

September 26, 2011

Sally Miller, Investigator
Office of the Indiana Attorney General (IAG)
Consumer Protection Division
302 W. Washington Street, 5th Floor
Indianapolis, IN 46204-2770

RE: Subpoena Duces Tecum request to Deborah Zipperle and Kevin Zipperle

Dear Ms. Miller:

We have received your request for the following documentation pursuant to the statutory authority of Indiana Code 4-6-12-7(1):

1. All documentation (including contracts and addenda) related to the purchase of The Harbours, Condominium Unit 312, Deborah Zipperle, Buyer.
2. All documentation (including contracts and addenda) related to the purchase of Parking Space Numbers 5, 6, 136, 137, 138, 443, 601, and 635 in year 2007.
3. Copies of cancelled checks or other proof of payment for Parking Space Numbers 5, 6, 136, 137, 138, 443, 601, and 635 in year 2007.
4. A list of all parking spot assignments owned by Kevin and/or Deborah Zipperle which have been sold since July 1, 2011, including the name of the buyer and price of the assignment.
5. A list of all parking spot assignments owned by Kevin and/or Deborah Zipperle which have been rented since July 1, 2011, or are currently rented, including the name of the renter and amount per month.
6. Re. forwarded email from kzipperle@win.net to bettycan@insightbb.com. Identify the parking spaces referenced in the forwarded email that the association "received without charge... from the Developer when he sold his final condo" including any subsequent assignments or sales.

Enclosed are documents in response to items 1 through 3. None of these parking spaces have been sold (item 4) or rented (item 5) since July 1, 2011. The parking spaces referenced by the email under item 6 were assigned to The Harbours homeowners association ("HOA"), and that information will be separately provided by the HOA.

Purchase Contract for Condominium 312

(1) The purchase of condominium 312 was simultaneous with the purchase of the parking spaces listed under items 2 and 3 and paid for together. Enclosure I is the contract for this combined purchase for a total of \$355,000. This contract references the simultaneous closing between the Developer/Declarant (Alan Feinsilver) and the seller of condominium 312 (Gary Davis) on a second condominium (unit 1110) which stipulated that these parking spaces be transferred to the Zipperles with their purchase of condominium 312. The final page of the contract for condominium 1110 showing the provision for these parking spaces is being forwarded as Enclosure II.

(2) Prior to execution of the final contracts for condominiums 312 and 1110, a set of purchase contracts had been drafted which made the purchase of these parking spaces optional. As a result, the prior contract for condominium 312 was for a \$40,000 lower purchase price, an amount that all parties agreed represented the approximate value for the bulk purchase of parking spaces at these specific locations on The Harbours property. This earlier draft of the contract for condominium 312 is included as Enclosure III, and the corresponding signature page for the condominium 1110 contract referring to the parking spaces is presented as Enclosure IV.

Events Leading to the Purchase of Condominium 312

(3) During the Sales Phase, the Developer frequently allowed condominium 1110 to be used for community social functions and as a meeting site for HOA business. During these events, it was not uncommon for membership to remark how nice it would be to have a community room. When finances were discussed, people were often interested to find how cost effective a purchase would be if made in common. This subject continued to surface for several years as different options were explored.

(4) After the date of turnover, 4/27/04, the Developer continued to allow the use of condominium 1110 without cost to the HOA. In 2006, Mr. Davis marketed condominium 312, his personal residence at that time, with the intention to purchase condominium 1110. This scenario created a greater sense of urgency in exploring community space options when it became obvious that the space used by the HOA would no longer be available once Mr. Davis had purchased condominium 1110. While there was some initial interest by HOA members to purchase condominium 1110 for themselves, the asking price appeared too large of a hurdle coupled with ongoing costs to maintain it.

(5) An opportunity had been explored with AT&T which owns townhouse 616 and utilizes a portion of which as a control room for their rooftop antennae. To finish the remaining portion, the HOA contacted a local contractor who had completed other townhouse spaces to get costs estimates. Preliminary discussions were held with AT&T about using their unfinished space as a rent concession to their rooftop rental. The numbers were crunched, but talks were never fruitful. In 2006, real estate was at all-time highs and corporations were not as interested in advancing cost savings measures.

(6) It had already been determined that most single residences at The Harbours would be too small to accommodate membership meetings. With the imminent sale of condominium 1110, there would be no large, mostly unfinished units nor comparable side-by-side units available. Condominium 312 (which was a combination of 312 and 313) was of similar footprint to condominium 1110 though not as large and certainly not as expensive as other options because of its basic finishes. The building blueprints and plans were then evaluated to determine the location

of sway bars, how the space could be opened, what walls could be removed, etc. The Developer was made aware that the Board had interest in exploring community space options with the HOA membership. As all were aware, taking on the larger, more expensive options and the ongoing expenses of each would have required homeowner approval.

(7) Financing, renovation, utilities, taxes and maintenance were ongoing expenses that needed to be considered. It was determined that this would likely be the most cost effective option that would present itself for some time. To more easily agree on a sales price for condominium 312 and to aid in the sale of condominium 1110 (which would conclude the sales efforts), the Developer was willing to convey parking spaces as added value. The inclusion of spaces would allow for a more attractive purchase of condominium 312, which effectively would allow the buyer of condominium 1110 to come to the closing table with more money .

(8) It was envisioned that the extra parking spaces could be sold to generate funds to offset renovation costs, and the membership would pay little more than the initial outlay. Once the unit was finished, potential rental income could offset operational costs. The third floor location would also be ideal from the standpoint of noise concerns when leased or occupied. It was located directly above two townhouses, one used as a residence and the other for AT&T's cell tower equipment. An effort would be made to maximize sound proofing to avoid disturbances. Condominium 312 also had an unobstructed view that the townhouse space lacked. This feature would have made the space more attractive if leased to those outside of membership.

(9) A meeting of HOA members was scheduled in early March 2006 along with an open forum and Q & A. This was deemed to be the right time to hold preliminary discussions for cable & internet services. The notes from that meeting indicate an interest among attendees to further explore costs related to securing a condominium to convert to a community space. Again at the Board Meeting on March 29th, the Board discussed options for a community space.

(10) By September 2006, another town meeting was scheduled to discuss the cable/internet package offered by Insight and, more specifically, the required cost allocation by square footage rather than by unit. Kevin Zipperle had prepared a handout to discuss community space options: rent as needed, renovate existing areas, negotiate on the AT&T townhouse, or acquire condominium 312. Mr. Zipperle would disclose that he had entered into a purchase contract for condominium 312 with agreement by all parties that the property would be offered to the HOA and accepted by majority approval contingent upon reimbursement of any costs incurred until the HOA closing. If there was a lack of interest among membership, the Zipperles having paid for it would keep the condominium for themselves.

(11) The town hall meeting was held on 9/12/06 with 43 condominiums in attendance. The majority of the meeting concentrated on the bulk cable TV agreement and equitable division of fees. Many were convinced that there had to be a way to allocate reimbursement as it had been billed. The Board had already wrestled with this concept and two separate legal opinions had been sought prior to the meeting. The bottom line was that once adopted as a common expense, cable TV service fees would have to be allocated by square footage pursuant to horizontal property regime law. Those in attendance, by show of hands, supported the cable measure. Even the owners of one bedroom units conceded that they preferred a unit division fully understanding that their share would be greater than if calculated by square footage.

(12) Community space options were then discussed with homeowners using a chart that compared the cost/benefit for each option under consideration. The higher cost options—those involving real estate purchases—were analyzed as requiring outside financing with annual

payments by the HOA proportional to the costs involved. There was very little interest by members in taking on a large financial obligation, a clear majority stating a preference to rent space as needed. Thereafter, community space options were concentrated toward exchange of the Fitness Center and Business Center and reconfiguration. There were also bids obtained to finish out the third floor level of the front portico (under the current X01 through X04 stacks) However, the cost estimate to finish out space was far greater than to secure and convert existing space. As of this date, the HOA has not undertaken a purchase or renovation of community space for its long term needs.

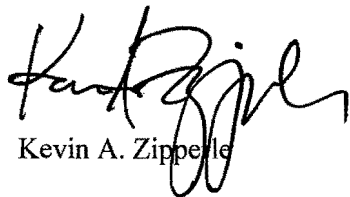
(13) Mr. &Ms. Zipperle closed on condominium 312 and conjoined that unit with condominium 311, their then existing residence. In accordance with the terms of the agreement, the sale included conveyance of the parking spaces.

Other Evidence

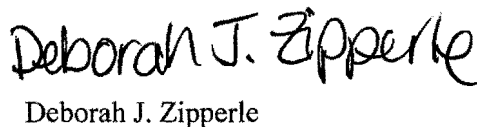
(14) As additional supporting evidence, Enclosures V and VI are title insurance policies that were drafted for the original and amended purchase contracts for condominium 312, and showing the respective before and after prices. To complete the information provided, Enclosures VII through X are, respectively, the closing statement, closing check, and deed for condominium 312 along with the parking assignment contract for the parking spaces under items 2 and 3 on the first page. We have no additional information documenting the transactions involved. While such documentation possibly exists, it is not in our possession as but one of the parties to the transactions just reviewed.

Thanks for giving us the opportunity to provide the background information for the purchase of the aforementioned real estate. Please contact us if you need explanation or have any questions.

Sincerely,



Kevin A. Zipperle



Deborah J. Zipperle

Enclosures