3124 N. 71st Street

(1) Raise HVAC condenser unit, remove sheet metal cap, install ¾" plywood on roof support, cover plywood with sheet metal cap, seal penetrations, reset HVAC condenser unit.
(2) Remove SPF roofing around short boot, install appropriate sleeve and boot, patch SPF roofing.
(3) Remove loose tub spout shroud, inject expandable foam into wall cavity to secure spout, reinstall spout shroud.

3125 N. 71st Street

(1) Remove exterior penthouse door panel, adjust door panel, paint all edges, reinstall door panel.
(2) Clean threshold at exterior penthouse door jamb, seal juncture between jamb and threshold and threshold to substrate, prime and paint stained trim.

(3) Remove loose material at blistering SPF roofing and patch with new SPF.

3127 N. 71st Street

(1) Raise HVAC condenser unit, remove sheet metal cap, install ¾" plywood on roof support, cover plywood with sheet metal cap, seal penetrations, reset HVAC condenser unit.
(2) Seal ducts at air handler.
(3) Remove SPF roofing around short boot, install appropriate sleeve and boot, patch SPF roofing.
(4) Remove grout/sealant from juncture of surround and tub, provide week holes while calking juncture, repair damaged drywall, finish and paint repair to match adjacent finishes.

Please be aware when considering K. Hovnanian's offers that the homeowners are bound by Ariz.Rev.Stat. § 12-1363 and the limited warranties, which provide K. Hovnanian with an absolute right to repair any purportedly defective condition in whatever manner it deems reasonable and necessary under the circumstances. K. Hovnanian demands that your firm inform the homeowners of this express limitation and that it be permitted to perform the repair work. If the homeowners refuse to allow K. Hovnanian to perform the repairs, it will immediately file a claim for declaratory relief and seek an order from the Court enjoining the homeowners from filing a complaint and enforcing this right.

If you have any questions or concerns, please contact our office. Otherwise, we look forward to coordinating the repairs of these homes.

Sincerely,

Christopher J. Feasel

cc: Josh Forest

EXHIBIT 3


HOT

EXHIBIT 4

NAUTILUS
Reconstruction
Contracting & Consulting

Preliminary

ESTIMATE OF COSTS

Gallery Community Association

Scottsdale, Arizona

July 23, 2021

Date July 23, 2021

Gallery Community Association

Preliminary ESTIMATE OF COSTS				Direct Cost
SUMMARY				
I.	**STRUCTURAL**			
	1.0	Compliance with Geotechnical Report (Informational Only)		
	2.0	Lateral Force Resisting System (LFRS)		$ 200,000.00
			Structural Subtotal	$ 200,000.00
II.	**CIVIL**			
	1.0	Grading and Drainage		$ 25,532.88
	2.0	Concrete Flatwork		$ 32,703.46
			Civil Subtotal	$ 58,236.34
III.	**BUILDING ENVELOPE**			
	1.0	Facade (Exterior Cladding and Sealants) Type 1 - Stucco		$ 1,315,944.38
	2.0	Moisture-Management System (Barriers, Flashings, Drainage, Etc.)		$ 82,986.99
	3.0	Roofing System Type 1 - Spray Polyurethane Foam (SPF)		$ 168,616.70
	4.0	Elevated Decks, Balconies, or Walkways (Included in 2.0B)		
	5.0	Improper Wall & Ceiling Assembly and Fire Feauture at Pool		$ 35,000.00
			Building Envelope Subtotal	$ 1,602,548.07
			Subtotal	**$ 1,860,784.40**
	Contingency		10%	$ 186,078.44
	General Conditions		12.5%	$ 255,857.86
	Contractor's Fee		17.5%	$ 402,976.12
	GL Insurance		2%	$ 54,113.94
			Construction Total:	**$ 2,759,810.76**
	Professional Fees		12%	$ 331,177.29
	Estimated Market Escalation (2-Year)		7%	$ 193,186.75
			Grand Total:	**$ 3,284,174.80**

Date	July 23, 2021	Preliminary ESTIMATE OF COSTS for Gallery Community Association				
I.	**STRUCTURAL** Repair Description	Repair Quantity	Unit Type	Unit Cost	Direct Cost	Notes
	Costs and repairs are based upon SBSA, LLC, A Charles Taylor Company's Construction and Design Compliance Report, dated 06/23/2021.					
1.0	**Compliance with Geotechnical Report**					
1.	The original geotechnical report presents recommendations for over excavation, soil stabilization, and drainage on the site. Review the original geotechnical report for applicable design and construction recommendations for informational purposes.					
2.0	**Lateral Force Resisting System (LFRS)**					
2.0A	Non-Compliant LFRS					
Loc.	Buildings A-D					
Qty.	100%					
Ext.	All LFRS repairs shall be performed per the braced/ shear wall and hold-down schedule provided on Sheets S3.1 through S3.6 of the Felten structural plans as designed by the Structural EOR.					
Ext.	The as-built construction of the LFRS will be compared with LFRS design on the Felten structural plans as designed by the Structural EOR after the stucco system is removed.					
Ext.	Repair contractor to verify and confirm the extent of repairs to the LFRS.					
1.	For Unit 3111 of Building D, perform the following repairs to the LFRS.					
a.	Remove existing stucco to coordinate with repairs recommended in Sections C.1 and C.2 of engineer's report.					Included in Building Envelope 1.0B
b.	Where exterior sheathing is identified as missing, install new 3/8-inch minimum-rated sheathing using specified nails spaced to provide minimum shear resistance of 306-plf per the braced/ shear wall schedule.					Included below 2.a.
c.	Where existing strap is identified as installed incorrectly, remove and replace with new strap per the hold-down schedule. Install according to the manufacturer's installation requirements.					Included below 2.a.
d.	Reinstall cladding per the repairs recommended in Sections C.1 and C.2 of engineer's report.					Included in Building Envelope 1.0B

Date	July 23, 2021	Preliminary ESTIMATE OF COSTS for Gallery Community Association				
I.	**STRUCTURAL** Repair Description	Repair Quantity	Unit Type	Unit Cost	Direct Cost	Notes
2.	Repair contractor to include 10-percent of the stucco repair costs for use as a contingency for the repairs for the non-compliant LFRS.					Included below 2.a.
a.	Provide allowance for all structural repairs as described above. Includes removal and reinstallation of windows and door as required to accommodate variations in wall thickness after repairs are performed.	1	al	$ 200,000.00	$ 200,000.00	Allowance pending further investigation
		Subtotal			$ 200,000.00	
				SUBTOTAL	$ 200,000.00	

Date		July 23, 2021	Preliminary ESTIMATE OF COSTS for Gallery Community Association				
II.		**CIVIL** Repair Description	Repair Quantity	Unit Type	Unit Cost	Direct Cost	Notes
	Costs and repairs are based upon SBSA, LLC, A Charles Taylor Company's Construction and Design Compliance Report, dated 06/23/2021.						
1.0	**Grading and Drainage**						
	1.0A	Drainage Bounded by Concrete Flatwork					
	Loc.	Perform repairs at all locations noted in the Civil Repair Drawings.					
	Ext.	Coordinate sidewalks, curbs, and roadway to allow for proper site geometric integration in all new construction.					
	1.	A full topographical survey from the curb line to the face of the building will be required due to the limited site elevation difference to enable design to correct the deficient construction.	1	al	$ 10,000.00	$ 10,000.00	Allowance
	2.	Construct concrete aprons below roof drain terminations.					Included below in 2.a & b.
	a.	Where sidewalks exist, remove sidewalk to nearest joint and provide sidewalk chase. (Buildings A and B / 344 SF total)	344	sf	$ 34.00	$ 11,696.37	(Per 50 SF / Avg repair area) Skilled Crew @$175 hour / 6 hours ($1050): Materials/Disposal/Equipment ($650): $1700 / 50 SF = $34.00 SF
	b.	Where no sidewalks are constructed, construct curb cut to allow flow out of bounded area, and re grade unpaved area to drain. (Buildings C and D / 174 SF total)	174	sf	$ 22.00	$ 3,836.51	(Per 21 SF / Avg repair area) Skilled and helper @$110 hour / 3 hours ($330): Materials/Disposal/Equipment ($125): $455 / 21 SF = $22.00 SF RU
	3.	Place rocks (4- to 6-inch diameter) in concrete aprons.					Included above in 2.a & b.
	4.	Adjust existing electrical and irrigation boxes as required.					Included above in 2.a & b.
			Subtotal			$ 25,532.88	
	1.0B	Non-Compliant Management of Concentrated Flows					
	Loc.	Perform repairs at all locations noted in the Civil Repair Drawings.					
	1.	Same scope of repair as Civil 1.0A					Included in Civil 1.0A
2.0	**Concrete Flatwork**						
	2.0A	Non-Compliant Cross-Slope of Sidewalks					
	Loc.	Perform repairs at all locations noted in the Civil Repair Drawings.					
	Ext.	Coordinate sidewalks, curbs, and roadway to allow for proper site geometric integration in all new construction.					
	1.	Remove and replace concrete to the nearest construction/ control joint.	661	sf	$ 23.00	$ 15,203.46	(Per 50 SF) Skilled Crew @$175 hour / 4 hours ($700): Materials/Disposal/Equipment ($450): $1150 / 50 SF = $23.00 SF
	a.	Ensure that subgrade is prepared in compliance with the recommendations of a geotechnical engineer prior to the placement of concrete.					Included above in 1.
	b.	Ensure grading and drainage direct runoff away from flatwork subbase.					Included above in 1.

Date		July 23, 2021	Preliminary ESTIMATE OF COSTS for Gallery Community Association				
II.		**CIVIL** Repair Description	Repair Quantity	Unit Type	Unit Cost	Direct Cost	Notes
	c.	Ensure all new flatwork meets slope requirements set forth in the current applicable building code as amended by the City of Scottsdale, MAG Standard Details, and ADA/ ANSI standards.					Included above in 1.
	d.	At all locations where new concrete flatwork is to be constructed directly adjacent to vertical building elements, provide full-depth, 1/2-inch expansion joints in compliance with applicable codes and/ or industry standards.					Included above in 1.
	2.	In conjunction with the repairs above, provide allowance for retrofitting stair assemblies as required to accommodate new landing height per engineer's specifications.	5	loc	$ 3,500.00	$ 17,500.00	Allowance
			Subtotal			$ 32,703.46	
	2.0B	Non-Compliant Longitudinal Slope of Sidewalks					
	Loc.	Perform repairs at all locations noted in the Civil Repair Drawings.					
	Ext.	Coordinate sidewalks, curbs, and roadway to allow for proper site geometric integration in all new construction.					
	1.	Same scope of repair as Civil 2.0A					Included in Civil 2.0A
	2.0C	Non-Compliant Landings					
	Loc.	Perform repairs at all locations noted in the Civil Repair Drawings.					
	Ext.	Coordinate sidewalks, curbs, and roadway to allow for proper site geometric integration in all new construction.					
	1.	Same scope of repair as Civil 2.0A					Included in Civil 2.0A
					SUBTOTAL	$ 58,236.34	

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III.		**BUILDING ENVELOPE** Repair Description	Repair Quantity	Unit Type	Unit Cost	Direct Cost	Notes
	Costs and repairs are based upon SBSA, LLC, A Charles Taylor Company's Construction and Design Compliance Report, dated 06/23/2021.						
1.0	**Facade (Exterior Cladding and Sealants) Type 1 - Stucco**						
	1.0A	Missing Weep Mechanism in Stucco					
	Loc.	Buildings A-D					
	Qty.	100%					
	Ext.	Coordinate repair with related stucco and underlying moisture-management repair recommendations as well as all adjacent civil repair recommendations.					
	1.	Coordinate with replacement of the WRB and the stucco system as described in Sections C.1.b and C.1.c of engineer's report.					Included in Building Envelope 1.0B
	2.	Install new weep mechanisms at the following horizontal terminations.					
	a.	At window heads, slider door heads, swing door heads, and garage door heads, terminate the weep casing bead 1/ 4-inch above sheet metal head flashing.	1,518	lf	$ 9.50	$ 14,419.96	(Per 15 LF Install only) Plaster and helper @ $110 hour / 1 hours ($110): Materials ($30): $140 / 15 LF = $9.50 LF
	b.	At soffits, install weeps per the architectural Detail 4/ AS.03 and manufacturer's requirements.	1,768	lf	$ 11.00	$ 19,442.80	(Per 15 LF Install only) Plaster and helper @ $110 hour / 1 hours ($110): Materials ($50): $160 / 15 LF = $11.00 LF RU
	3.	Shingle-lap WRB with new weep mechanisms.					Included above in 2.b.
			Subtotal			$ 33,862.76	
	1.0B	Non-Compliant WRB for Stucco System					
	Scope.	Full removal and replacement of the stucco and the exterior insulation is required to address the non-compliant installation of the WRB for the existing stucco system.					
	Loc.	Buildings A-D					
	Qty.	100%					
	Ext.	Coordinate repair with related stucco and underlying moisture-management repair recommendations as well as all adjacent civil repair recommendations.					
	1.	Provide allowance for protection of adjacent surfaces and content manipulation as required.					
	a.	3-Plex (Building A)	1	loc	$ 9,380.00	$ 9,380.00	24 hours - Building Labor Crew @ $245 per hour Materials ($3500)
	b.	5-Plex (Buildings B, C and D)	3	loc	$ 11,400.00	$ 34,200.00	40 hours - Plasterer and a helper @ $110 per hour Materials ($7000)
	2.	Provide allowance for removal, staging and reinstallation of wall obstructions including but not limited to signage, light fixtures, utility boxes and window awnings.					
	a.	3-Plex (Building A)	1	loc	$ 6,250.00	$ 6,250.00	30 hours - Skilled Crew @ $175 per hour Materials ($1000)
	b.	5-Plex (Buildings B, C and D)	3	loc	$ 8,500.00	$ 25,500.00	40 hours - Skilled Crew @ $175 per hour Materials ($1500)

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III.		**BUILDING ENVELOPE** Repair Description	Repair Quantity	Unit Type	Unit Cost	Direct Cost	Notes
	3.	Provide allowance for access including scaffolding, lifts, etc.	57,696	sf	$ 2.50	$ 144,239.46	
	4.	Remove and replace existing stucco assembly per engineer's specifications.	57,696	sf	$ 17.25	$ 995,252.30	(Per 30 SF typical site conditions including confined, difficult access areas and select demolition where required) Plaster and helper @ $110 hour / 3 hours ($330): Materials/Disposal ($110): $430 / 30 SF = $17.25 SF
	a.	Install new WRB per the requirements of ESR-3529 for the existing stucco system.					Included above in 4.
	b.	Ensure that the WRB above is shingle-lapped with the sheet metal flashing.					Included above in 4.
	c.	Repair contractor to estimate using between two layers of Grade D kraft building paper or one layer of Grade D kraft paper with minimum water-resistance rating of 60-minutes or using Tyvek products such as Stucco Wrap or Drain Wrap as specified in Section 3.2.4 and Section 3.2.10 of ESR-3529.					Included above in 4.
	d.	Ensure all WRB terminations shingle-lap with all surrounding rigid and flexible flashings, weeps, and accessories.					Included above in 4.
	e.	Install sheet metal flashings per Section C.2.a of engineer's report.					Included above in 4.
	f.	Install new stucco system to comply with the current requirements of ESR-2359.					Included above in 4.
	g.	Install lath per the stucco manufacturer and ASTM C1063.					Included above in 4.
	5.	Install missing exterior sheathing and straps, as necessary, per the LFRS repairs recommended in Section A.2 of this report.					Included in Structural 2.0
	6.	Install EPS foam boards per repairs recommended in Section C.1.c of engineer's report.					Included above in 4.
	7.	Install control joints at fenestration comers, floor lines, top plate/truss lines, and within the field of the wall to comply with ASTM C1063 and the stucco manufacturer.	10,265	lf	$ 4.00	$ 41,059.86	(Per 1000 LF Install only) Plaster Crew @ $240 hour / 8 hours ($1920): Materials ($2000): $3920 / 1000 LF = $4.00 LF RU
	8.	Install weep casing beads with 3-1/2-inch vertical legs at all stucco terminations Ensure that the WRB shingle-laps with the new weep casing beads.					Included above in 4.
			Subtotal			$ 1,255,881.62	

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III.		**BUILDING ENVELOPE** Repair Description	Repair Quantity	Unit Type	Unit Cost	Direct Cost	Notes
	1.0C	Non-Compliant EPS Foam Board for Stucco System					
	Scope.	Full removal and replacement of the stucco is required to address the noncompliant installation of the EPS foam board for the existing stucco system.					
	Loc.	Buildings A-D					
	Qty.	100%					
	Ext.	Coordinate with adjacent repairs, including underlying moisture-management and stucco repair recommendations.					
	1.	Where installed over solid substrates, remove existing EPS foam board to perform the following repairs.					Included in Building Envelope 1.0B
	a.	Ensure all EPS foam boards have 3/8-inch projecting tongues with compatible grooves at horizontal joints.					Included in Building Envelope 1.0B
	b.	At solid substrates, install new minimum 1/2-inch-thick EPS foam board with vertical grooves spaced at a maximum 12-inches on-center on the back face of the boards.					Included in Building Envelope 1.0B
	c.	The vertical grooves should be a minimum 1/ 4-inch wide by 1/8-inch deep as required by ESR-3529.					Included in Building Envelope 1.0B
	d.	Where EPS foam board repairs are necessary at open stud framing, use minimum 1-inch-thick EPS boards installed in compliance with ESR-3529.					Included in Building Envelope 1.0B
	2.	As an alternative to EPS foam boards with vertical grooves, flat-faced EPS foam boards may be installed over the solid substrates provided the WRB recommended in Section 3.2.4 of ESR-3529 is used.					Included in Building Envelope 1.0B
	1.0D	Non-Compliant Slope of Horizontal Stucco Surfaces					
	Loc.	Buildings A-D					
	Qty.	100%					
	Ext.	Coordinate repair with related cladding, flashing, and underlying moisture-management recommendations.					
	1.	Repair to be performed at all stucco parapet walls and pop-out boxes sloped less than 2:1.					Included below in 5.a. & b.
	2.	Remove existing stucco, lath, and building paper as required to perform the repair as described below.					Included in Building Envelope 1.0B
	3.	Install continuous shims to provide a 2:1 minimum slope on stucco wall caps.					Included below in 5.a. & b.
	4.	Install new self-sealing SAM that reduces the potential for water intrusion due to fastener holes.					Included below in 5.a. & b.

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III.		**BUILDING ENVELOPE** Repair Description	Repair Quantity	Unit Type	Unit Cost	Direct Cost	Notes
	5.	Install new SAM over the top of the continuous shim, ensuring SAM shingle-laps over the adjacent WRB on all sides and forms a continuous saddle at the intersections with the adjacent wall.					Included below in 5.a. & b.
	a.	3-Plex (Building A)	1	al	$ 7,300.00	$ 7,300.00	20 hours - Stucco Crew @ $240 per hour Materials ($2500)
	b.	5-Plex (Buildings B, C and D)	3	al	$ 6,300.00	$ 18,900.00	30 hours - Plasterer and a helper @ $110 per hour Materials ($3000)
	6.	Reinstall stucco as described in Repair Section C.1.c.					Included in Building Envelope 1.0B
			Subtotal			$ 26,200.00	
	1.0E	Deficient Self-Adhered Membrane under Horizontal Stucco System					
	1.	Refer to Repair Section C.1.d of engineer's report.					Included in Building Envelope 1.0B
	1.0D	Missing Control/Movement Joints					
	1.	Refer to Repair Section C.1.b of engineer's report.					Included in Building Envelope 1.0B
2.0	**Moisture-Management System (Barriers, Flashings, Drainage, Etc.)**						
	2.0A	Missing Sheet Metal Flashing at Window Head					
	Loc.	Buildings A-D					
	Qty.	100%					
	Ext.	Coordinate repair with related cladding, flashing, and underlying moisture-management recommendations.					
	1.	Where sheet metal flashing is missing at fenestration heads, perform the repair described below.					
	a.	Install new pre-finished sheet metal flashings with 4-inch vertical legs and horizontal legs sloped 10- to 15-degrees as detailed on the architectural plans with hemmed drip edges.	1,518	loc	$ 13.00	$ 19,732.57	(Per 10 LF Install only) Plaster and helper @ $110 hour / 1 hours ($110): Materials ($20): $130 / 10 LF = $13.00 LF
	b.	Apply sealant at ends of sheet metal flashing to provide end dams.					Included above in 1.a.
	c.	Ensure all flashing joints and comers are sealed.					Included above in 1.a.
	d.	Ensure that the WRB above is shingle-lapped with the sheet metal flashing.					Included above in 1.a.
	2.	Reinstall cladding per manufacturer instructions with a minimum 1/ 4-inch clearance between the bottom of cladding and the back of the sloped sheet metal flashing.					Included in Building Envelope 1.0B
			Subtotal			$ 19,732.57	

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III.		**BUILDING ENVELOPE** Repair Description	Repair Quantity	Unit Type	Unit Cost	Direct Cost	Notes
	2.0B	Non-Compliant Flashing to Stucco Interface					
	Scope.	At elevated decks and awnings, remove existing edge flashing and membrane/ coating to allow for stucco repairs described below.					
	Loc.	Buildings A-D					
	Qty.	100%					
	Ext.	Coordinate with replacement of the WRB and the stucco system as described in the stucco repair sections of this report.					
	1.	Remove and reinstall existing railings as required.	456	lf	$ 15.50	$ 7,066.51	(Per 25 LF Typical railing) Skilled and helper @$110 hour / 3 hours ($330): Materials ($50): $380 / 25 LF = $15.50 LF RU
	a.	Railings at 2nd level sliding glass doors.	8	loc	$ 235.00	$ 1,880.00	2 hours - Skilled labor & helper @ $110 per hour Materials ($15)
	2.	In conjunction with stucco repairs, remove and replace existing edge flashing and membrane/coating as required.	456	lf	$ 22.50	$ 10,257.84	(Per 25 LF Typical balcony edge) Skilled and helper @$110 hour / 4 hours ($440): Materials/Disposal ($120): $560 / 25 LF = $22.50 LF RU
	a.	New deck coating and new awning TPO perimeter edge membrane will be required to facilitate the repairs.	2,410	sf	$ 9.50	$ 22,893.38	(Per 100 SF Typical balcony area) Skilled and helper @$110 hour / 5 hours ($550): Materials ($400): $950 / 100 SF = $9.50 SF
	b.	Provide allowance for replacement of substrate as required. (Per location)	18	loc	$ 345.00	$ 6,210.00	2 hours - Skilled labor & helper @ $110 per hour Materials ($125) Allowance
	c.	Ensure the flashing is integrated with the new deck coating and awning TPO membrane.					Included above in 2.
	d.	Install new edge flashing at decks per Section C.4.a of this report.					Included above in 2.
	3.	Remove and replace stucco as required by the architectural details 12/ A8.03 and 5/ A8.04.					Included in Building Envelope 1.0B
			Subtotal			$ 48,307.74	
	2.0C	Non-Compliant Isolation Joints at Dissimilar Materials					
	Loc.	Buildings A-D					
	Qty.	100%					
	Ext.	Typical locations for repair include joints at fenestrations, penetrations at all cladding types, vertical joints between cladding types, and joints between all cladding types and wood trim, including fascia trim at re-entrant corners.					
	1.	At locations where stucco interfaces with dissimilar materials, perform the following repairs.					Stone veneer locations only: Other non-compliant isolation joints covered in Building Envelope 1.0B
	a.	Remove and reinstall existing stone veneer as required.	380	lf	$ 36.25	$ 13,766.68	(Per 20 LF) Skilled and helper @$110 hour / 5 hours ($550): Materials/Disposal ($175): $725 / 20 LF = $36.25 LF
	a.	At stucco, provide casing bead at edge of joint.					Included above in 1.a.
	b.	The depth to width ratio for the joint should be equal to 2:1.					Included above in 1.a.
	c.	Install type B backer rod and low-modulus elastomeric sealant to provide compliant butt isolation joint at dissimilar material interfaces with joint widths that are 3/8-inch or greater.					Included above in 1.a.

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III.		**BUILDING ENVELOPE** Repair Description	Repair Quantity	Unit Type	Unit Cost	Direct Cost	Notes
	d.	Install polyethylene bond breaker tape and low-modulus elastomeric sealant to provide compliant fillet isolation joint at dissimilar material interfaces where the existing space is less than 3/8-inch wide or the dissimilar materials are out of plane.					Included above in 1.a.
	2.	Reinstall cladding as required to address other repair recommendations, providing 3/8- to 1/2-inch-wide gap between dissimilar materials.					Included above in 1.a.
	3.	Following installation of sealant isolation joints at penetrations through the cladding, set surface-mounted objects in continuous sealant against the face of the cladding.					Included in Building Envelope 1.0B
	a.	Where applicable, profile the sealant at the top of the surface-mounted objects to promote drainage over the top flanges.					Included in Building Envelope 1.0B
	4.	At isolation joints at tops of stair walls located between buildings, remove and replace sealant and backer rod; color of sealant to match existing.	2	loc	$ 590.00	$ 1,180.00	4 hours - Skilled labor & helper @ $110 per hour Materials ($150) 15 LF per location
			Subtotal			$ 14,946.68	
3.0	**Roofing System Type 1 - Spray Polyurethane Foam (SPF)**						
	3.0A	Non-Compliant Slope to Roof Drains					
	Loc.	Repairs to be performed at all roof decks with non-compliant drainage.					
	Qty.	100%					
	1.	Safe off and remove existing HVAC equipment and conduit. Includes reinstallation.					
	a.	3-Plex (Building A)	1	loc	$ 6,180.00	$ 6,180.00	12 hours - HVAC Crew @ $215 per hour Materials ($3600)
	b.	5-Plex (Buildings B, C and D)	3	loc	$ 10,300.00	$ 30,900.00	20 hours - HVAC Crew @ $215 per hour Materials ($6000)
	1.	Remove and replace membrane and underlying substrates as necessary to perform repairs described below.	14,974	sf	$ 7.00	$ 104,820.85	Behmer Roofing
	a.	Provide and install new flashing assembly at perimeter terminations.	2,335	lf	$ 10.00	$ 23,346.61	Behmer Roofing

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III.		**BUILDING ENVELOPE** Repair Description	Repair Quantity	Unit Type	Unit Cost	Direct Cost	Notes
	b.	Remove and replace damaged underlying coverboard and structure, if present. (Estimate 5%)	749	sf	$ 4.50	$ 3,369.24	Behmer Roofing
	c.	Install tapered insulation to provide positive drainage (1/4-inch minimum) towards roof drains.					Included above in 1.
	d.	Slope cricket a minimum of 1/4-inch-per-foot along the valley.					Included above in 1.
			Subtotal			$ 168,616.70	
4.0	**Elevated Decks, Balconies, or Walkways**						
	4.0A	Non-Compliant Slope of Deck					
	Loc.	Repairs to be performed at all decks with non-compliant slope and drainage at edge flashing.					
	Qty.	Building A: Units 3118, 3122, 3124 Building B: Units 3106, 3110, 3112, 3116 Building C: Units 3113, 3123, 3125, 3127 Building D: Units 3105, 3125					
	Ext.	Coordinate with repairs recommended in engineer's report.					
	1.	Remove existing deck edge flashing, membrane, and underlying substrates as necessary to perform repairs described below.					Included in Building Envelope 2.0B
	a.	Remove and replace damaged underlying structure, if present.					Included in Building Envelope 2.0B
	2.	Provide a notch equivalent to the thickness of the metal flashing and deck coating for a length equal to the horizontal leg of the flashing.					Included in Building Envelope 2.0B
	a.	Ensure the notch slopes positively towards the deck edge.					Included in Building Envelope 2.0B
	3.	Install new flashing and deck coating flush to the existing deck surface and sloped a minimum of 2-percent to the deck edge.					Included in Building Envelope 2.0B
5.0	**Improper Wall & Ceiling Assembly and Fire Feauture at Pool**						
	1.	Provide allowance for repairs. Repair scope to be determined.	1	al	$ 35,000.00	$ 35,000.00	Allowance pending further investigation
			Subtotal			$ 35,000.00	
					SUBTOTAL	$ 1,602,548.07	