

# **Exhibit A**



1 K. HOVNANIAN AT GALLERY LLC, an )  
Arizona limited liability company, )  
2 K. HOVNANIAN ARIZONA OPERATIONS, )  
LLC, an Arizona limited liability )  
3 company; K. HOVNANIAN DEVELOPMENTS )  
OF ARIZONA, INC., an Arizona )  
4 corporation; K. HOVNANIAN COMPANIES )  
OF ARIZONA, LLC, an Arizona limited )  
5 liability company, )  
 )  
6 Third-Party Plaintiffs, )  
 )  
7 vs. )  
 )  
8 CHAS ROBERTS AIR CONDITIONING, INC., )  
an Arizona corporation; DESERT VISTA, )  
9 INC., an Arizona corporation; GOTHIC )  
LANDSCAPING, INC., a California )  
10 corporation; HOME BUILDERS SITE )  
SERVICES OF ARIZONA, LLC, an Arizona )  
11 limited liability company; LEBLANC )  
BUILDING CO., INC, an Arizona )  
12 corporation; LIBERTY CONSTRUCTORS, LLC, )  
an Arizona limited liability company, )  
13 dba LIBERTY ARIZONA; RENCO LLC, an )  
Arizona limited liability company, dba )  
14 RENCO ROOFING; R/S SERVICE & SUPPLY, )  
INC, an Arizona corporation; SARGON )  
15 MASONRY CONSTRUCTION, LLC, an Arizona )  
limited liability company; and )  
16 DOES 1-50, )  
 )  
17 Third-Party Defendants. )  
 )  
18 \_\_\_\_\_ )  
19 )  
20 )  
21 )  
22 )  
23 )  
24 )  
25 )

1           A.    No, I don't recall any specific mentioning of  
2 this at all.

3           Q.    Do you remember anything about the association  
4 turnover meeting?

5           A.    Yeah. I believe -- I mean it was pretty  
6 informal from my recollection. I believe it was at Tom  
7 Scott's across the street.

8                    I mean nothing really stands out. It was, I  
9 think, a few handshakes here and there, but nothing worth  
10 remembering besides the simple transition over.

11                   (Exhibit 38 was marked for identification.)

12           Q.    I'm going to show you another document we'll  
13 mark as 38. I'm going to turn over control to you.  
14 Exhibit 38 has a file name HOA New HOA Orientation,  
15 Gallery Trestle 003085, and the document starts with that  
16 Bates number Trestle 003085.

17                   Mr. Vander Waal, please take a look at the  
18 document and let me know when you've had an opportunity to  
19 review it.

20           A.    Okay.

21           Q.    Is this a document you recall receiving or  
22 reviewing at any time?

23           A.    This one is not. I don't recognize any pages or  
24 pictures or anything from this document.

25           Q.    Okay. I'm looking for one document. I don't

1 see it. Do you recall being involved in any kind of  
2 walk-thru with the builder or developer?

3 A. A walk-thru when I bought it or when? I guess  
4 can you explain a little further?

5 Q. Are you aware at one point that representatives  
6 of the association had done a kind of walk-thru and a --  
7 walk-thru and warranty evaluation, with the builder and  
8 developer, before taking responsibility for the common  
9 areas of the property?

10 A. Yes, we had a -- the board had a walk-thru. I  
11 don't recall who it was from KHOV, but I believe that was  
12 two or three years ago.

13 We walked the premises of the Gallery and went  
14 over some things that needed to be addressed and fixed at  
15 the time.

16 Q. I can tell that Chris Stavroff was there, but  
17 I'm not sure who else. Do you know who in particular  
18 would have been present at that?

19 A. Mike Line.

20 Q. Did you ever have any discussions, either with  
21 Chris Stavroff or Mike Line, about the walk-thru or about  
22 any kind of repair requests that were made in connection  
23 with that?

24 A. Yes. At the -- it would have been at the HOA  
25 meeting, just kind of a review afterwards of the items

1 that needed to be fixed.

2 Q. What do you recall about that?

3 A. Honestly I don't recall anything from it. That  
4 was two, three years ago.

5 Q. You haven't reviewed any HOA meeting notes or  
6 anything that refer to that, have you?

7 A. No. They would be in the minutes, I'm assuming.

8 (Exhibit 39 was marked for identification.)

9 Q. We'll mark another exhibit as 39. Let me pull  
10 it up first so Mr. Vander Waal can review it while I list  
11 the name. I'll give control of the document to you.

12 The document we're marking as Exhibit 39 has a  
13 file name KHOV HOA Transfer Executed, Gallery Trestle  
14 002555. Bates range starts at Gallery Trestle 002555.

15 And sorry, Mr. Vander Waal, this may have been a  
16 little overly technical. When I say Bates and Bates  
17 range, at the bottom right-hand corner of every document,  
18 there is a kind of code and a number.

19 The attorneys have marked every page of the  
20 documents we produced, so there's no question what's been  
21 produced, and you know exactly what page out of the whole  
22 set we're dealing with.

23 So if I say Bates number or Bates range, I'm  
24 referring to those numbers and codes on the bottom  
25 right-hand of the document.

1                   Take a look at this document and let me know  
2 when you've had a chance to review it.

3           A.     Okay.

4           Q.     And I'm going to ask you, this document seems  
5 like it's made up of a few different parts. The first  
6 page, with the number 2555 on it, that says common area,  
7 landscape, and financial acceptance by Gallery Community  
8 Association. Is this something you've seen or reviewed  
9 before?

10          A.     Yes.

11          Q.     Can you tell me, in your own words, what this  
12 is?

13          A.     In my own words, it looks like --

14                MS. MANSHIP: You don't have control of it  
15 anymore.

16          Q     (By Mr. Horowitz) If you want to review the  
17 document or scroll around to answer that question, I'll  
18 give you control again.

19          A.     I'm sorry. It kind of looks --

20          Q.     Go ahead with your answer, if you're able To.  
21 If you need to review the document, that's fine.

22          A.     I recognize the check amount and kind of the  
23 check page, because I believe this was a check that was  
24 written by KHOV for the balance of something. I don't  
25 recall what that balance was for, but yeah, I believe it

1 was kind of the transfer of KHOV to the HOA, if I remember  
2 correctly.

3 Q. And this has a date of February 21st, 2017,  
4 where it says date of inspection. Do you know what that  
5 date refers to?

6 A. No, I don't, because I wasn't there.

7 Q. That might be a typo. As you can see, it looks  
8 like the dates this was signed by the KHOV representative  
9 and the HOA representative are all in August of 2018. Do  
10 you see that?

11 A. I do.

12 Q. And this does seem familiar to you at least in  
13 that it references, under the section it says punch list,  
14 it says one, KHOV Homes agrees to contribute \$1,704.35  
15 directly to the association reserve account, and it refers  
16 to an exhibit. That part is familiar to you, correct?

17 A. That is, yes.

18 Q. Item two, under the punch list heading, says,  
19 "K. Hovnanian Homes performed a significant number of  
20 repairs and replacement of concrete components throughout  
21 the community, installation of granite throughout common  
22 areas, as well as various miscellaneous repairs throughout  
23 common areas." And then it refers to Exhibit B. Did I  
24 read that part of the document accurately?

25 A. You did.

1 Q. Does that item number two seem familiar to you?

2 A. It doesn't, not this part of the document  
3 because -- yeah. I mean Mike signed it. So I may have  
4 received it, but I never read it or anything like that  
5 because -- yeah. The only thing that looks familiar to me  
6 is the check amount. I do remember that as part of the --

7 Q. And you've got a financial background so you  
8 would have had some interest in what was going on as far  
9 as this, correct?

10 MS. MANSHIP: Form and foundation.

11 THE DEPONENT: I have a financial background?

12 Q (By Mr. Horowitz) Yes. Didn't you say you had  
13 a --

14 A. I have a small financial background, but I  
15 wouldn't call it, you know, an expert by no means.

16 Q. Do you recall anything about the walk-thru or  
17 being involved in the walk-thru?

18 A. No. I mean it happened in the morning. I  
19 believe there was one or two people from KHOV. We walked  
20 the premises. But from my recollection, it was more -- we  
21 took a look at a lot of just simple issues, whether it was  
22 retaining walls or grade slopes or drainage or landscaping  
23 or something like that.

24 You know, that's what I recall from kind of the  
25 walk-thru, and that would be it. I don't know when that

1 was. Again I want to say that was two or three years ago.

2 Q. Did you form any opinions yourself regarding the  
3 sufficiency of the construction of the site improvements  
4 based on your own personal knowledge or your own personal  
5 experience as a landscape architect?

6 A. Well, I'm not currently a landscape architect.  
7 I haven't been in the industry for 12 years, but there was  
8 certainly some things that needed to be addressed, whether  
9 it was a landscape retaining wall issue -- there were  
10 walls that were basically coming apart on the premises.

11 And just from my small experience in the  
12 construction industry, it looked like some sidewalks had a  
13 heavy grade slope on them, which should have been fixed.  
14 And yeah, I mean that was just kind of my general  
15 assessment of it.

16 Q. Were the things that you identified incorporated  
17 in the punch list?

18 A. What punch list?

19 Q. Were the things that you identified incorporated  
20 in the list of things that needed to be repaired?

21 A. Yes, to my knowledge. Yeah. For example, I  
22 know the retaining wall was, but, you know, I don't recall  
23 the exact list, what was all in there.

24 Q. If you look at page five out of six of this  
25 exhibit, the one that's got Bates number Gallery Trestle

1 0025559, there is what appears to be a list of items and  
2 notations that the items are completed. Do you see that?

3 A. I do.

4 MS. MANSHIP: That's kind of small. Can you  
5 increase the size of that for me, or I'll have to put on  
6 my reading glasses.

7 MR. HOROWITZ: That's as big as will fit on the  
8 screen.

9 Q (By Mr. Horowitz) Mr. Vander Waal, do you see  
10 the list on the bottom part of that page?

11 A. Yes.

12 Q. Can you tell from review of the list or any  
13 other part of the document whether this is a complete and  
14 accurate list of the items that were requested by the  
15 association, to the builder or developer, to be repaired  
16 as part of the walk-thru we've been discussing?

17 MS. MANSHIP: Objection, form. You can still  
18 answer.

19 THE DEPONENT: So it looks like an accurate  
20 list. Whether or not this is complete --

21 Q (By Mr. Horowitz) And just so we have a clean  
22 record, can you tell me, in your own words, what this page  
23 is and what this list is?

24 A. Yeah. In my own words, I would say it is a, you  
25 know, to do list of the things on the outside which needed

1 to be completed, which needed to be fixed.

2 Q. For those items that are marked completed, do  
3 you know if they were?

4 A. I do not know if all of them were. Just from  
5 walking around, I can see that some of them were, yes, but  
6 I do not know if everything was.

7 Q. Do you know who determined or verified that each  
8 of these things were completed that are marked completed?

9 A. I don't know. I don't know who made that call.

10 Q. Do you recall ever reaching out to KHOV about  
11 any issues from that walk-thru list that you believe were  
12 not properly repaired or that required additional work?

13 A. No, not myself personally. Something like this,  
14 considering it was within the HOA, would have come from  
15 management.

16 Q. At all times during the turnover process, during  
17 the walk-thru process, and during the -- let me ask that a  
18 different way.

19 During all times of the turnover process and the  
20 walk-thru process, the association had a professional  
21 management company involved, correct?

22 A. That is correct.

23 Q. I'll just put up another document. We'll mark  
24 this as Exhibit 40. I'll turn the control over to  
25 Mr. Vander Waal, so he can scroll up and down.

REPORTER'S CERTIFICATION

I, Diane Laur, a Shorthand Reporter in and for the State of Colorado, do hereby certify:

That the foregoing witness was by me duly sworn; that the deposition was then taken before me at the time and place herein set forth; that the testimony and proceedings were reported stenographically by me and later transcribed into typewriting under my direction; that the foregoing is a true record of the testimony and proceedings taken at that time.

That before the conclusion of the deposition, the witness, ROBERT VANDER WAAL, has requested a review of this transcript.

IN WITNESS WHEREOF, I have subscribed my name this 22ND day of August, 2022.



Diane Laur

My Commission expires May 13th, 2023.