

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
Orlando Division**

MICHELLE IRIZARRY,  
VALERIE WILLIAMS,  
and JOANNE NIXON, all on  
behalf of themselves and others  
similarly situated,

Plaintiffs,

CIVIL ACTION NO:

v.

ORLANDO UTILITIES  
COMMISSION; LENNAR CORPORATION;  
U.S. HOME CORPORATION; AVALON  
PARK GROUP MANAGEMENT, INC.;  
and BEAT KAHLI,

Defendants.

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**NOTICE OF REMOVAL**

Pursuant to M.D. Fla. R. 4.02, Defendant Orlando Utilities Commission (“OUC”) removes to this Court the case styled *Irizarry v. Orlando Utilities Commission*, Case No. 2018-CA-13758-O (Fla. 9th Cir. Ct. 2018) (the “State Court Action”). Though Plaintiffs’ claims lack merit, the unsubstantiated allegations made in their Complaint provide this Court with jurisdiction over Plaintiffs’ claims under the Price-Anderson Act, 42 U.S.C. § 2210, and under 28 U.S.C. § 1331. All prerequisites for removal have been satisfied and OUC removes this action to this Court on the following grounds:

## **INTRODUCTION**

1. On December 20, 2018, Plaintiffs Michelle Irizarry, Valerie Williams, and Joanne Nixon (collectively “Plaintiffs”) filed the State Court Action on behalf of themselves and all others similarly situated.

2. Plaintiffs served OUC on January 9, 2019. Therefore, removal is timely under 28 U.S.C. § 1446(b)(1) because OUC filed this notice of removal within 30 days of being served.

3. In accordance with M.D. Fla. R. 4.02(b) and pursuant to 28 U.S.C. § 1446(a), true and legible copies of all pleadings and papers on file with the state court are attached as Composite Exhibit A. These papers include Plaintiffs’ Complaint, service documents, their initial requests for production, and Plaintiffs’ Request to Enter onto and into Premises to Inspect, Photograph, and Sample Pursuant to Florida Rule of Civil Procedure 1.350(A)(3). OUC has not yet filed its answer in the State Court Action, nor, as of the date of this Notice, has any other Defendant. OUC is not aware of any other pending motions or briefs.

4. Pursuant to 28 U.S.C. § 1446(d), OUC is serving written notice of the removal of this action on Plaintiffs’ counsel and counsel for all defendants. A copy of that notice, in the form attached as Exhibit B, will be promptly filed with the Clerk of the Ninth Judicial Circuit.

5. Venue is proper under the Price-Anderson Act because this Court is the United States District Court for the district in which the alleged incident took place, *see* 42 U.S.C. § 2210(n)(2).

## **BASIS FOR JURISDICTION**

6. Plaintiffs allege that their properties and those of others similarly situated (the “Class Area”) have been contaminated by organic compounds, radionuclides, and metals blown

from two coal-fired energy generation units at the Curtis H. Stanton Energy Center (the “Stanton Power Plant”), which is owned and operated by OUC.

7. In their Complaint, Plaintiffs assert two causes of action against Defendant OUC: (a) strict liability under Section 376.313, Florida Statutes; and (b) inverse condemnation under Article X, Section 6(a) of the Florida Constitution. Plaintiffs further assert individual counts of strict liability under Section 376.313 against Defendants Lennar Corporation, U.S. Home Corporation, Avalon Park Group Management, Inc., and Beat Kahli.

8. OUC strongly disputes Plaintiffs’ unsubstantiated contamination allegations in their entirety. Nevertheless, by basing the alleged claims on allegations regarding radioactive materials, Plaintiffs’ Complaint gives rise to original federal jurisdiction and provides for direct removal under the Price-Anderson Act.

9. This Court has original jurisdiction over this matter pursuant to the Atomic Energy Act of 1954, 42 U.S.C. § 2201, *et seq.*, as amended by the Price-Anderson Act, Pub. L. No. 85-256, 71 Stat. 576 (1957) (codified as amended in various sections of 42 U.S.C.), the Price-Anderson Amendments Act of 1988, Pub. L. No. 100-408, 102 Stat. 1066 (1988) (codified as amended in various sections of 42 U.S.C.), and the Price-Anderson Amendments Act of 2005, Pub. L. No. 109-58 (2005) (codified as amended in various sections of 42 U.S.C.) (collectively, the “Price-Anderson Act”).

10. The United States Supreme Court has explained the jurisdictional impact of the Price-Anderson Act on removal:

[T]he Price-Anderson Act transforms into a federal action “any public liability action arising out of or resulting from a nuclear incident,” § 2210(n)(2). The Act not only gives a district court original jurisdiction over such a claim, but provides for removal to a federal court as of right if a putative Price-Anderson action is

brought in a state court. **Congress has expressed an unmistakable preference for a federal forum**, at the behest of the defending party, both for litigating a Price-Anderson claim on the merits and for determining whether a claim falls under Price-Anderson when removal is contested.

*El Paso Natural Gas Co. v. Neztosie*, 526 U.S. 473, 484-85 (1999) (internal citations omitted) (emphasis added). “The federal courts have exclusive jurisdiction over actions arising under the Price-Anderson Act.” *Hand v. Cargill Fertilizer, Inc.*, 157 F. App’x 230, 233 (11th Cir. 2005)).

11. The Price-Anderson Act provides in relevant part:

With respect to any public liability action arising out of or resulting from a nuclear incident, the United States district court in the district where the nuclear incident takes place . . . **shall have original jurisdiction without regard to the citizenship of any party or the amount in controversy**. Upon motion of the defendant or of the [Nuclear Regulatory] Commission, or the Secretary [of the Commission], as appropriate, any such action pending in any State court . . . **shall be removed or transferred to the United States district court having venue under this subsection**. . . . In any action that is or becomes removable pursuant to this paragraph, a petition for removal shall be filed within the period provided in section 1446 of title 28 or within the 30-day period beginning on August 20, 1988, whichever occurs later.

42 U.S.C. § 2210(n)(2) (emphasis added).

12. “Public liability action,” as used in Section 2210(n)(2), means “any suit asserting public liability.” *Id.* § 2014(hh). “Public liability,” in turn, “means any legal liability arising out of or resulting from a nuclear incident.” *Id.* § 2014(w). “Nuclear incident” is defined as “any occurrence . . . within the United States causing, within or outside the United States, bodily injury, sickness, disease, or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material.” *Id.* § 2014(q). “Source material” includes uranium and thorium. *Id.* § 2014(z)(1).

13. The existence of federal question jurisdiction is determined by reference to the “well-pleaded” allegations of the plaintiff’s complaint. *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (2011); *Lindley v. F.D.I.C.*, 733 F.3d 1043, 1050 (11th Cir. 2013). Here, Plaintiffs’ Complaint makes clear that they are making claims, based on alleged contamination by radioactive materials, that arise under the Price-Anderson Act. OUC adamantly disputes Plaintiffs’ contamination allegations, but those allegations alone are sufficient to confer federal jurisdiction and provide for direct removal to this Court under Section 2210(n)(2) of the Price-Anderson Act.

14. First, on its face, Plaintiff’s Complaint explicitly incorporates the Price-Anderson Act into their alleged liability claims. Plaintiffs allege that OUC is strictly liable under Section 376.313 for acts and omissions that violated specific regulations – “United States Nuclear Regulatory Commission, 10 CFR, Part 61 – Licensing Requirements for Disposal of Radioactive Waste” – promulgated under the Atomic Energy Act of 1954 as amended by the Price-Anderson Act. Compl. ¶ 98(h).

15. Second, Plaintiffs allege that OUC’s operation of the Stanton Power Plant has contaminated their properties with radionuclides that “can include uranium, thorium, lead, polonium, and radium.” Compl. ¶ 51. They also allege that Polonium-210 contaminates “much if not all the Class Area,” Compl. ¶ 57, and that Polonium-210 is “a product of the radioactive decay of natural uranium (U-238), which is found in coal.” Compl. ¶ 59. In addition, Plaintiffs allege that U-238 has also been detected in particulates collected from the Class Area. *Id.* Plaintiffs assert that, because of the higher concentration of radionuclides, including Polonium-210, in the Class Area, incidences of certain cancers are significantly higher for children in the Class Area than expected. Compl. ¶¶ 59-68.

16. Third, Plaintiffs specifically identify as a “common” question of law and/or fact to be adjudicated: “Whether the OUC and/or developer Defendants, through their acts or omissions, proximately caused property damage, diminution of property values, cleanup costs, and health risks due to radioactive materials and related Contaminants deposited, released, or abandoned in the Class Area.” Compl. ¶ 89.e.

17. Fourth, Plaintiffs seek recovery for damages, including property damage, diminution of property values and loss of use and enjoyment of their property, arising from this alleged contamination with radioactive materials. Compl. (Jury Trial Demand and Prayer for Relief). OUC unequivocally denies that either Plaintiffs or their properties sustained any such damages.

18. Thus, regardless of its lack of merit, the face of Plaintiffs’ Complaint demonstrates clearly that this action is subject to original federal jurisdiction under the Price-Anderson Act by making claims that constitute a “public liability action arising out of or resulting from an alleged nuclear incident.” *See* 42 U.S.C. § 2014(hh) (stating that a “public liability action shall be deemed to be an action arising under section 2210 of this title”).

19. Accordingly, the State Court Action is properly subject to removal to this Court.<sup>1</sup> *See, e.g., Cotromano v. United Technologies Corp.*, 7 F. Supp. 3d 1253 (S.D. Fla. 2014) (finding removal proper under the Price-Anderson Act where plaintiffs alleged tort and strict liability damages due to radioactive contamination of surface and groundwater); *see also Estate of Ware v. Hospital of the University of Pennsylvania*, 871 F.3d 273, 280 (3d Cir. 2017) (affirming district

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<sup>1</sup> OUC asserts that all of Plaintiffs’ claims are removable under Section 2210(n)(2) of the Price-Anderson Act, but to the extent any claims are considered not removable based on original jurisdiction, this Court has supplemental jurisdiction under 28 U.S.C. § 1367 because all of Plaintiffs’ claims form part of the same case or controversy.

court's finding that the Price-Anderson Act provided broad federal jurisdiction over claims based on alleged injury from radioactive materials).

20. Consent to this removal by the other defendants is not required. Section 2210(n)(2) of the Price-Anderson Act provides for original jurisdiction and direct removal to this Court by OUC and imposes no consent requirement with respect to other defendants. In addition, consent is not required under 28 U.S.C. § 1446(b)(2) because the action is not being removed "solely under section 1441(a)."

### CONCLUSION

OUC removes this action to this Court under the Price-Anderson Act and under 28 U.S.C. § 1331.

Dated this 8th day of February 2019

Respectfully submitted,

/s/David Weinstein

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**CERTIFICATE OF SERVICE**

I CERTIFY that a copy of the foregoing is being contemporaneously furnished to the following by e-mail on February 8, 2019:

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/s/ David Weinstein  
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IN THE CIRCUIT COURT OF THE NINTH  
JUDICIAL CIRCUIT, IN AND FOR ORANGE  
COUNTY, FLORIDA

Michelle Irizarry, Valerie Williams,  
and Joanne Nixon,

CASE NO:

Plaintiffs,

v.

Orlando Utilities Commission; Lennar Corporation;  
U.S. Home Corporation; Avalon Park Group  
Management, Inc., d/b/a Avalon Park Group; and  
Beat Kahli,

Defendants.

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**CLASS ACTION COMPLAINT**

Plaintiffs, in their individual capacities and on behalf of classes of similarly situated individuals defined herein, bring this action against the Orlando Utilities Commission Lennar Corporation, U.S. Home Corporation, Avalon Park Group Management, Inc., d/b/a Avalon Park Group, and Beat Kahli. In support of this action, Plaintiffs allege the following:

**INTRODUCTION**

1. This case is brought by Michelle Irizarry, Valerie Williams, and Joanne Nixon, on behalf of themselves and on behalf of a class and subclasses of individuals with properties located in a defined area within the southeastern corner of Orlando ("Class Area"), arising from contamination of their properties by airborne coal dust, coal

combustion residuals including fly-ash and bottom ash, harmful organic compounds, radionuclides and metals blown from the two coal-fired energy generation units at the Curtis H. Stanton Energy Center (the “Stanton Power Plant”),<sup>1</sup> which is owned and operated by the Defendant Orlando Utilities Commission (“OUC”). Under Florida law, the OUC is strictly liable and subject to claims for inverse condemnation for damages to Plaintiffs’ properties and the properties of the putative class members. Specifically, particulates comprised of coal combustion residuals, coal dust, harmful organic compounds, radionuclides and metals blowing from the Stanton Power Plant have contaminated the Plaintiffs’ properties with carcinogenic radionuclides, including polonium and polyaromatic hydrocarbons including Benzo(a)Pyrene (“BaP”) and metals in concentrations exceeding Federal and Florida regulatory standards. (Collectively, radionuclides, BaP, and metals from the Stanton Power Plant are referred to as “Contaminants.”) In fact, these dusts are easily visible to the naked eye when driving or walking through the Class Area. As a result, pediatric central nervous system, blood, and bone cancer rates in the Class Area drastically exceed National and Orange County levels. Plaintiffs and members of the proposed class have been deprived of the fair use and enjoyment of their properties; the value of the properties owned by Plaintiffs and the members of the class has been damaged; and the properties need remediation to prevent additional future harms.

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<sup>1</sup> A diagram of the approximate boundary of the Class Area, which was defined by soil sampling and laboratory analysis, modeling procedures of the Environmental Protection Agency, and the power plant’s own monitoring data is attached for illustrative purposes only as **Exhibit A**.

2. Plaintiffs also allege the developers and managers of the master-planned residential communities in the Class Area, including Lennar Corporation, U.S. Home Group, Avalon Park Group Management, Inc., as well as the principal of Avalon Park Group, Beat Kahli (collectively referred to as “Developer Defendants”), planned, marketed, built, and managed residential neighborhoods close to the Stanton Power Plant without addressing the risks and harms posed by the Contaminants, and that these developers are strictly liable for damages to the properties of the Plaintiffs and the putative subclass members. The suburban residential communities in the Class Area were touted carefully planned developments that would provide luxurious, yet affordable, neighborhoods in which families and children could safely live, work, and play.

3. There is a causal relationship between exposure to these Contaminants and cancer—especially in children. The danger of such exposure is borne out by an epidemiologic analysis and a site investigation, which found a correspondingly higher incidence of pediatric brain and blood cancers in the Class Area, including two exceedingly rare pediatric cancers—Diffuse Intrinsic Pontine Glioma and Ewing’s Sarcoma—that occur repeatedly in the Class Area.

4. As a result of being exposed to Contaminants from the Stanton Power Plant, children and adults residing in the Class Area face an unacceptable risk of contracting cancer and other diseases. As a result of Defendants’ conduct, children in the Class Area have been stricken with cancer, and some have died. The only source of these Contaminants is the Stanton Power Plant, which has a unique Contaminant

fingerprint. For more than 15 years, samples of the groundwater beneath the Stanton Power Plant's coal combustion residual piles have consistently shown gross alpha radiation above regulatory levels. As there is no background source of gross alpha beneath the Stanton Power Plant and surrounding community in the groundwater, the only source of gross alpha radiation in the groundwater is the radionuclides that have percolated down with precipitation from the coal combustion residual piles into the groundwater. This is not surprising since the Stanton Power Plant purchases coal from the most radioactive coal basin in the United States.

5. Plaintiffs and the putative class members have been damaged and have incurred damages as a result of the depositing of Contaminants from the Stanton Power Plant onto their properties. Their properties and all properties within the Class Area have been contaminated with hazardous, cancer-causing substances.

## **PARTIES**

### **Plaintiffs**

6. Plaintiffs own property located in the Class Area.

7. Plaintiff Michelle Irizarry is a resident of Orange County, Florida. Plaintiff Michelle Irizarry owns property located within the Stoneybrook community in the Class Area at 14851 Hawksmoor Run Circle, Orlando, Florida. Plaintiff Michelle Irizarry is a putative class representative and subclass representative for the Stoneybrook subclass.

8. Plaintiff Valerie Williams is a resident of Orange County, Florida. Plaintiff Valerie Williams owns property located within the Stoneybrook community in the Class

Area at 14701 Chadbury Court, Orlando, Florida. Plaintiff Valerie Williams is a putative class representative and subclass representative for the Stoneybrook subclass.

9. Plaintiff Joanne Nixon is a resident of Orange County, Florida. Plaintiff Joanne Nixon owns property located within the Eastwood community in the Class Area at 14136 Deljean Circle, Orlando, Florida. Plaintiff Joanne Nixon is a putative class representative.

### **Defendants**

10. The OUC is a municipally-owned public utility, governed by a five-member commission (including the Mayor of Orlando), that provides water and electric service to the citizens of Orlando, St. Cloud, and unincorporated areas of Orange County, Florida. Established in 1923 by a special act of the Florida Legislature, the OUC is the second largest municipal utility in Florida and 14th largest municipal utility in the country.

11. Defendant Lennar Corporation (“Lennar”), a public company headquartered in Miami, Florida, is the parent of Defendant U.S. Home Corporation (U.S. Home”). U.S. Home Corporation (“U.S. Home”) is a Delaware corporation that constructed homes in the Stoneybrook community, located in the Class Area. Its principal address is 700 N.W. 107th Avenue, Suite 400, Miami, FL 33172, and its registered agent is located at 1200 South Pine Island Rd., Suite 250, Plantation, FL 33324.

12. Lennar acquired U.S. Home in or around 2000 and was responsible for developing and managing the Stoneybrook East Community following the acquisition.

Until 2013, Lennar operated the homeowner's association for the Stoneybrook community. Lennar has the same principal address as U.S. Home, 700 N.W. 107th Avenue, Suite 400, Miami, FL 33172, and its registered agent is also located at 1200 South Pine Island Road, Plantation, FL 33324.

13. Avalon Park Group Management, Inc., which does business as Avalon Park Group, is a Florida corporation that marketed the master-planned Avalon Park development, and constructed homes in the Avalon Park community, located in the Class Area. Its registered agent is Marybel Defillo, 3680 Avalon Park East Blvd., Suite 300, Orlando, FL 32828, which is also the principal address of the corporation.

14. Beat Kahli is the President and CEO of Avalon Park Group and has been responsible for developing and marketing Avalon Park since the underlying land was acquired by his predecessor firm, Kahli & Associates, in or around 1995. Upon information and belief, Mr. Kahli is a resident of Florida.

### **JURISDICTION AND VENUE**

15. The Court has jurisdiction as this is an action for damages that exceeds the sum of \$15,000, exclusive of costs, interest, and attorneys' fees.

16. The Court has personal jurisdiction over the OUC, Lennar Corporation, U.S. Home Corporation, Avalon Park Group, and Mr. Kahli because they are Florida citizens.

17. Venue is proper in the Circuit Civil Court of Orange County, Florida, pursuant to Florida Statutes § 47.011 and § 47.051, because the harmful contamination

of Plaintiffs' properties, and the properties of the putative class members, occurred in Orange County, the location where Plaintiffs' causes of action accrued.

### **FACTUAL ALLEGATIONS**

18. The OUC, which bills itself as "***The Reliable One***," is the municipal utility responsible for providing electric, water, chilled water, and/or lighting services to more than 435,500 people in the Orlando area. It owns and operates the Stanton Power Plant, located in east Orange County twelve miles southeast of Orlando, which can generate more than 1,800 megawatts of electricity.

19. Although the Stanton Power Plant also includes two natural gas-fired energy generating units that are jointly owned and operated with the Southern Company, the portions of the Stanton Power Plant that are relevant to this case are No. 001 ("Unit No. 1") and No. 002 ("Unit No. 2"), two 440-megawatt coal-burning facilities. Unit No. 1 consists of a Babcock and Wilcox boiler/steam generator (Model RB 611) and steam turbine, which drives a generator with a nameplate rating of 468 megawatts. Unit No. 2 consists of a Babcock and Wilcox boiler/steam generator (Model RB 621) and steam turbine, which drives a generator with a nameplate rating of 468 megawatts. Each boiler/steam generator is a wall-fired dry-bottom unit.

20. The foundation for Units No. 1 and 2's development lies in the late 1970s and early 1980s, when the OUC determined that its then-existing generating capacity could not satisfy future energy demands in the Orlando area. The OUC's engineering consultants recommended that the OUC develop a new coal-fired plant in order to



accommodate rapid projected growth in Orlando and transition from the volatile oil market to coal. The OUC adopted their recommendation and began developing Units No. 1 and 2 of the Stanton Power Plant, which began commercial operations in 1987 and 1996, respectively.

21. In addition to operating Units 1 and 2, the OUC is also responsible for other relevant aspects of operations at the Stanton Power Plant, including transportation and offloading of coal for use in Units 1 and 2, storage and handling of coal for use in Units 1 and 2, and storage, handling, and disposition of solid fuels, coal, coal ash, coal combustion residuals, limestone, gypsum, and slag used in or generated from Units 1 and 2.

22. The Stanton Power Plant is located at 5100 S. Alafaya Trail, Orlando, FL 32831, less than two miles south of the southern portion of the Class Area, in the middle of the Hal Scott Regional Preserve and Park, a flat wetland nature preserve, which lacks any impediments to prevent particulates from being carried from the plant onto the Class Area. A wind-rose from the Orlando International Airport shows that wind blows from all directions, permitting Contaminants to be transmitted from the power plant to the residential properties in the Class Area on a nearly continuous basis, to the present day.

23. There are no other industrial facilities near the Class Area, and the Stanton Power Plant is the only plausible source of Contaminants in the Class Area.

### **Contamination of the Class Area**

24. Laboratory analysis of soil samples from the Class Area found coal dust and fly ash with levels of Contaminants exceeding regulatory standards, including polynuclear aromatic hydrocarbons (“PAHs”) such as BaP; heavy metals; and gross alpha radiation from radionuclides including radium and plutonium.

25. Soil samples from multiple properties within the Class Area, collected on separate occasions, contained PAHs including BaP, metals including copper, and radionuclides, at concentrations exceeding state and federal cleanup standards. For uranium mining facilities, the U.S. EPA has established 5 picoCuries per gram (pCi/g) as the maximum allowable concentration of alpha radiation in soil. The U.S. EPA considers these regulations to be cleanup standards at Superfund sites. See the EPA document “Use of Soil Cleanup Criteria in 40 CFR Part 192 as Remediation Goals for CERCLA Sites.” The concentrations of gross alpha measured at the Site ranges from 6.61 to 18.1 pCi/g, and alpha radiation from polonium exceed 16pCi/G. The Florida BaP soil remediation objective is 100 parts per billion (ppb), and the Federal cleanup objective is 110 ppb. The concentrations of BaP in the Class Area ranged from 120 to 310 ppb, and thus exceed both federal and state cleanup objectives. The concentrations of many metals also exceed the U.S. EPA’s Soil screening Levels. See U.S.EPA Regional Screening Levels (RSLs) Generic Tables for Residential Land Use (November 2017). The collected samples also exceed Florida’s regulations regarding Target Levels for Containment Cleanup as set forth in Chapter 62-777 of the Florida Administrative Code. It is important to note that children are far more susceptible to

alpha radiation than adults because of their lower body mass, rapidly developing cells, and more frequent contact with soil. Children in the Class Area were likely exposed to the Contaminants both before and after birth.

26. PAHs, BaP, heavy metals, and radionuclides are an exclusive fingerprint of coal and coal combustion residuals. The presence of these chemicals in the Class Area, individually or in combination, demonstrates there is no other entity that could have caused the presence of the Contaminants in the Class Area other than the Stanton Power Plant.

27. Coal contains naturally occurring radioactive materials consisting of uranium and its decay products, including radium and polonium. Coal combustion residuals are the chemicals remaining after coal is burned by power plants to produce electricity. When coal is burned, ignitable compounds, which are largely organics, are converted into energy, *i.e.*, heat, which in turn boils water to create steam that powers the rotation of turbines to create electricity. The remainder of the coal, the ash, is comprised of less ignitable organics including BaP, metals, and radionuclides. Studies have shown that burning coal concentrates naturally occurring radioactive materials in the coal combustion residuals as much as 3 to 10 times more than the concentrations in coal.

28. At the Stanton Power Plant, coal combustion residuals are trucked over open roads to where they are dumped on uncovered piles. Coal, which is also a source of metals, radionuclides, and metals are also stored in open piles on the Site.

29. Wind then carries the coal particles and coal combustion residue particulates from the piles and the stacks over the flat surrounding nature preserve where it then settles onto the Class Area. In fact, the ash can be seen blowing around the neighborhood miles from the Stanton Power Plant. Air modeling of the power plant's air emissions from its coal combustion ash piles using the EPA's air dispersion modeling software referred to as "AERMOD," which incorporated results from the soil testing, and airborne particulate monitoring by the OUC and the Florida Department of Environmental Protection, demonstrate that particulates from the Stanton Power Plant settle onto the Class Area.

30. Samples of the groundwater beneath the Stanton Power Plant's coal combustion residual piles have consistently shown gross alpha radiation above Florida Department of Environmental Protection Groundwater and Surface Water Clean-up Target Levels. There is no background source of gross alpha in the groundwater. The only source of gross alpha in the groundwater is radionuclides that have percolated down with precipitation from the coal combustion residual piles into the groundwater.

31. Other studies confirm what the Stanton Power Plant's own data demonstrates. In 2006, the environmental organization Facing South conducted a study using the U.S. EPA's Toxics Release Inventory Program data. It concluded that the Stanton Power Plant emitted more coal combustion waste, containing perilous levels of heavy metals and radiation, than any other electrical facility in the United States. And a 2010 study performed by the Environmental Integrity Project and

Earthjustice documented the Stanton Power Plant's history of noncompliance with environmental regulations.

32. The OUC was well aware that the Stanton Power Plant was releasing copious amounts of ash and coal dust into the environment. As indicated in just a single excerpt from one of hundreds of pages of dust inspection reports, blowing dust was reported on more than 90% of the daily inspections. Its site inspector, Boral Services, noted that nearly every day dust was observed coming from the haul roads and landfill. While it notes that water was applied to the dusting area, it obviously was not enough, since the dust blew from the site nearly every day it was inspected. Below is a log for just a portion of 2017.

Date	Time	Is there any dust observed coming from roadways or landfill?	Was water applied to landfill?	Was water applied to roadways?	Was the sweeper truck operated on roadways?	If dust was observed, why was the sweeper truck or water truck <u>NOT</u> used?
05/05/2017	09:00	NO	NO	NO	NO	Rain
05/15/2017	09:00	YES	NO	YES	NO	
05/16/2017	09:30	YES	YES	YES	YES	
05/17/2017	09:00	YES	YES	YES	NO	
05/18/2017	09:30	YES	YES	YES	YES	
05/19/2017	09:30	YES	YES	YES	NO	
05/23/2017	09:00	YES	NO	NO	NO	Water truck down
05/23/2017	08:30	YES	NO	YES	YES	Water truck down
05/24/2017	10:00	YES	YES	YES	NO	
05/19/2017	13:00	YES	YES	YES	NO	
06/20/2017	09:00	YES	YES	YES	YES	
06/21/2017	09:30	YES	YES	YES	NO	
06/23/2017	08:30	YES	YES	YES	YES	
06/23/2017	08:00	YES	YES	YES	NO	
06/26/2017	10:00	YES	YES	YES	NO	
06/27/2017	10:30	NO	YES	YES	YES	
06/28/2017	08:30	YES	YES	YES	NO	
06/29/2017	-	YES	YES	YES	YES	
06/30/2017	-	YES	YES	YES	NO	
07/03/2017	08:30	YES	YES	YES	YES	
07/05/2017	09:30	YES	YES	YES	NO	
07/06/2017	09:00	YES	YES	YES	YES	
07/31/2017	09:00	YES	YES	YES	NO	
08/01/2017	08:30	YES	YES	YES	YES	
08/03/2017	09:00	YES	YES	YES	YES	
08/04/2017	09:30	YES	YES	YES	NO	
08/07/2017	09:00	YES	YES	YES	YES	
08/08/2017	10:00	YES	YES	YES	NO	
08/14/2017	09:40	YES	YES	YES	NO	
08/15/2017	10:00	YES	YES	YES	YES	
08/17/2017	09:00	YES	YES	YES	YES	
08/18/2017	08:30	YES	YES	YES	NO	
08/21/2017	09:00	YES	YES	YES	NO	
08/23/2017	09:00	YES	YES	YES	NO	
08/24/2017	09:00	YES	YES	YES	NO	
08/25/2017	08:45	YES	YES	YES	NO	
08/28/2017	09:30	YES	YES	YES	NO	
08/29/2017	09:00	YES	YES	YES	YES	
08/31/2017	09:30	YES	YES	YES	YES	
09/04/2017	10:00	YES	YES	YES	NO	
09/05/2017	09:00	YES	YES	YES	YES	
09/07/2017	09:00	YES	YES	YES	YES	

33. The OUC purchases coal for its Stanton Power Plant from the Illinois Basin, which has the highest radioactivity of any coal in the continental United States. According to publicly available minutes from the OUC, “Mr. Ksionek asked Jan Aspuru to provide a presentation on Affirmative Item A-2 regarding the Railroad Transportation Contract. Mr. Aspuru provided background information for the contract. In 2004, OUC and CSX Transportation, Inc. (CSXT) entered into a 13-year term to transport approximately 2 million tons of coal annually from the Illinois Basin to the Stanton Energy Center (SEC).” *Minutes*, Orlando Utilities Commission, January 23, 2018.

34. Even a 1,000-megawatt coal-fired power plant that is not using the most radioactive coal in the United States could still generate more than 10 tons/yr. of radionuclides. The radioactive emissions produced from the fly ash of a coal-fired power plant are 100 times more than a nuclear power generation of the same energy producing capacity.

#### **Developments in the Class Area**

35. The OUC began developing its coal-burning operations at the Stanton Power Plant in the 1980’s. From the outset, the OUC knew that operating the plant in a manner that would minimize pollution from coal dust, coal ash, and coal residuals was critically important. In granting a permit for the development of the Stanton Power Plant and the project management plan prepared by the OUC’s contractor, Black & Veatch, in 1982, the Florida Department of Environmental Protection required that the OUC “minimize fugitive dust emissions from the coal storage and handling facilities . . .,” and ensure that “[a]ll conveyors and transfer points will be enclosed to preclude [particular

matter emissions,” that “[i]nactive coal storage piles will be shaped, compacted and oriented to minimize wind erosion,” use “[w]ater agents or chemical wetting agents” to prevent pollution “as necessary,” and maintain a “fly ash handling system (including transfer and silo storage)” that was “totally enclosed and vented . . . through fabric filters.” Final Determination, OUC Stanton Energy Center Units 1 and 2, Orange County, Florida, Permit No. Federal- PSD-FL-084, Florida Dep’t of Environmental Protection, Bureau of Air Quality Management, May 14, 1982, *available at <http://arm-permit2k.dep.state.fl.us/psd/0950137/0000D8F6.pdf>*.

36. The Stanton Power Plant began coal-burning operations at Unit 1 in 1987 and at Unit 2 in 1996. Until the 1990’s, the area surrounding the Stanton Power Plant was largely undeveloped, and there were few residential properties located in close proximity to the facility.

37. In the 1990’s, real estate developers secured land for what ultimately became the suburban residential communities in the Class Area. Despite the fact that these communities were built in the shadow of the Stanton Power Plant, the developers did not take adequate steps to protect residents who bought homes in the Class Area from the Contaminants generated by the Stanton Power Plant, or take the actions needed to remediate the harms caused by the Contaminants and prevent future harms from the Contaminants. Instead, the developers have consistently provided residents of the Class Area with a false sense of security by promoting area communities as being safe for Class Area families.



38. Stoneybrook East was developed by U.S. Home Corp. in east Orange County in 1996. Again, despite its location just four miles from the Stanton Power Plant, U.S. Home sought to attract a broad range of buyers by portraying the development as a prestigious golf course community offering condos, single-family homes, and paired villas. After acquiring U.S. Home, Lennar remained involved in developing, promoting and managing the Stoneybrook East community for many years, and continued to manage the homeowner's association for Stoneybrook East until 2013.

39. Eastwood was developed in 1992 and marketed as an affordable golf course community. Once more, although Eastwood is situated just five miles from the Stanton Power Plant, it was aggressively marketed to potential buyers and branded as "Homes for Tomorrow" with elaborate game and entertainment rooms, garage workshops, and innovate uses of natural gas. Eastwood had the highest volume of home sales among Orange, Osceola, and Seminole counties in the first half of 1998.

40. Beat Kahli, majority owner of the Avalon Park Group, marketed Avalon Park as a community designed to combat urban sprawl and offer affordable opportunities for families to live, work, and play. The Avalon Park Group claims to have recreated the traditional neighborhood, woven together by a sense of community, in which doctors and lawyers live down the street from teachers and police officers, and Main Street is flanked by mom-and-pop businesses. Kahli billed the development as "a city, a self-sustaining community," which includes schools, shops, start-up businesses, and a state-of-the-art football stadium as its centerpiece. Many of Avalon Park's unique features were financed by Kahli himself in order to stimulate the local economy and

attract homebuyers. Despite acknowledging Avalon Park's proximity to the Contaminant-spewing Stanton Power Plant, Kahli zealously pursued development and emphasized its suitability for families and children.

41. At no time did any of the Developer Defendants warn residents of the hazards associated with pollution from the Stanton Power Plant, do anything to address the pollution that existed within these communities, or take measures to address the harms that resulted from that pollution.

**The Class Area's Exposure to Coal Plant Emissions Is Life Threatening**

42. The Contaminants have caused, and are continuing to cause, devastating harm to the health and property of residents in the Class Area. There is a causal relationship between exposure to the Contaminants released from the Stanton Power Plant and various pathologies, including cancer—especially in children. The danger of such exposure is borne out by an epidemiologic analysis based on data from the Florida Cancer Disease Registry and a site investigation, which found a higher incidence of, for instance, pediatric brain and blood cancers including two exceedingly rare pediatric cancers that are causally associated with the Contaminants—Diffuse Intrinsic Pontine Glioma and Ewing's Sarcoma.

43. Although this proposed class action will not be focused on individual personal injuries, the issues in the case do involve serious human health concerns. An unusually high number of children residing in the area where Plaintiffs' properties are located have been stricken with cancer and a number of those children have died, and

our investigation (including the opinions of experts in the relevant fields) indicates those cancers resulted from exposure to Contaminants from the Stanton Power Plant.

44. Children are more vulnerable to exposures to coal-fired power plant emissions because of their prolonged time engaged in outdoor activities, greater air consumption relative to lung mass and body weight, frequent mouth breathing (which allows for less filtering through nasal passages), and direct contact with contaminated soil. As a result, comprehensive studies of childhood brain tumors and other cancers report associations with particulate matter contained in both coal and coal combustion residuals.

45. The Class Area falls within the southern portions of the 32825 and 32828 zip codes, and includes the communities of Avalon Park, Stoneybrook, Eastwood, Cypress Springs, Andover Lakes/Cay, and Turnberry Pointe/Cay.

46. The Class Area contains approximately 30,000 residents and approximately 15,000 housing units.

47. One method for assessing the impact of environmental carcinogens on a community is to calculate the ratio of observed to expected cancer cases. This is referred to as the “cancer incidence ratio” or “CIR.” It is important to note that this is just one method for determining if a particular community has been impacted by an environmental factor. The cancer incidence ratio for central nervous system cancer in the Class Area is **5 to 10 times higher** than the cancer incidence ratio in Orange County, Florida, and the United States. The Florida Cancer Registry tracks the cancer incidence ratio by zip code. Zip code 32828 accounted for 13% of the cancer in Orange

County, but 32828's population of 60,000 is only 5% of Orange County's population of 1,200,000. Thus 32828's pediatric cancer rate is more than **3 times higher** than Orange County's pediatric cancer rate. Zip code 32828 accounted for 0.78% of the cancer in the State of Florida, but 32828's pediatric cancer rate is **3 times higher** than Florida's pediatric cancer rate. The rate of Leukemia in males in 32828 was more than **twice as high** as the rate of Leukemia in Orange County. The rate of brain and central nervous system cancer in males in 32828 was more than **twice as high** as the rate of brain and central nervous system cancer in Orange County. The rate of neuroblastoma cancer in males in 32828 was nearly **5 times as high** as the rate of neuroblastoma cancer in Orange County. But as high as these numbers are, based upon Plaintiffs' investigation, a disproportionate number of these incidences of cancer occur in the Class Area, which has a population only one-third of the size of the population in the entire zip code. Accordingly, it is likely that the cancer incidence ratio in the Class Area is **far higher** than the incidence ratio for 32828 reported by the Florida Cancer Registry.

48. Due to the presence of the dangerous, cancer-causing Contaminants in the Class Area, the properties of Plaintiffs and the putative class members cannot be safely inhabited. Soil and porous media should be removed to abate the risks to safe levels. Plaintiffs seek damages on behalf of themselves and the putative class members in the form of damages for impairment of their property; remediation; economic losses, such as loss of property value and the interference with the use and enjoyment of their property; and the prompt cleanup, excavation, treatment, and removal of radioactive wastes and related contaminants from their properties.

49. Contaminants generated by the Stanton Power Plant have damaged, and are continuing to damage, the properties owned by residents in the Class Area. To protect the value of properties owned by Plaintiffs and members of the proposed class, and to prevent additional future harm from ongoing discharges of Contaminants from the Stanton Power Plant, the implementation of a comprehensive remediation plan is needed. That plan would include, but not be limited to, changes to the OUC's methods for handling and storing coal and coal waste at the Stanton Power Plant to prevent pollution from the Contaminants; funding the replacement of soil, carpets, and furnishings polluted with Contaminants; and installing filtration systems to prevent future harms from the Contaminants.

50. All conditions precedent to this action have been met or waived.

**Radionuclides, Including Polonium-210, Contaminate the Class Area and Cause the Types of Cancer Found in the Class Area**

51. Combustion of coal concentrates the radionuclides in the ash by a factor of 10. Radionuclides contained in coal and fly ash emitting alpha radiation can include uranium, thorium, lead, polonium, and radium. The carcinogenic effect of gross alpha radiation has been studied for more than 100 years and is one of the prime radiological emissions of nuclear accidents and nuclear weapons. Such ionizing radiation, often manifested by the presence of gross alpha radiation, can cause cell death, chromosomal aberrations, DNA damage and replication errors, mutagenesis, and cancer. Cells, tissues, and organisms respond to radiation in a manner that is not readily predicted by dose.

52. Epidemiologic studies have shown that persons exposed to ionizing radiation have an increased risk of cancer, including bone cancer, brain cancer, and leukemia, and, later in life, breast and thyroid cancer. Recent comprehensive reviews and meta-analyses reported a statistically significant 1.2- to 1.5-fold increased risk of childhood leukemia associated with various markers of air pollution from coal-fired power plants, including particulate matter. The exposure of a fetus to radiation is referred to as prenatal radiation exposure. This can occur when the mother's abdomen is exposed to radiation from outside her body. Also, a pregnant woman who accidentally swallows or breathes in radioactive materials may absorb that substance into her bloodstream. From the mother's blood, radioactive materials may pass through the umbilical cord to the baby or concentrate in areas of the mother's body near the womb (such as the urinary bladder) and expose the fetus to radiation.

53. There is a general consensus in the scientific community that the diseases attributable to ionizing radiation (i.e., gross alpha) include, but are not limited to:

- a. Cancers of the bile ducts, bone, brain, breast, colon, esophagus, gallbladder, liver (primary site, but not if cirrhosis or hepatitis B is indicated), lung (including bronchiolo-alveolar cancer), pancreas, pharynx, ovary, salivary gland, small intestine, stomach, thyroid, urinary tract (kidney/renal, pelvis, urinary bladder, and urethra);
- b. Leukemia (except chronic lymphocytic leukemia);
- c. Lymphomas (except Hodgkin's disease);
- d. Multiple myeloma (cancer of plasma cells); and

e. Tumors of the brain and central nervous system.

54. It is also well understood that there is an 8-week period during early pregnancy when an unborn child is especially sensitive to the effects of higher-than-normal levels of ionizing radiation. As the levels of ionizing radiation increase, so does the chance of brain abnormalities.

55. Studies have also indicated that the risk of breast cancer increases in women who were exposed to radiation during childhood. Irradiation in childhood can also cause an enlarged thymus, enlarged tonsils, tinea capitis, acne, and an increased risk for thyroid cancer. Fetal exposure to radiation has also been associated with severe mental retardation, the frequency and severity of which are related to the magnitude of the radiation dose.

56. Ionizing radiation adheres to and even penetrates porous materials such as fabric, soil, plants, wood, concrete, furniture, clothing, and equipment. In many instances, the surfaces cannot be cleaned and instead must be replaced.

57. Based on sampling conducted in 2018, Polonium-210 (chemical symbol Po-210) contaminates much if not all the Class Area. In one sample collected 3.7 miles from the Stanton Power Plant, polonium was detected at a concentration of greater than 16 pCi/g which is three times higher than U.S.EPA's benchmark for gross alpha radiation of 5 pCi/g, which is based on the far less toxic radon and radium. The samples consisted of air-borne particulates that had deposited on the roofs.

58. The International Agency for Research on Cancer has designated Polonium-210 a Group 1 Human Carcinogen. The long-term lifespan-shortening effects

of polonium are comparable to plutonium, and five times greater than uranium and radium. Studies have concluded that a single alpha particle is toxic at the cellular level, and alpha particles can cause double-strand chromosomal breaks and chromosomal translocations that can lead to cancer. A 2011 cohort study examining the development of bone sarcoma in atomic bomb survivors of Hiroshima and Nagasaki concluded the following: "On the basis of what we believe is one of the longest and largest prospective studies assessing the development of bone sarcoma in individuals exposed to ionizing radiation, it appears that the development of radiation-induced bone sarcoma may be associated with exposure to much lower doses of ionizing radiation than have previously been reported."

59. Polonium-210 is a product of the radioactive decay of natural uranium (U-238), which is found in coal. Uranium-238 was also detected in particulates collected from the Class Area. The presence of Polonium-210 in significant concentrations is exceedingly rare in nature. However, studies have established that Polonium-210 is emitted in significant concentrations during the coal combustion process. Thus, Polonium-210 in the Class Area can be attributed only to the Stanton Power Plant. Polonium-210 released during coal combustion can be emitted in a gaseous state or attached to particulates and, accordingly, can be carried very far and inhaled deeply into the lungs. Polonium-210 has a physical half-life of approximately 140 days and a biological half-life of approximately 50 days. Physical half-life is defined as the amount of time required for one-half of the radioactivity to be lost due to decay, whereas biological half-life is defined as the time required to eliminate one-half of the substance



retained by the body. The time needed for Polonium-210 to disintegrate into the next radioactive isotope can be considerably longer.

60. Polonium-210 enters the body through inhalation, ingestion, and through orifices, skin abrasions, and wounds. Polonium-210 binds strongly to hemoglobin and plasma proteins and is not filtered by the kidneys.

61. Since Polonium-210 is being emitted from the continuous burning of coal by the Stanton Power Plant, the residents of the Class Area have been exposed on a continuous basis. Studies have shown that, in situations involving continuous intake, more Polonium-210 is retained due to chronic dosage exposure as opposed to acute dosage exposure.

62. Studies have concluded that substantial doses of radiation are delivered to individual cells by a single alpha particle no matter how low the dose to the whole body. Alpha particles can cause double-strand chromosomal breaks and chromosomal translocations, which can lead to cancer.

63. Once it enters the body, Polonium-210 becomes concentrated in red blood cells before spreading to the liver, kidneys, bone marrow, gastrointestinal tract, testicles or ovaries, and other organs. However, substantial radiation doses from polonium can be expected in many tissues of the body. Bone marrow tissue is particularly susceptible because it creates the blood cells.

64. The impact of Polonium-210 on children would be especially severe because their cell multiplication rate is extremely high, and the impacts in the fetal and

post-partum phases would be widely distributed and have long-term adverse consequences.

65. Polonium-210 accumulates in the ovaries, the yolk sac of the embryo, and in the placental and fetal tissues. Studies have indicated that Polonium-210 can cross the placental barrier and accumulate in and irradiate the fetal tissue. Alpha emitters can induce DNA lesions in stem cells resulting in the transmission of chromosomal instability to their progeny, and even a single alpha particle can induce long-term chromosomal instability leading to cancer. As a result, even low-level exposure to Polonium-210 can have long-term biological effects by damaging early life phase critical cells and causing DNA alterations that can lead to cancer. Leukemia in children is known to originate in the fetus, as demonstrated by the presence of cells with leukemia clone-specific mutations present at birth in children who later contract the disease. Chromosomal translocation is a hallmark of childhood leukemias. Studies have also reported a significant increase in bone tumors following exposure to radiation. As a result, Polonium-210 can cause an increased incidence of lymphomas and soft-tissue and malignant-bone tumors. Ewing's Sarcoma is a cancerous tumor that grows in bones and the soft tissue around bones.

66. The incidence ratio of Ewing's Sarcoma, an extremely rare form of cancer that occurs primarily in children and young adults, is approximately **9 times higher** than the rate expected for the Class Area. While this cancer normally appears in only 1.7 children, younger than 15, out of a million, in the Class Area there are new cases of Ewing's Sarcoma occurring every few years.

67. Consistent studies have found an association between ionizing radiation and heightened risk of brain and central nervous system tumors, including gliomas. One such glioma is a diffuse intrinsic pontine glioma (DIPG), which is a highly aggressive and difficult-to-treat brain tumor found at the base of the brain. DIPGs are glial tumors, meaning they arise from the brain's glial tissue, which is tissue made up of cells that help support and protect the brain's neurons. These tumors are found in an area of the brainstem (the lowest, stem-like part of the brain) called the pons, which controls many of the body's most vital functions such as breathing, blood pressure, and heart rate. Approximately 300 children in the U.S. are diagnosed with DIPG each year, but the incidence of this cancer in the Class Area is more than **7 times higher** than the expected rate.

68. Irradiation of the cranium, even at low doses, can increase the incidence of meningiomas by a factor of 10 and that of glial tumors by a factor of 3 to 7, with a latency period of 10 years to more than 20 years after exposure.

**PAHs, Including BaP, Contaminate the Class Area and  
Cause the Types of Cancer Found in the Class Area**

69. PAHs cause cellular disruption, damage, mutations, and cancer. Benzo(a)pyrene (BaP) is the among the most carcinogenic PAHs. Studies of workers exposed to mixtures of PAHs and other compounds have noted an increased risk of skin, lung, bladder, and gastrointestinal cancers. One study found an increased risk of childhood brain cancer associated with PAH exposure. Another study found that

paternal preconception PAH exposure was associated with increased risks of childhood brain tumors. In another study, researchers found that transplacental exposure to BaP from maternal inhalation produced DNA damage in the developing fetus, which can facilitate the formation of cancer.

70. Epidemiologic studies of human children have also found an increased risk of childhood brain cancer associated with PAH and BaP exposure.

71. A child can be exposed to BaP and radionuclides both while in the womb and after birth. Evidence of tiny particles of carbon, typically created by burning fossil fuels, has been found in placentas. When pregnant women breathe polluted air, particulate matter, which could include radionuclides and BaP, are able to reach the placenta via the bloodstream. Air pollution affects fetal development and can continue to affect babies after birth and throughout their lives.

72. Adults are also placed at increased risk of cancer by exposure to PAHs and BaP.

73. Mice fed BaP during pregnancy had difficulty reproducing, as did their offspring. The offspring of pregnant mice fed BaP also showed other harmful effects, such as birth defects and decreased body weight. According to the U.S. Agency for Toxic Substances and Disease Registry, similar effects could occur in humans.

74. Studies in animals have also shown that PAHs can cause harmful effects to the skin, body fluids, and immune system after both short- and long-term exposure.

75. Under the EPA's Guidelines for Carcinogen Risk Assessment (U.S. EPA, 2005), BaP is "carcinogenic to humans" based on strong and consistent evidence in

animals and humans. The Department of Health and Human Services has determined that benz[a]anthracene, benzo[b]fluoranthene, benzo[j]fluoranthene, benzo[k]fluoranthene, benzo[a]pyrene, dibenz[a,h]anthracene, and indeno[1,2,3-c,d]pyrene are known animal carcinogens. The International Agency for Research on Cancer has determined the following: benz[a]anthracene and benzo[a]pyrene are probably carcinogenic to humans; benzo[b]fluoranthene, benzo[j]fluoranthene, benzo[k]fluoranthene, and indeno[1,2,3-c,d]pyrene are possibly carcinogenic to humans; and anthracene, benzo[g,h,i]perylene, benzo[e]pyrene, chrysene, fluoranthene, fluorine, phenanthrene, and pyrene are not classifiable as to their carcinogenicity to humans. The EPA has determined that benz[a]anthracene, benzo[a]pyrene, benzo[b]fluoranthene, benzo[k]fluoranthene, chrysene, dibenz[a,h]anthracene, and indeno[1,2,3-c,d]pyrene are probable human carcinogens.

76. Studies of brain tumors in children following in utero and infant exposure to ambient air toxins found that a risk of medulloblastoma was significantly associated with prenatal exposure to PAHs.

77. Studies examining exposure to PAHs by parents and their children found that paternal preconception occupational exposure to PAHs was associated with childhood brain tumors, especially glial tumors. Diffuse Intrinsic Pontine Glioma (DIPG) is a glial tumor.

**Metals Contaminate the Class Area and Cause the  
Types of Cancer Found in the Class Area**

78. Copper and other metals from the Stanton Power Plant have extensively contaminated the Class Area. Copper, lead, cadmium, mercury, and arsenic are the primary metals found in coal that also threaten human health. The effects of these metals on human health have been extensively studied. Metals pose a risk of neurological damage to adults and in particular to fetuses. Children are especially susceptible to exposure due to frequency of mouthing behavior and high gastrointestinal uptake. Recent data indicate that adverse health effects, including kidney damage and bone damage, caused by cadmium exposure may occur at low exposure levels.

79. Copper was detected in soil in the Class Area at 2,200 milligrams per kilogram (“mg/kg”), far above Florida’s remedial objective of 310 mg/kg. Studies have shown that copper exposure is a cause of sarcomas. Studies have also shown that the presence of copper feeds the growth of tumors.

**CLASS ALLEGATIONS**

80. This class action is being filed by Plaintiffs pursuant to Florida Rules of Civil Procedure 1.220(a) and 1.220(b)(3) on behalf of themselves and all others similarly situated.

81. Plaintiffs seek to certify the following class, defined as:

The record title holders and owners as of the date of class certification of all privately-owned parcels of land that are contaminated by coal combustion residuals from the Curtis H. Stanton Energy Center and which are generally located within a 5.5-mile radius of the plant. Such properties are located in the 32825 and 32828 mailing zip codes in unincorporated Orange County, Florida and include the residential

communities generally known as Avalon Park, Stoneybrook, Eastwood, Cypress Springs, Andover Lakes/Cay and Turnberry Pointe/Cay. **Exhibit A**, which is included for illustration purposes only, depicts the approximate Class Area boundary based upon current data.

82. Plaintiffs also seek to certify the following subclass, defined as:

a. Stoneybrook subclass—*all class members who own property within the Class Area that was built or marketed by Defendant U.S. Home or Defendant Lennar or that were managed as part of the Stoneybrook homeowner's association that was operated by Lennar until 2013.*

b. Avalon Park Group subclass—*all class members who own property within the Class Area that is part of the Avalon Park master-planned community.*

To the extent revealed by discovery and investigation, there may be additional appropriate classes and/or subclasses from the above class definitions that are broader and/or narrower in time or scope of exposure.

83. Excluded from the proposed class and subclasses are Defendants' officers, directors, agents, employees, and members of their immediate families; the judicial officers to whom this case is assigned, their staff, and the members of their immediate families; and any local, state, or federal governmental entities.

84. This Court may maintain these claims as a Class Action pursuant to Florida Rule of Civil Procedure 1.220 as they satisfy the numerosity, commonality, typicality, adequacy, and superiority requirements, and share a well-defined community of interest in the questions of law and fact involved in this matter.

85. *Numerosity.* The proposed class numbers in the thousands, and each of the proposed subclasses numbers in at least the hundreds. There are thousands of residential housing units in the Class Area, and there are hundreds of housing units in each of the subdivisions covered by the proposed subclasses.

86. *Commonality.* There are common questions of law and fact that affect the rights of every member of the putative class. The same conduct by Defendant OUC has injured every member of the putative class, and the same conduct by Defendants Lennar, U.S. Home, Avalon Park Group, and Beat Kahli, has injured every member of their respective subclasses.

87. *Typicality.* Plaintiffs are members of the putative class and subclasses. The claims asserted by Plaintiffs in this action are typical of the claims of the members of the putative class and subclasses, as the claims arise from the same course of conduct by the Defendants, and the relief sought is common. Plaintiffs and each putative class member have suffered damages to their properties as a result of the Contaminants from the Stanton Power Plant blowing Contaminants onto the Class Area.

88. *Adequacy.* Plaintiffs will fairly and adequately represent and protect the interests of the members of the putative class and subclasses as their interests are coincident with, not antagonistic to, the other class and subclass members. Plaintiffs have retained counsel competent and experienced in both consumer protection and class action litigation.



89. *Superiority.* A class action is superior to other available methods for the fair and efficient adjudication of the controversy. Questions of law and/or fact common to the putative class and subclasses include, but are not limited to:

a. Whether the Stanton Power Plant discharged (or caused any other condition of pollution) a hazardous substance into the land or water on or under the Class Area;

b. Whether the OUC and/or developer Defendants are strictly liable for the discharge of a hazardous substance into the land or water on or under the Class Area;

c. Whether the OUC and/or developer Defendants are strictly liable for the contamination on, in, or around the Class Area under Florida Statute § 376.313;

d. Whether the OUC and/or developer Defendants, through their acts or omissions, proximately caused property damage, diminution of property values, cleanup costs, and health risks due to radioactive materials and related Contaminants deposited, released, or abandoned in the Class Area;

e. Whether the OUC and/or developer Defendants, through their acts or omissions, deprived class members of the free and reasonable use and enjoyment of their properties due to the contamination of properties in the Class Area; and

f. Whether class members have suffered damages, including but not limited to property and economic damages, as a result of the conduct of the OUC and/or developer Defendants.

90. These questions of law and/or fact are common to the class and subclasses and predominate over any questions affecting only individual class members.

91. A class action is an appropriate method for the adjudication of the controversy in that it will permit a large number of claims to be resolved in a single forum simultaneously, efficiently, and without the unnecessary hardship that would result from the prosecution of numerous individual actions and the duplication of discovery, effort, expense, and the burden on the courts that individual actions would create.

92. The benefits of proceeding as a class action, including providing a method for obtaining redress for claims that would not be practical to pursue individually, outweigh any difficulties that might be argued with regard to the management of the class action.

**COUNT I—STRICT LIABILITY UNDER FLORIDA STATUTE**  
**§ 376.313 AGAINST THE OUC**

93. Plaintiffs reallege and reaffirm herein the allegations contained in paragraphs 1 - 92.

94. The OUC's wrongful acts and omissions in releasing and discharging (or other conditions of pollution) toxic pollutants, hazardous substances, and other Contaminants onto the lands and water of the state of Florida in general, and the Class Area in particular, were in violation of various environmental statutes in the State of Florida, including but not limited to the following:

*Cohen Milstein Sellers & Toll, PLLC*  
*2925 PGA Boulevard, Suite 200, Palm Beach Gardens, FL 33410*  
*Telephone: (561) 515-1400 Facsimile (561) 515-1401*

a. Discharging (or other condition of pollution) of any pollutants or hazardous substances into or upon land (or water) in violation of Florida Statute § 376.302(1)(a); and

b. Failure to immediately remediate, contain, remove, and abate the discharges in violation of Florida Statute § 376.305(1).

95. Plaintiffs are each a “person[s]” who may bring a cause of action for damages for such violations under Florida Statute § 376.313.

96. Plaintiffs and the class members have been damaged by the OUC’s discharge of hazardous substances onto their land and property, as those terms are defined in Florida Statutes §§ 376.30 –376.319.

97. The OUC is strictly liable for damages to Plaintiffs and the class members resulting from such discharges (or other conditions of pollution) covered by Florida Statutes §§ 376.30 – 376.319, and Plaintiffs and the class members are not required to plead or prove negligence in any form or manner, pursuant to Florida Statute § 376.313, because it is sufficient to plead and prove, as set forth in various paragraphs above, that the prohibited discharges or other polluting conditions occurred.

98. The OUC’s acts and omissions violate numerous Department of Environmental Protection (“DEP”) standards as well as other state and federal standards adopted by the DEP, including, but not limited to:

- a. Florida Administrative Code 62-777, Contaminant Cleanup Target Goals;
- b. Florida Administrative Code 62-780, Contaminated Site Cleanup Goals;

c. Florida Administrative Code regulations pertaining to the disposal of radioactive waste, including, but not limited to: 64E-5.333, Classification and Characteristics of Low-Level Radioactive Waste for Near-Surface Land Disposal, Labeling and Manifest Requirements; 64E-5.334 General Provisions; 64E-5.335 Records of Radiation Protection Programs; 64E-5.336 Records of Surveys; 64E-5.339 Records of Individual Monitoring Results; 64E-5.340 Records of Waste Disposal or Transfers; 64E-5.344 Notification of Incidents; 64E-5.345 Reports of Exposures, Radiation Levels, Concentrations of Radioactive Material Exceeding the Constraints or Limits, Medical Events and Dose to an Embryo/Fetus or a Nursing Child; and 64E-5.347, Notifications and Reports to Individuals;

d. Florida Administrative Code 62-296.320(4)(c)(1), General Pollutant Emission Limiting Standards, General Particulate Emission Limiting Standards for Unconfined Emissions of Particulate Matter;

e. U.S.EPA Regulation of solid and hazardous waste, 40 C.F.R Parts 239-280;

f. Disposal of coal combustion residuals from electric utilities, promulgated pursuant to 42 U.S.C. 6907(a), 6944(a), 6945(a);

g. 40 C.F.R. 257—Subpart D—Standards for the Disposal of Coal Combustion Residuals in Landfills and Surface Impoundments, including without limitation, § 257.80(a); and

h. United States Nuclear Regulatory Commission, 10 CFR, Part 61 – Licensing Requirements for Land Disposal of Radioactive Waste.

**COUNT II—INVERSE CONDEMNATION AGAINST THE OUC**

99. Plaintiffs reallege and reaffirm herein the allegations contained in paragraphs 1 - 92.

100. Inverse condemnation is a cause of action against a governmental defendant to recover the value of property which has been taken in fact by the governmental defendant, even though no formal exercise of the power of eminent domain has been attempted by the taking agency.

101. The OUC has taken in fact the property of Plaintiffs and the class members in the Class Area by, as set forth above, discharging (or other condition of pollution) pollutants or hazardous substances into or upon land or water in the Class Area, and/or failing to remediate, contain, remove, and abate the discharges, thereby rendering the properties uninhabitable.

102. This taking of the property of Plaintiffs and the class members in the Class Area was without just compensation in violation of Article X, section 6(a) of the Florida Constitution.

**COUNT III— STRICT LIABILITY UNDER FLORIDA STATUTE  
§ 376.313 AGAINST LENNAR**

103. Plaintiffs reallege and reaffirm herein the allegations contained in paragraphs 1 - 92.

104. Plaintiffs are all persons entitled to bring actions under Florida Statute § 376.313. Under § 376.313, Lennar, as a developer, builder, or marketer of the Stoneybrook neighborhood in Avalon Park, is strictly liable for the damages caused by

all “conditions of pollution” in the Stoneybrook Subclass Area. The Contaminants contained in the soil and within the homes in the Stoneybrook Subclass Area are “pollution” within the meaning of Florida Statute § 376.031(17).

105. The only defenses to a claim under Florida Statute § 376.313 are those set forth in Florida Statute §376.308. Defendant Lennar cannot meet its burden of establishing any of the defenses available under Florida Statute § 376.308, including any defense based on the fact that the Contaminants were generated by the Stanton Power Plant. Lennar cannot show that the “conditions of pollution” at homes in the Stoneybrook Subclass Area resulted solely from the actions of the OUC because Lennar developed, built, and marketed homes despite the existence of Contaminants and did not take adequate steps to prevent homes from being exposed to the Contaminants.

106. Plaintiffs and the subclass members have sustained damages resulting from the “conditions of pollution” on their land, as that term is defined in Florida Statutes §§ 376.30 –376.319.

107. Lennar is strictly liable for damages to Plaintiffs and the subclass members resulting from such “conditions of pollution” covered by Florida Statutes §§ 376.30 – 376.319, and Plaintiffs and the subclass members are not required to plead or prove negligence in any form or manner, pursuant to Florida Statute § 376.313, because it is sufficient to plead and prove, as set forth in various paragraphs above, that the prohibited discharges or other polluting conditions occurred.

**COUNT IV— STRICT LIABILITY UNDER FLORIDA STATUTE**  
**§ 376.313 AGAINST U.S. HOME**

108. Plaintiffs reallege and reaffirm herein the allegations contained in paragraphs 1 - 92.

109. Plaintiffs are all persons entitled to bring actions under Florida Statute § 376.313. Under § 376.313, U.S. Home, as a developer, builder, or marketer of the Stoneybrook neighborhood in Avalon Park, is strictly liable for the damages caused by all “conditions of pollution” in the Stoneybrook Subclass Area. The Contaminants contained in the soil and within the homes in the Stoneybrook Subclass Area are “pollution” within the meaning of Florida Statute § 376.031(17).

110. The only defenses to a claim under Florida Statute § 376.313 are those set forth in Florida Statute §376.308. Defendant U.S. Home cannot meet its burden of establishing any of the defenses available under Florida Statute § 376.308, including any defense based on the fact that the Contaminants were generated by the Stanton Power Plant. U.S. Home cannot show that the “conditions of pollution” at homes in the Stoneybrook Subclass Area resulted solely from the actions of the OUC because U.S. Home developed, built, and marketed homes despite the existence of Contaminants and did not take adequate steps to prevent homes from being exposed to the Contaminants.

111. Plaintiffs and the subclass members have sustained damages resulting from the “conditions of pollution” on their land, as that term is defined in Florida Statutes §§ 376.30 –376.319.

112. U.S. Home is strictly liable for damages to Plaintiffs and the subclass members resulting from such “conditions of pollution” covered by Florida Statutes §§ 376.30 – 376.319, and Plaintiffs and the subclass members are not required to plead or prove negligence in any form or manner, pursuant to Florida Statute § 376.313, because it is sufficient to plead and prove, as set forth in various paragraphs above, that the prohibited discharges or other polluting conditions occurred.

**COUNT V— LIABILITY UNDER FLORIDA STATUTE**  
**§ 376.313 AGAINST AVALON PARK GROUP AND BEAT KAHLI**

113. Plaintiffs reallege and reaffirm herein the allegations contained in paragraphs 1 - 92.

114. Plaintiffs are all persons entitled to bring actions under Florida Statute § 376.313. Under § 376.313, Avalon Park Group and Beat Kahli, as developers, builders, or marketers of the Avalon Park master-planned community, are strictly liable for the damages caused by all “conditions of pollution” in the Avalon Park Group Subclass Area. The Contaminants contained in the soil and within the homes in the Avalon Park Group Subclass Area are “pollution” within the meaning of Florida Statute § 376.031(17).

115. The only defenses to a claim under Florida Statute § 376.313 are those set forth in Florida Statute § 376.308. Defendants Avalon Park Group and Beat Kahli cannot meet their burden of establishing any of the defenses available under § 376.308, including any defense based on the fact that the Contaminants were generated by the Stanton Power Plant. Avalon Park Group and Beat Kahli cannot show that the



“conditions of pollution” at homes in the Avalon Park Group Subclass Area resulted solely from the actions of the OUC because Avalon Park Group and Beat Kahli developed, built, and marketed homes, and encouraged and arranged for the development, building, and marketing of homes, in the Avalon Park master-planned community despite the existence of Contaminants and did not take adequate steps to prevent homes from being exposed to the Contaminants.

116. Plaintiffs and the subclass members have sustained damages resulting from the “conditions of pollution” on their land, as that term is defined in Florida Statutes §§ 376.30 –376.319.

117. Avalon Park Group is strictly liable for damages to Plaintiffs and the subclass members resulting from such “conditions of pollution” covered by Florida Statutes §§ 376.30 – 376.319, and Plaintiffs and the subclass members are not required to plead or prove negligence in any form or manner, pursuant to Florida Statute § 376.313, because it is sufficient to plead and prove, as set forth in various paragraphs above, that the prohibited discharges or other polluting conditions occurred.

### **TOLLING OF LIMITATIONS**

118. Plaintiffs and the putative class and subclass members could not have reasonably known or have learned through the exercise of reasonable diligence that their properties were contaminated and that those risks were the direct and proximate result of:

a. OUC’s wrongful acts and omissions in discharging or releasing Contaminants and failing to contain, remediate, and clean up any contamination; and

b. The Developer Defendants failing to restore or remediate conditions of pollution in the contaminated areas.

Thus, any applicable limitations periods did not begin to accrue until Plaintiffs and the putative class and subclass members discovered, or through the exercise of reasonable diligence should have discovered, Defendants' tortious acts and omissions.

### **JURY TRIAL DEMAND AND PRAYER FOR RELIEF**

Plaintiffs and the putative class and subclass members hereby demand a trial by jury on all matters triable as of right by a jury.

WHEREFORE, Plaintiffs and the Class and Subclass Members request that the Court enter an order of judgment against the OUC, Lennar, U.S. Home, Avalon Park Group, and Beat Kahli as follows:

A. Enter an Order pursuant to Florida Rule of Civil Procedure 1.220 permitting this action to be maintained as a class action; appointing Plaintiffs as the representatives of the Class; appointing Plaintiff Michelle Irizarry as representative of the Stoneybrook subclass; appointing Plaintiff Valerie Williams as representative of the Stoneybrook subclass; and appointing Plaintiffs' counsel as counsel for such classes;

B. Enter judgment against the OUC, Lennar, U.S. Home, Avalon Park Group, and Beat Kahli for: compensatory damages; permanent injunctive relief; the prompt testing, assessment, excavation, and removal of all radioactive wastes and related contaminants to levels otherwise representative of background levels from the properties of the Plaintiffs and class and subclass members; attorneys' fees under

Florida Statute § 376.13, and costs of suit as provided for by law; and such other relief as the Court may deem just and proper in favor of Plaintiffs and the class and subclass members against the Defendants for property damage, including diminution of property values, the cost of remediation of properties, cleanup costs, loss of use and enjoyment of their property and destruction of their community, and for all other relief, in an amount to be proven at trial, as to which they may be entitled, including interest, expert fees and costs of this suit;

- C. Award pre-judgment and post-judgment interest as provided by law; and
- D. Award such other relief as this Court deems necessary, just, and proper.

DATED this 20th day of December 2018.

Respectfully submitted,

s/Theodore J. Leopold

THEODORE J. LEOPOLD, ESQ.

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LESLIE M. KROEGER, ESQ.

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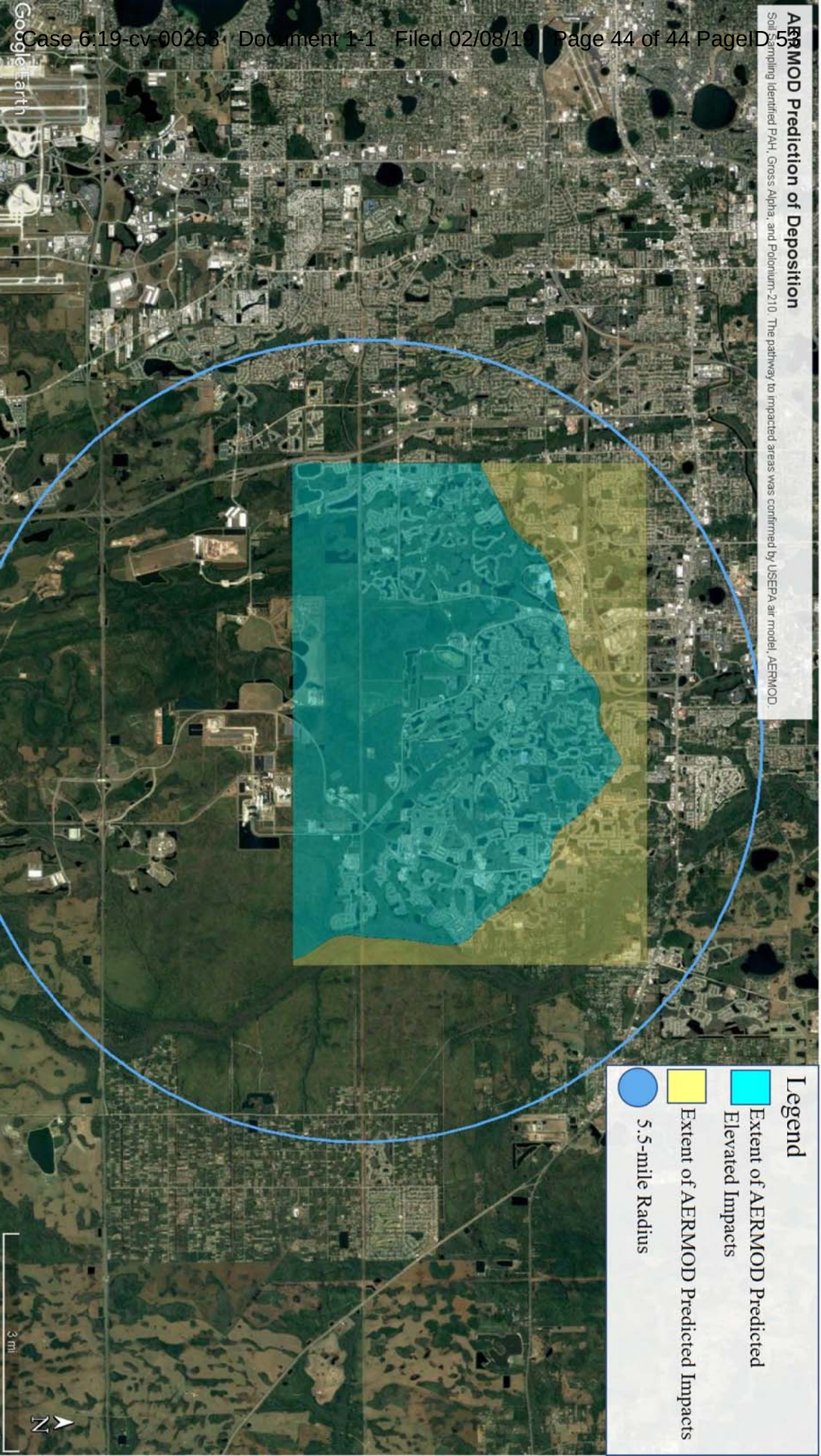
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**AERMOD Prediction of Deposition**

Soil Sampling Identified PAH, Gross Alpha, and Polonium-210. The pathway to impacted areas was confirmed by USEPA air model, AERMOD.

**Legend**

- Extent of AERMOD Predicted Elevated Impacts
- Extent of AERMOD Predicted Impacts
- 5.5-mile Radius

3 mi



EXHIBIT A

IN THE CIRCUIT COURT OF THE NINTH  
JUDICIAL CIRCUIT, IN AND FOR ORANGE  
COUNTY, FLORIDA

Michelle Irizarry, Valerie Williams,  
and Joanne Nixon,

CASE NO: 2018-CA-013758-O

Plaintiffs,

v.

Orlando Utilities Commission; Lennar Corporation;  
U.S. Home Corporation; Avalon Park Group  
Management, Inc., d/b/a Avalon Park Group; and Beat  
Kahli,

Defendants.

---

**VERIFIED MOTION TO ADMIT MICHAEL B. BRIGHTMAN PRO HAC VICE ON  
BEHALF OF PLAINTIFFS PURSUANT TO FLORIDA RULE OF JUDICIAL  
ADMINISTRATION 2.061 AND RULES REGULATING THE FLORIDA BAR.  
RULE 1-3.10 AND 4-5.5.**

Comes now Michael B. Brightman, Movant herein, and respectfully represents the following:

1. Movant resides at 1111 Rusk Street #421, Houston, Texas 77002, and is not a resident of the State of Florida.

2. Movant is an associate at the law firm of Susman Godfrey L.L.P., 1000 Louisiana Street, Suite 5100, Houston, Texas 77002, telephone number (713) 653-7894, facsimile (713) 654-6666.

3. Movant has been retained under a co-counsel agreement with Cohen Milstein Sellers & Toll PLLC effective October 10, 2018.

4. Movant is an active member in good standing and currently eligible to practice law in the following jurisdictions:

1. Texas (Bar No. 24106660)
2. United States District Court, Southern District of Iowa (currently pro hac vice for one matter)

5. There are no disciplinary proceedings pending against Movant.

6. Within the past five (5) years, Movant has not been subject to any disciplinary proceedings.

7. Movant has never been subject to any suspension proceedings.

8. Movant has never been subject to any disbarment proceedings.

9. Movant, either by resignation, withdrawal or otherwise, never has terminated or attempted to terminate Movant's office as an attorney in order to avoid administrative, disciplinary, disbarment or suspension proceedings.

10. Movant is not an inactive member of The Florida Bar.

12. Movant is not a suspended member of The Florida Bar.

13. Movant is not a disbarred member of The Florida Bar nor has Movant received a disciplinary resignation from The Florida Bar.

14. Movant has not previously been disciplined or held in contempt by reason of misconduct committed while engaged in representation pursuant to Florida Rule of Judicial Administration 2.061.

15. Movant has not filed any motions to appear as counsel in Florida state courts during the past five (5) years.

16. The legal services to be provided arise out of or are reasonably related to Movant's practice in a jurisdiction in which he is admitted to practice.

17. Local counsel of record associated with Movant in this matter is Theodore J. Leopold, Cohen Milstein Sellers & Toll, PLLC, 2925 PGA Boulevard, Suite 200, Palm Beach Gardens, FL 33410, who is an active member of the Florida Bar and are in good standing with same.

18. Movant has read the applicable provisions of Florida Rule of Judicial Administration 2.061 and Rule 1-3.10 of the Rules Regulating The Florida Bar and certifies that this verified motion complies with those rules.

19. Movant agrees to comply with the provisions of the Florida Rules of Professional Conduct and consents to the jurisdiction of the courts and the Bar of the State of Florida.

WHEREFORE, Movant respectfully requests permission to appear in this court for this cause only.

DATED this 9th day January, 2019.



***MOVING ATTORNEY INFORMATION***

Michael B. Brightman, Esq.

[mbbrightman@susmangodfrey.com](mailto:mbbrightman@susmangodfrey.com)

Pro Hac Pending

SUSMAN GODFREY L.L.P.

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STATE OF TEXAS  
COUNTY OF HARRIS

I Michael Brightman, do hereby swear or affirm under penalty of perjury that I am the Movant in the above-styled matter; that I have read the foregoing Motion and know the contents thereof, and the contents are true of my own knowledge and belief.

  
MICHAEL BRIGHTMAN

I hereby consent to be associated as local counsel of record in this cause pursuant to Florida Rule of Judicial Administration 2.510.

Dated this 14<sup>th</sup> day of January, 2019.

s/Theodore J. Leopold  
THEODORE J. LEOPOLD, ESQ.  
Florida Bar No: 705608  
[tleopold@cohenmilstein.com](mailto:tleopold@cohenmilstein.com)  
Cohen Milstein Sellers & Toll, PLLC  
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Palm Beach Gardens, FL 33410  
T: (561) 515-1400  
F: (561) 515-1401

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing motion was served by mail to PHV Admissions, The Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399-2333 accompanied by the payment of \$250.00 filing fee made payable to The Florida Bar this 15th day of January, 2019.

s/Theodore J. Leopold  
THEODORE J. LEOPOLD, ESQ.

*Cohen Milstein Sellers & Toll, PLLC  
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Telephone: (561) 515-1400 Facsimile (561) 515-1401*

Motion for PHV M. Brightman  
Page 5

Florida Bar No: 705608  
[tleopold@cohenmilstein.com](mailto:tleopold@cohenmilstein.com)  
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2925 PGA Boulevard, Suite 200, Palm Beach Gardens, FL 33410  
Telephone: (561) 515-1400 Facsimile (561) 515-1401*

IN THE CIRCUIT COURT OF THE NINTH  
JUDICIAL CIRCUIT, IN AND FOR ORANGE  
COUNTY, FLORIDA

Michelle Irizarry, Valerie Williams,  
and Joanne Nixon,

CASE NO: 2018-CA-013758-O

Plaintiffs,

v.

Orlando Utilities Commission; Lennar Corporation;  
U.S. Home Corporation; Avalon Park Group  
Management, Inc., d/b/a Avalon Park Group; and Beat  
Kahli,

Defendants.

---

**VERIFIED MOTION FOR ADMISSION TO APPEAR PRO HAC VICE PURSUANT TO  
FLORIDA RULE OF JUDICIAL ADMINISTRATION 2.510**

Comes now Stephen E. Morrissey, Movant herein, and respectfully represents the following:

1. Movant resides in Seattle, Washington 98119 , telephone number 206-516-3880, and is not a resident of the State of Florida.

2. Movant is an associate/partner at the law firm of Susman Godfrey L.L.P., Movant's primary office is located at, 1201 Third Avenue, Suite 3800, Seattle, Washington 98101.

3. Movant has been retained under a co-counsel agreement with Cohen Milstein Sellers & Toll PLLC effective October 10, 2018 to represent the Plaintiffs.

4. Movant is an active member in good standing and currently eligible to practice law in the following jurisdictions:

1. State of California: CA Bar #: 187865 (1997)
2. State of Washington: WA Bar #: 44710 (3/23/2012)
3. District of Columbia: DC Bar (10/3/2011)
4. USDC Western Dist. WA (5/22/2013)
5. USDC Eastern District of Arkansas
6. USDC Central Dist. CA (1998)
7. USDC Northern Dist. CA (2000)
8. USDC Southern Dist. Of New York (1/19/2007)
9. USDC Eastern District of Texas (1/4/2007)
10. USDC ED of Michigan
11. New Jersey (9/24/20132)
12. Complex Civil Center CX105, Santa Ana, CA 92701
13. USDC Northern District of Illinois (Admitted 2/28/14)
14. Supreme Court of Illinois (ARDC) (Admitted 2/6/14)

5. There are no disciplinary proceedings pending against Movant.

6. Within the past five (5) years, Movant has not been subject to any disciplinary proceedings.

7. Movant has never been subject to any suspension proceedings.

8. Movant has never been subject to any disbarment proceedings.

9. Movant, either by resignation, withdrawal or otherwise, never has terminated or attempted to terminate Movant's office as an attorney in order to avoid administrative, disciplinary, disbarment or suspension proceedings.

10. Movant is not an inactive member of The Florida Bar.

11. Movant is not a suspended member of The Florida Bar.

12. Movant is not a disbarred member of The Florida Bar nor has Movant received a disciplinary resignation from The Florida Bar.

13. Movant has not previously been disciplined or held in contempt by reason of misconduct committed while engaged in representation pursuant to Florida Rule of Judicial Administration 2.510.

14. Movant has not filed any motions to appear as counsel in Florida state courts during the past five (5) years.

15. Local counsel of record associated with Movant in this matter is Theodore J. Leopold, Cohen Milstein Sellers & Toll, PLLC, 2925 PGA Boulevard, Suite 200, Palm Beach Gardens, FL 33410, telephone 561-515-1400, who is an active member of the Florida Bar and are in good standing with same.

16. Movant has read the applicable provisions of Florida Rule of Judicial Administration 2.510 and Rule 1-3.10 of the Rules Regulating The Florida Bar and certifies that this verified motion complies with those rules.

17. Movant agrees to comply with the provisions of the Florida Rules of Professional Conduct and consents to the jurisdiction of the courts and the Bar of the State of Florida.

WHEREFORE, Movant respectfully requests permission to appear in this court for this cause only.

DATED this 15<sup>th</sup> day January, 2019.

  
\_\_\_\_\_  
**MOVING ATTORNEY INFORMATION**  
Stephen Morrissey, Esq.  
[smorrissey@susmangodfrey.com](mailto:smorrissey@susmangodfrey.com)  
Pro Hac Pending  
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F: (206) 516-3883 Facsimile

STATE OF TEXAS  
COUNTY OF HARRIS

I Stephen Morrissey do hereby swear or affirm under penalty of perjury that I am the Movant in the above-styled matter; that I have read the foregoing Motion and know the contents thereof, and the contents are true of my own knowledge and belief.

  
Stephen E. Morrissey

I hereby consent to be associated as local counsel of record in this cause pursuant to Florida Rule of Judicial Administration 2.510.

Dated this 15<sup>th</sup> day of January, 2019.

s/Theodore J. Leopold  
THEODORE J. LEOPOLD, ESQ.  
Florida Bar No: 705608  
[tleopold@cohenmilstein.com](mailto:tleopold@cohenmilstein.com)  
Cohen Milstein Sellers & Toll, PLLC  
2925 PGA Boulevard, Suite 200  
Palm Beach Gardens, FL 33410  
T: (561) 515-1400  
F: (561) 515-1401

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing motion was served by mail to PHV Admissions, The Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399-2333 accompanied by the payment of \$250.00 filing fee made payable to The Florida Bar this 15th day of January, 2019.

s/Theodore J. Leopold  
THEODORE J. LEOPOLD, ESQ.  
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IN THE CIRCUIT COURT OF THE NINTH  
JUDICIAL CIRCUIT, IN AND FOR ORANGE  
COUNTY, FLORIDA

Michelle Irizarry, Valerie Williams,  
and Joanne Nixon,

CASE NO: 2018-CA-013758-O

Plaintiffs,

v.

Orlando Utilities Commission; Lennar Corporation;  
U.S. Home Corporation; Avalon Park Group  
Management, Inc., d/b/a Avalon Park Group; and Beat  
Kahli,

Defendants.

---

**VERIFIED MOTION FOR ADMISSION TO APPEAR PRO HAC VICE PURSUANT TO  
FLORIDA RULE OF JUDICIAL ADMINISTRATION 2.510**

Comes now Daniel Wilson, Movant herein, and respectfully represents the following:

1. Movant resides in Houston, Texas, telephone number 713-651-9366, and is not a resident of the State of Florida.

2. Movant is of-counsel at the law firm of Susman Godfrey L.L.P., Movant's primary office is located at 1000 Louisiana Street, Suite 5100, Houston, Texas 77002.

3. Movant has been retained under a co-counsel agreement with Cohen Milstein Sellers & Toll PLLC effective October 10, 2018 to present the Plaintiffs.

4. Movant is an active member in good standing and currently eligible to practice law in the following jurisdictions:

1. TX Bar #: 24070859 (11/06/09)
2. WA Bar #: 47243 (03/14/14)
3. USDC Southern District of Texas (Sept. 2004)

4. USDC Northern District of Texas (Feb. 2003)
5. USDC Eastern District of Texas (July 2010)
6. USDC Western District of Texas (Aug. 2010)
7. Court of Appeals for the Federal Circuit (March 2013)
8. Fifth Circuit Court of Appeals (Nov. 2011)

5. There are no disciplinary proceedings pending against Movant.

6. Within the past five (5) years, Movant has not been subject to any disciplinary proceedings.

7. Movant has never been subject to any suspension proceedings.

8. Movant has never been subject to any disbarment proceedings.

9. Movant, either by resignation, withdrawal or otherwise, never has terminated or attempted to terminate Movant's office as an attorney in order to avoid administrative, disciplinary, disbarment or suspension proceedings.

10. Movant is not an inactive member of The Florida Bar.

12. Movant is not a suspended member of The Florida Bar.

13. Movant is not a disbarred member of The Florida Bar nor has Movant received a disciplinary resignation from The Florida Bar.

14. Movant has not previously been disciplined or held in contempt by reason of misconduct committed while engaged in representation pursuant to Florida Rule of Judicial Administration 2.510.

15. Movant has not filed any motions to appear as counsel in Florida state courts during the past five (5) years.

16. Local counsel of record associated with Movant in this matter is Theodore J. Leopold, Cohen Milstein Sellers & Toll, PLLC, 2925 PGA Boulevard, Suite 200, Palm Beach

*Cohen Milstein Sellers & Toll, PLLC*  
2925 PGA Boulevard, Suite 200, Palm Beach Gardens, FL 33410  
Telephone: (561) 515-1400 Facsimile (561) 515-1401



Gardens, FL 33410, telephone 561-515-1400, who is an active member of the Florida Bar and is in good standing with same.

17. Movant has read the applicable provisions of Florida Rule of Judicial Administration 2.510 and Rule 1-3.10 of the Rules Regulating The Florida Bar and certifies that this verified motion complies with those rules.

18. Movant agrees to comply with the provisions of the Florida Rules of Professional Conduct and consents to the jurisdiction of the courts and the Bar of the State of Florida.

WHEREFORE, Movant respectfully requests permission to appear in this court for this cause only.

DATED this 15<sup>th</sup> day January, 2019.

/s/ Daniel Wilson

***MOVING ATTORNEY INFORMATION***

Daniel Wilson, Esq.

[dwilson@susmangodfrey.com](mailto:dwilson@susmangodfrey.com)

Pro Hac Pending

SUSMAN GODFREY L.L.P.

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Houston, TX 77002

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STATE OF TEXAS  
COUNTY OF HARRIS

I Daniel Wilson, do hereby swear or affirm under penalty of perjury that I am the Movant in the above-styled matter; that I have read the foregoing Motion and know the contents thereof, and the contents are true of my own knowledge and belief.



DANIEL WILSON

*Cohen Milstein Sellers & Toll, PLLC*  
2925 PGA Boulevard, Suite 200, Palm Beach Gardens, FL 33410  
Telephone: (561) 515-1400 Facsimile (561) 515-1401

I hereby consent to be associated as local counsel of record in this cause pursuant to Florida Rule of Judicial Administration 2.510.

Dated this 15th day of January, 2019.

s/Theodore J. Leopold  
THEODORE J. LEOPOLD, ESQ.  
Florida Bar No: 705608  
[tleopold@cohenmilstein.com](mailto:tleopold@cohenmilstein.com)  
Cohen Milstein Sellers & Toll, PLLC  
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T: (561) 515-1400  
F: (561) 515-1401

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing motion was served by mail to PHV Admissions, The Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399-2333 accompanied by the payment of \$250.00 filing fee made payable to The Florida Bar this 15th day of January, 2019.

s/Theodore J. Leopold  
THEODORE J. LEOPOLD, ESQ.  
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Telephone: (561) 515-1400 Facsimile (561) 515-1401*

IN THE CIRCUIT COURT OF THE NINTH  
JUDICIAL CIRCUIT, IN AND FOR ORANGE  
COUNTY, FLORIDA

MICHELLE IRIZARRY, VALERIE WILLIAMS,  
and JOANNE NIXON,

CASE NO: 2018-CA-013758-O

Plaintiffs,

v.

ORLANDO UTILITIES COMMISSION; LENNAR  
CORPORATION; U.S. HOME CORPORATION;  
AVALON PARK GROUP MANAGEMENT, INC.,  
d/b/a AVALON PARK GROUP; and BEAT KAHLI,

Defendants.

---

**VERIFIED MOTION FOR ADMISSION TO APPEAR PRO HAC VICE PURSUANT TO  
FLORIDA RULE OF JUDICIAL ADMINISTRATION 2.510**

Comes now Vineet Bhatia, Movant herein, and respectfully represents the following:

1. Movant resides in Houston, Texas 77024, telephone number 713-651-9366, and is not a resident of the State of Florida.

2. Movant is a partner at the law firm of Susman Godfrey L.L.P., with offices at 1000 Louisiana Street, Suite 5100, Houston, Texas 77002.

3. Movant has been retained under a co-counsel agreement with Cohen Milstein Sellers & Toll PLLC effective October 10, 2018 to represent the Plaintiffs.

4. Movant is an active member in good standing and currently eligible to practice law in the following jurisdictions:

1. State of Texas: TX Bar #: 00795976
2. State of New York: NY Bar #: 2419273
3. District of Columbia: DC Bar #: TX0069
4. USDC Southern District of Texas (12/13/1996)

5. USDC Eastern District of Texas (04/2006)
6. USDC Northern District of Texas (03/16/1998)
7. USDC Southern District of New York (08/01/1991)
8. USDC Eastern District of New York (06/28/1991)
9. US Court of Appeals, 9<sup>th</sup> Circuit (04/10/1992)
10. US Court of Appeals, 5<sup>th</sup> Circuit (04/17/2002)

5. There are no disciplinary proceedings pending against Movant.

6. Within the past five (5) years, Movant has not been subject to any disciplinary proceedings.

7. Movant has never been subject to any suspension proceedings.

8. Movant has never been subject to any disbarment proceedings.

9. Movant, either by resignation, withdrawal or otherwise, never has terminated or attempted to terminate Movant's office as an attorney in order to avoid administrative, disciplinary, disbarment or suspension proceedings.

10. Movant is not an inactive member of The Florida Bar.

11. Movant is not a suspended member of The Florida Bar.

12. Movant is not a disbarred member of The Florida Bar nor has Movant received a disciplinary resignation from The Florida Bar.

13. Movant has not previously been disciplined or held in contempt by reason of misconduct committed while engaged in representation pursuant to Florida Rule of Judicial Administration 2.510.

14. Movant has not filed any motions to appear as counsel in Florida state courts during the past five (5) years.

15. Local counsel of record associated with Movant in this matter is Theodore J. Leopold, Cohen Milstein Sellers & Toll, PLLC, 2925 PGA Boulevard, Suite 200, Palm Beach

Gardens, FL 33410, telephone 561-515-1400, who is an active member of the Florida Bar and is in good standing with same.

16. Movant has read the applicable provisions of Florida Rule of Judicial Administration 2.510 and Rule 1-3.10 of the Rules Regulating The Florida Bar and certifies that this verified motion complies with those rules.

17. Movant agrees to comply with the provisions of the Florida Rules of Professional Conduct and consents to the jurisdiction of the courts and the Bar of the State of Florida.

WHEREFORE, Movant respectfully requests permission to appear in this court for this cause only.

DATED this 15<sup>th</sup> day January 2019.



---

***MOVING ATTORNEY INFORMATION***

Vineet Bhatia, Esq.

[vbhatia@susmangodfrey.com](mailto:vbhatia@susmangodfrey.com)

Pro Hac Pending

SUSMAN GODFREY L.L.P.

1000 Louisiana Street, Suite 5100

Houston, Texas 77002

T: (713) 651-9366 Telephone

F: (713) 654-6666 Facsimile

STATE OF TEXAS

COUNTY OF HARRIS

I, Vineet Bhatia, do hereby swear or affirm under penalty of perjury that I am the Movant in the above-styled matter; that I have read the foregoing Motion and know the contents thereof, and the contents are true of my own knowledge and belief.



---

VINEET BHATIA

I hereby consent to be associated as local counsel of record in this cause pursuant to Florida Rule of Judicial Administration 2.510.

Dated this 15th day of January, 2019.

s/Theodore J. Leopold  
THEODORE J. LEOPOLD, ESQ.  
Florida Bar No: 705608  
[tleopold@cohenmilstein.com](mailto:tleopold@cohenmilstein.com)  
Cohen Milstein Sellers & Toll, PLLC  
2925 PGA Boulevard, Suite 200  
Palm Beach Gardens, FL 33410  
T: (561) 515-1400  
F: (561) 515-1401

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing motion was served by mail to PHV Admissions, The Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399-2333 accompanied by the payment of \$250.00 filing fee made payable to The Florida Bar this 15th day of January, 2019.

s/Theodore J. Leopold  
THEODORE J. LEOPOLD, ESQ.  
Florida Bar No: 705608  
[tleopold@cohenmilstein.com](mailto:tleopold@cohenmilstein.com)  
Cohen Milstein Sellers & Toll, PLLC  
2925 PGA Boulevard, Suite 200  
Palm Beach Gardens, FL 33410  
T: (561) 515-1400  
F: (561) 515-1401



## Orange County Clerk - Court Records Search

2018-CA-013758-O : IRIZARRY, MICHELLE et al. vs. ORLANDO UTILITIES COMMISSION et al.

Case Type:	CA - Environmental Toxic/Tort	Date Filed:	12/20/2018
Location:	Div 40	UCN:	482018CA013758A0010X
Judge:	Lisa T Munyon	Status:	Pending
Citation Number:	CA - Environmental Toxic/Tort	Appear By Date:	

Parties			
Name	Type	Attorney	Atty Phone
MICHELLE IRIZARRY	Plaintiff	THEODORE LEOPOLD	561-515-1400
VALERIE WILLIAMS	Plaintiff	THEODORE LEOPOLD	561-515-1400
JOANNE NIXON	Plaintiff	THEODORE LEOPOLD	561-515-1400
ORLANDO UTILITIES COMMISSION	Defendant	RYAN HOPPER	813-318-5707
LENNAR CORPORATION	Defendant	SUZANNE HILL	407-872-7300
US HOME CORPORATION	Defendant	SUZANNE HILL	407-872-7300
AVALON PARK GROUP MANAGEMENT INC AVALON PARK GROUP DBA	Defendant	DAVID THERIAQUE	850-224-7332
BEAT KAHLI	Defendant	DAVID THERIAQUE	850-224-7332

Charge Details						
Offense Date	Charge	Plea	Arrest	Disposition	Sentence	

Docket Events			
Date	Description	Pages	
2/6/2019	Notice Appearance of Counsel	2	
1/23/2019	Notice Appearance of Counsel	2	
1/23/2019	Notice Appearance of Counsel	2	
1/18/2019	Notice Appearance of Counsel	2	
	Comments: AND DESIGNATION OF E-MAIL ADDRESSES		
1/15/2019	Motion for Admission of Attorney Pro Hac Vice	5	
	Comments: by Vineet Bhatia		
1/15/2019	Motion for Admission of Attorney Pro Hac Vice	4	
	Comments: by Daniel Wilson		
1/15/2019	Motion for Admission of Attorney Pro Hac Vice	4	
	Comments: by Stephen E. Morrissey		
1/15/2019	Affidavit of Service	1	
	Comments: served Lennar Corporation		
1/15/2019	Affidavit of Service	1	
	Comments: served US Home Corporation		
1/15/2019	Motion for Admission of Attorney Pro Hac Vice	5	
	Comments: by Michael B. Brightman		



Date	Description	Pages
1/14/2019	Affidavit of Service	1
	Comments: ORLANDO UTILITIES COMMISSION	
1/8/2019	Request to Produce	14
1/8/2019	Request to Produce	14
1/8/2019	Request to Produce	14
1/8/2019	Request to Produce	14
1/4/2019	Request to Produce	18
12/28/2018	Summons Issued Electronically as to	2
12/28/2018	Summons Issued Electronically as to	2
12/28/2018	Summons Issued Electronically as to	2
12/28/2018	Summons Issued Electronically as to	2
12/28/2018	Summons Issued Electronically as to	2
12/20/2018	Complaint	44
12/20/2018	Civil Cover Sheet	2
12/20/2018	Case Initiated	

### Hearings

Date	Hearing	Time	Location	Pages
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### Financial

Date	Description	Payer	Amount
12/20/2018	Transaction Assessment		450.00
12/20/2018	Payment	Theodore Leopold	-450.00
1/15/2019	Transaction Assessment		400.00
1/15/2019	Payment	LEOPOLD, THEODORE JON	-400.00
		<u>Balance Due:</u>	<u>0.00</u>

### Bonds

Description	Status Date	Bond Status	Amount
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### Warrants

Number	Status Description	Issue Date	Service Date	Recall Date	Expiration Date	Warrant Type
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IN THE CIRCUIT COURT OF THE NINTH  
JUDICIAL CIRCUIT IN AND FOR ORANGE  
COUNTY, FLORIDA

MICHELLE IRIZARRY, VALERIE WILLIAMS, and CASE NO: 2018-CA-13758-O  
JOANNE NIXON,

Plaintiffs,

v.

ORLANDO UTILITIES COMMISSION; LENNAR  
CORPORATION; U.S. HOME CORPORATION;  
AVALON PARK GROUP MANAGEMENT, INC.,  
D/B/A AVALON PARK GROUP; and BEAT KAHLI,

Defendants.

\_\_\_\_\_ /

**SUMMONS**

THE STATE OF FLORIDA

TO EACH SHERIFF OF THE STATE: You are commanded to serve this Summons, a copy of the Complaint, on Defendant, ORLANDO UTILITIES COMMISSION, by serving:

**100 W. Anderson Street  
Orlando, FL 32801**

Each Defendant is required to serve written defenses to the Complaint/Petition on Plaintiff's attorney, whose address and phone number is:

THEODORE J. LEOPOLD, ESQ. (Florida Bar No.:705608)  
Cohen Milstein Sellers & Toll, PLLC  
2925 PGA Boulevard, Suite 200, Palm Beach Gardens FL 33410  
Email: tleopold@cohenmilstein.com; lcuomo@cohenmilstein.com  
Phone: (561) 515-1400; Facsimile: (561) 515-1401

within twenty (20) days after service of this Summons on that Defendant, exclusive of the day of service, and to file the original of the defenses with the Clerk of this Court either before service on Plaintiff's attorney or immediately thereafter. If a Defendant fails to do so, a default will be entered against that Defendant for the relief demanded in the Complaint/Petition.

**Tiffany Moore Russell**  
CLERK OF THE CIRCUIT COURT

Dated: \_\_\_\_\_

Civil Division  
425 N. Orange Avenue  
Room 310  
Orlando, Florida 32801

By: \_\_\_\_\_  
Deputy Clerk



If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Americans with Disabilities Act Coordinator, Orange County Courthouse, 425 N. Orange Avenue, Suite 510, Orlando, FL 32801; telephone number (407) 836-2303 at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.

Si usted es una persona minusválida que necesita algún acomodamiento para poder participar en este procedimiento, usted tiene derecho, sin tener gastos propios, a que se le provea cierta ayuda. Tenga la amabilidad de ponerse en contacto Orange County Courthouse, 425 N. Orange Avenue, Suite 510, Orlando, FL 32801; telephone number (407) 836-2303, por lo menos 7 días antes de la cita fijada para su comparecencia en los tribunales, o inmediatamente después de recibir esta notificación si el tiempo antes de la comparecencia que se ha programado es menos de 7 días; si usted tiene discapacitación del oído o de la voz, llame al 711.

Si ou se yon moun ki enfim ki bezwen akomodasyon pou w ka patisipe nan pwosedi sa, ou kalifye san ou pa gen okenn lajan pou w peye, gen pwovizyon pou jwen kèk èd. Tanpri kontakte Orange County Courthouse, 425 N. Orange Avenue, Suite 510, Orlando, FL 32801; telephone number (407) 836-2303 nan 7 jou anvan dat ou gen randevou pou parèt nan tribinal la, oubyen imedyatman apre ou fin resevwa konvokasyon an si lè ou gen pou w parèt nan tribinal la mwens ke 7 jou; si ou gen pwoblèm pou w tande oubyen pale, rele 711.

**Page Break**

IN THE CIRCUIT COURT OF THE NINTH  
JUDICIAL CIRCUIT IN AND FOR ORANGE  
COUNTY, FLORIDA

MICHELLE IRIZARRY, VALERIE WILLIAMS, and CASE NO: 2018-CA-13758-O  
JOANNE NIXON,

Plaintiffs,

v.

ORLANDO UTILITIES COMMISSION; LENNAR  
CORPORATION; U.S. HOME CORPORATION;  
AVALON PARK GROUP MANAGEMENT, INC.,  
D/B/A AVALON PARK GROUP; and BEAT KAHLI,

Defendants.

\_\_\_\_\_ /

**SUMMONS**

THE STATE OF FLORIDA

TO EACH SHERIFF OF THE STATE: You are commanded to serve this Summons, a copy of the Complaint, on Defendant, LENNAR CORPORATION, by serving:

**REGISTERED AGENT: CT Corporation System  
1200 Pine Island Rd., Suite 250, Plantation, FL 33324**

Each Defendant is required to serve written defenses to the Complaint/Petition on Plaintiff's attorney, whose address and phone number is:

THEODORE J. LEOPOLD, ESQ. (Florida Bar No.:705608)  
Cohen Milstein Sellers & Toll, PLLC  
2925 PGA Boulevard, Suite 200, Palm Beach Gardens FL 33410  
Email: tleopold@cohenmilstein.com; lcuomo@cohenmilstein.com  
Phone: (561) 515-1400; Facsimile: (561) 515-1401

within twenty (20) days after service of this Summons on that Defendant, exclusive of the day of service, and to file the original of the defenses with the Clerk of this Court either before service on Plaintiff's attorney or immediately thereafter. If a Defendant fails to do so, a default will be entered against that Defendant for the relief demanded in the Complaint/Petition.

Dated: \_\_\_\_\_

Civil Division  
425 N. Orange Avenue  
Room 310  
Orlando, Florida 32801

**Tiffany Moore Russell**  
CLERK OF THE CIRCUIT COURT

By: \_\_\_\_\_  
Deputy Clerk



If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Americans with Disabilities Act Coordinator, Orange County Courthouse, 425 N. Orange Avenue, Suite 510, Orlando, FL 32801; telephone number (407) 836-2303 at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.

Si usted es una persona minusválida que necesita algún acomodamiento para poder participar en este procedimiento, usted tiene derecho, sin tener gastos propios, a que se le provea cierta ayuda. Tenga la amabilidad de ponerse en contacto Orange County Courthouse, 425 N. Orange Avenue, Suite 510, Orlando, FL 32801; telephone number (407) 836-2303, por lo menos 7 días antes de la cita fijada para su comparecencia en los tribunales, o inmediatamente después de recibir esta notificación si el tiempo antes de la comparecencia que se ha programado es menos de 7 días; si usted tiene discapacitación del oído o de la voz, llame al 711.

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**Page Break**

IN THE CIRCUIT COURT OF THE NINTH  
JUDICIAL CIRCUIT IN AND FOR ORANGE  
COUNTY, FLORIDA

MICHELLE IRIZARRY, VALERIE WILLIAMS, and CASE NO: 2018-CA-13758-O  
JOANNE NIXON,

Plaintiffs,

v.

ORLANDO UTILITIES COMMISSION; LENNAR  
CORPORATION; U.S. HOME CORPORATION;  
AVALON PARK GROUP MANAGEMENT, INC.,  
D/B/A AVALON PARK GROUP; and BEAT KAHLI,

Defendants.

\_\_\_\_\_ /

**SUMMONS**

THE STATE OF FLORIDA

TO EACH SHERIFF OF THE STATE: You are commanded to serve this Summons, a copy of the Complaint, on Defendant, U.S. HOME CORPORATION, by serving:

**REGISTERED AGENT: CT Corporation System  
1200 Pine Island Rd., Suite 250, Plantation, FL 33324**

Each Defendant is required to serve written defenses to the Complaint/Petition on Plaintiff's attorney, whose address and phone number is:

THEODORE J. LEOPOLD, ESQ. (Florida Bar No.:705608)  
Cohen Milstein Sellers & Toll, PLLC  
2925 PGA Boulevard, Suite 200, Palm Beach Gardens FL 33410  
Email: tleopold@cohenmilstein.com; lcuomo@cohenmilstein.com  
Phone: (561) 515-1400; Facsimile: (561) 515-1401

within twenty (20) days after service of this Summons on that Defendant, exclusive of the day of service, and to file the original of the defenses with the Clerk of this Court either before service on Plaintiff's attorney or immediately thereafter. If a Defendant fails to do so, a default will be entered against that Defendant for the relief demanded in the Complaint/Petition.

Dated: \_\_\_\_\_

Civil Division  
425 N. Orange Avenue  
Room 310  
Orlando, Florida 32801

**Tiffany Moore Russell**  
CLERK OF THE CIRCUIT COURT

By: \_\_\_\_\_  
Deputy Clerk





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**Page Break**

IN THE CIRCUIT COURT OF THE NINTH  
JUDICIAL CIRCUIT IN AND FOR ORANGE  
COUNTY, FLORIDA

MICHELLE IRIZARRY, VALERIE WILLIAMS, and CASE NO: 2018-CA-13758-O  
JOANNE NIXON,

Plaintiffs,

v.

ORLANDO UTILITIES COMMISSION; LENNAR  
CORPORATION; U.S. HOME CORPORATION;  
AVALON PARK GROUP MANAGEMENT, INC.,  
D/B/A AVALON PARK GROUP; and BEAT KAHLI,

Defendants.

\_\_\_\_\_ /

**SUMMONS**

THE STATE OF FLORIDA

TO EACH SHERIFF OF THE STATE: You are commanded to serve this Summons, a copy of the Complaint, on Defendant, AVALON PARK GROUP MANAGEMENT, INC., D/B/A AVALON PARK GROUP, by serving:

**REGISTERED AGENT: Marybel Defillo**  
**3680 Avalon Park East Blvd, Suite 300, Orlando, FL 32828**

Each Defendant is required to serve written defenses to the Complaint/Petition on Plaintiff's attorney, whose address and phone number is:

THEODORE J. LEOPOLD, ESQ. (Florida Bar No.:705608)  
Cohen Milstein Sellers & Toll, PLLC  
2925 PGA Boulevard, Suite 200, Palm Beach Gardens FL 33410  
Email: tleopold@cohenmilstein.com; lcuomo@cohenmilstein.com  
Phone: (561) 515-1400; Facsimile: (561) 515-1401

within twenty (20) days after service of this Summons on that Defendant, exclusive of the day of service, and to file the original of the defenses with the Clerk of this Court either before service on Plaintiff's attorney or immediately thereafter. If a Defendant fails to do so, a default will be entered against that Defendant for the relief demanded in the Complaint/Petition.

Dated: \_\_\_\_\_

**Tiffany Moore Russell**  
CLERK OF THE CIRCUIT COURT

Civil Division  
425 N. Orange Avenue  
Room 310  
Orlando, Florida 32801

By: \_\_\_\_\_  
Deputy Clerk



If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Americans with Disabilities Act Coordinator, Orange County Courthouse, 425 N. Orange Avenue, Suite 510, Orlando, FL 32801; telephone number (407) 836-2303 at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.

Si usted es una persona minusválida que necesita algún acomodamiento para poder participar en este procedimiento, usted tiene derecho, sin tener gastos propios, a que se le provea cierta ayuda. Tenga la amabilidad de ponerse en contacto Orange County Courthouse, 425 N. Orange Avenue, Suite 510, Orlando, FL 32801; telephone number (407) 836-2303, por lo menos 7 días antes de la cita fijada para su comparecencia en los tribunales, o inmediatamente después de recibir esta notificación si el tiempo antes de la comparecencia que se ha programado es menos de 7 días; si usted tiene discapacitación del oído o de la voz, llame al 711.

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**Page Break**

IN THE CIRCUIT COURT OF THE NINTH  
JUDICIAL CIRCUIT IN AND FOR ORANGE  
COUNTY, FLORIDA

MICHELLE IRIZARRY, VALERIE WILLIAMS, and CASE NO: 2018-CA-13758-O  
JOANNE NIXON,

Plaintiffs,

v.

ORLANDO UTILITIES COMMISSION; LENNAR  
CORPORATION; U.S. HOME CORPORATION;  
AVALON PARK GROUP MANAGEMENT, INC.,  
D/B/A AVALON PARK GROUP; and BEAT KAHLI,

Defendants.

\_\_\_\_\_ /

**SUMMONS**

THE STATE OF FLORIDA

TO EACH SHERIFF OF THE STATE: You are commanded to serve this Summons, a copy of the Complaint, on **Defendant BEAT KAHLI, 3680 Avalon Park East Blvd, Suite 300, Orlando, FL 32828.**

Each Defendant is required to serve written defenses to the Complaint/Petition on Plaintiff's attorney, whose address and phone number is:

THEODORE J. LEOPOLD, ESQ. (Florida Bar No.:705608)  
Cohen Milstein Sellers & Toll, PLLC  
2925 PGA Boulevard, Suite 200, Palm Beach Gardens FL 33410  
Email: tleopold@cohenmilstein.com; lcuomo@cohenmilstein.com  
Phone: (561) 515-1400; Facsimile: (561) 515-1401

within twenty (20) days after service of this Summons on that Defendant, exclusive of the day of service, and to file the original of the defenses with the Clerk of this Court either before service on Plaintiff's attorney or immediately thereafter. If a Defendant fails to do so, a default will be entered against that Defendant for the relief demanded in the Complaint/Petition.

**Tiffany Moore Russell**  
CLERK OF THE CIRCUIT COURT

Dated: \_\_\_\_\_  
Civil Division  
425 N. Orange Avenue  
Room 310  
Orlando, Florida 32801

By: \_\_\_\_\_  
Deputy Clerk



If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Americans with Disabilities Act Coordinator, Orange County Courthouse, 425 N. Orange Avenue, Suite 510, Orlando, FL 32801; telephone number (407) 836-2303 at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.

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**Page Break**



IN THE CIRCUIT COURT OF THE NINTH  
JUDICIAL CIRCUIT IN AND FOR ORANGE  
COUNTY, FLORIDA

MICHELLE IRIZARRY, VALERIE WILLIAMS, AND  
JOANNE NIXON,

CASE NO: 2018-CA-013758-O  
DIV 40

Plaintiff,

v.

ORLANDO UTILITIES COMMISSION; LENNAR  
CORPORATION; U.S. HOME CORPORATION;  
AVALON PARK GROUP MANAGEMENT, INC.,  
D/B/A AVALON PARK GROUP; AND BEAT  
KAHLI,

Defendants.

\_\_\_\_\_ /

**INITIAL REQUEST FOR PRODUCTION TO DEFENDANT**  
**ORLANDO UTILITIES COMMISSION**

Pursuant to Rule 1.350 of the Florida Rules of Civil Procedure, Plaintiffs hereby serve the following discovery requests to Defendant Orlando Utilities Commission to produce the items and matters hereinafter set forth. Responses to these requests should be served within forty-five (45) days, at the offices of counsel for Plaintiff, or at a mutually agreed upon location.

**I. DEFINITIONS**

The following definitions are applicable to these Requests to Produce.

1. As used herein, "Orlando Utilities Commission" shall include its subsidiaries, divisions and affiliates and any of its directors, officers, employees, consultants, agents, representatives and attorneys therefore, and/or any other persons or entities purporting to act on behalf of Orlando Utilities Commission, and/or under any or all of Orlando Utilities Commission's control.

2. "You", "your" or "yourself" means Orlando Utilities Commission, its divisions, all wholly owned subsidiaries, agents, servants, attorneys, private investigators, employees, ex-employees, other representatives, and others who are in possession of or may have obtained information for or on behalf of any of the aforementioned persons. As used herein, means Orlando Utilities Commission, its merged, consolidated, or acquired predecessors, its successors, its subsidiaries, divisions, operating units, and other business entities which are owned in whole or in part by Orlando Utilities Commission. These terms also include any parent corporations or holding companies with which Orlando Utilities Commission is associated. Finally, these terms include present and former officers, directors, agents, servants, attorneys, private investigators, employees, ex-employees, other representatives and other who are in possession of or may have obtained information for or on behalf of any of the aforementioned persons, and all other persons acting or purporting to act on behalf of the Defendant.

3. As used herein, the term "concern" or "concerning" "pertaining to" shall mean evidencing, reflecting, incorporating, effecting, including or otherwise pertaining, either directly or indirectly, or being in any way logically or factually connected with, the subject matter of the inquiry or request.

4. "Correspondence" means all letters, memoranda, notes or other writings prepared and/or delivered from or to Defendant, whether by mail, messenger or any other means. "Correspondence" also includes any notes, memoranda or other writings prepared by Defendant relating to any telephone conversations, meetings, discussions, conferences or other dialogues.

5. As used herein, the term "Document(s)" is used in the broadest sense of the word and shall mean all original written, printed, typed, recorded, or graphic matter whatsoever, however produced or reproduced, of every kind, nature, and description, and all non-identical copies of both sides thereof, including, but not limited to, papers, letters, memoranda, correspondence, communications, electronic mail (e-mail) messages (existing in hard copy and/or in electronic storage), faxes, mailgrams, telegrams, cables, telex messages, notes, annotations, working papers, drafts, minutes, records, audio and video recordings, data, databases, other information bases, summaries, charts, tables, graphics, other visual displays, photographs, statements, interviews, opinions, reports, newspaper articles, studies, analyses, evaluations, interpretations, contracts, agreements, jottings, agendas, bulletins, notices, announcements, instructions, blueprints, drawings, as-builts, changes, manuals, publications, work schedules, journals, statistical data, desk, portable and computer calendars, appointment books, diaries, travel reports, lists, tabulations, computer printouts, data processing program libraries, data processing inputs and outputs, microfilms, microfiches, statements for services, resolutions, financial statements,

governmental records, business records, personnel records, work orders, pleadings, discovery in any form, affidavits, motions, responses to discovery, all transcripts, administrative filings and all mechanical, magnetic, photographic and electronic records or recordings of any kind, including any storage media associated with computers, including, but not limited to, information on hard drives, floppy disks, backup tapes, and zip drives, electronic communications, including but not limited to, the Internet and shall include any drafts or revisions pertaining to any of the foregoing, all other things similar to any of the foregoing, however denominated by OUC, any other data compilations from which information can be obtained, translated if necessary, into a usable form and any other documents. For purposes of this request, any document which contains any note, comment, addition, deletion, insertion, annotation, or otherwise comprises a non-identical copy of another document shall be treated as a separate document subject to production. In all cases where original and any non-identical copies are not available, "document(s)" also means any identical copies of the original and all non-identical copies thereof. Any document, record, graph, chart, film or photograph originally produced in color must be provided in color. Furnish all documents whether verified by OUC or not. If a document is not in the English language, provide both the original document and an English translation of the document.

6. Whenever appropriate, the singular form of a word should be interpreted in the plural and vice versa. Whenever appropriate, the conjunctive term "and" should be interpreted in the disjunctive, to include the term "or" and vice versa.

7. As used herein, the term "Power Plant" shall mean the Curtis H. Stanton Energy Center.

8. "Class Area" has the meaning as described in the Complaint.

9. "Third Party" means a person or entity not a party to this lawsuit.

10. "Coal combustion residuals" or "CCR" is defined in 40 C.F.R. 257--Subpart D and includes but is not limited to: Coal ash, including Fly Ash, Bottom Ash, Boiler Slag, Flue Gas Desulfurization Material, fluidized bed combustion ash, and scrubber residues.

11. "PAH" means polyaromatic hydrocarbons, including but not limited to:

- Benzo(a)anthracene, 56-55-3
- Benzo(a)phenanthrene (chrysene), 218-01-9
- Benzo(a)pyrene, 50-32-8
- Benzo(b)fluoranthene, 205-99-2

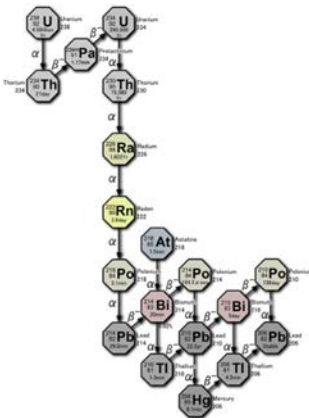
- Benzo(j)fluoranthene, 205-82-3
- Benzo(k)fluoranthene, 207-08-9
- Benzo(j,k)fluorene (fluoranthene), 206-44-0
- Benzo(r,s,t)pentaphene, 189-55-9
- Dibenz(a,h)acridine, 226-36-8
- Dibenz(a,j)acridine, 224-42-0
- Dibenzo(a,h)anthracene, 53-70-3
- Dibenzo(a,e)fluoranthene, 5385-75-1
- Dibenzo(a,e)pyrene, 192-65-4
- Dibenzo(a,h)pyrene, 189-64-0
- Dibenzo(a,l)pyrene, 191-30-0
- 7H-Dibenzo(c,g)carbazole, 194-59-2
- 7,12-Dimethylbenz(a)anthracene, 57-97-6
- Indeno(1,2,3-cd)pyrene 193-39-5
- 3-Methylcholanthrene, 56-49-5
- 5-Methylchrysene, 3697-24-3
- Acenaphthene, 83-32-9
- Acenaphtylene, 208-96-8
- Anthracene, 120-12-7
- Benzo(g,h,i)perylene, 191-24-2
- Fluorene, 86-73-7
- Phenanthrene, 85-01-8
- Pyrene, 129-00-0

12. "Metals" means:

- Aluminum
- Antimony
- Arsenic
- Barium
- Boron
- Cadmium
- Chromium
- Cobalt
- Copper
- Iron
- Lead

- Manganese
- Mercury
- Molybdenum
- Nickel
- Silver
- Strontium
- Tin
- Thallium
- Vanadium
- Zinc

13. "RN" means radionuclides emitting alpha, beta or gamma radiation including but not limited to the following:



14. "Residents" is defined as those persons, residing at addresses within the Class Area as defined in the Complaint, and in Zip Codes 32828 and 32825.

15. Wherever appropriate, requests for "documents" or other "information" should be construed as requests for both current and historical documents or other information.

## II. INSTRUCTIONS

1. In response to these inquiries and requests, you are required to furnish all information and/or documents that are available to you or subject to your reasonable inquiry including information and/or documents in the possession of your attorneys,

accountants, advisors or other persons directly or indirectly employed by, or connected with you or your attorneys, and anyone else otherwise subject to your control.

2. In responding to these inquiries and requests, you must make a diligent search of your records and of other papers and materials in your possession or available to you or your representative.

3. In responding to these inquiries and requests, you are to furnish all information within your control as well as within your possession. If information and/or documents are not within your possession but are within your control, in the same sense that it is had by a person who has business relationships or contractual relationships with you or any other person with whom you normally deal and would have no difficulty in a business sense in making any request for such information, then you are required to make reasonable efforts to obtain the information and/or documents and include it with your response.

4. If an individual inquiry or request has subparts, respond to each part separately and in full, and do not limit your response to the request as a whole. If any individual inquiry or request cannot be responded to in full, respond to the extent possible.

5. If any of the individual inquiries or requests is ambiguous in any way, please send a letter to the undersigned counsel describing the ambiguity and it will be promptly clarified in a reply letter. If any individual inquiry or request (or subpart thereof) is deemed to be unduly burdensome, please send a letter to the undersigned counsel specifying the reasons why the request is unduly burdensome and stating whatever information and knowledge you have of the information and/or documents called for in the request; and (generally) an attempt will be made to rephrase the request (or subpart thereof) in a reply letter to lessen the burdens of compliance. Any such reply letter may be treated by the parties to whom it is addressed as a modification of the particular request.

6. If you withhold any response (or portion of a full response) to any inquiry or request on the basis of a privilege, identify the privilege claimed (including reference to the statute, rule or decision which is claimed to give rise to the privilege) and describe the general topic of the information you claim to be privileged to the extent possible in a manner consistent with the claimed privilege. If the information as to which privilege is claimed is contained in a document, identify each such document, stating where applicable:

- a. The name and title or position of the author and/or sender of the document;

- b. The name and title or position of each and every person to whom the document was sent;
- c. The name and title or position of each and every person to whom the document was sent;
- d. The date of the document;
- e. A brief description of the subject matter and length of the document and or each attachment, appendix and exhibit thereto;
- f. The name and title or position of each and every person having knowledge of the factual basis on which the privilege is asserted; and
- g. The name and title or position of each person on whose behalf the privilege is asserted.

Unless words or terms have been given a specific definition herein, each word or term used herein shall be given its usual and customary dictionary definition except where such words have a specific custom and usage definition in your trade or industry, in which case they shall be interpreted in accordance with such usual custom and usage definition of which you are aware. In construing the inquiries and request herein: (i) the singular shall include the plural and the plural shall include the singular; (ii) a masculine, feminine or neuter pronoun shall not exclude the other genders; and (iii) the words “and” and “or” shall be read in the conjunctive or disjunctive or both, as the case may be, all to the end that the interpretation applied results in the more expansive production.

7. Unless otherwise noted, all Requests to Produce pertain to the time period from 1990 to the present.

When medical records are requested, they may be produced with names redacted and produced pursuant to a Protective Order to be negotiated between Plaintiffs and Defendants.

### **REQUESTS TO PRODUCE**

1. All air emissions monitoring data, reports, tests, and notifications related to particulates including but not limited to PM 10, PM 2.5, opacity, from stacks, equipment, haul roads, and fugitive emissions at or from the Power Plant.

#### **Response:**

2. All air emissions permits and permit applications of or pertaining to the Power Plant.

**Response:**

3. All CCR landfill permits and permit applications of or pertaining to the Power Plant.

**Response:**

4. All air emissions modeling data of or pertaining to the Power Plant.

**Response:**

5. Notices of non-compliance related to air emissions of or pertaining to the Power Plant.

**Response:**

6. Notices of non-compliance related to the CCR landfills and surface impoundments of or pertaining to the Power Plant.

**Response:**

7. All coal acquisition specifications and contracts pertaining to the Power Plant.

**Response:**

8. All Groundwater monitoring data, reports, tests, and notifications of or pertaining to the Power Plant.

**Response:**

9. All solid waste treatment, storage, and disposal area construction and operation permits, monitoring data, reports, and notifications of or pertaining to the Power Plant.

**Response:**

10. All soil monitoring data, reports, tests, and notifications of or pertaining to the Power Plant.

**Response:**



11. All CCR landfill and surface impoundment construction information of or pertaining to the Power Plant.

**Response:**

12. All CCR landfill and surface impoundment operations information of or pertaining to the Power Plant.

**Response:**

13. All CCR handling and operations information of or pertaining to the Power Plant.

**Response:**

14. All coal storage area construction and operations information of or pertaining to the Power Plant.

**Response:**

15. All coal handling and operations information of or pertaining to the Power Plant.

**Response:**

16. All PAH, metals and RN analysis of CCR, coal air emissions or groundwater of or pertaining to the Power Plant.

**Response:**

17. All Toxics Release Inventory (TRI) or Form Rs of or pertaining to the Power Plant.

**Response:**

18. Coal composition data of or pertaining to the Power Plant.

**Response:**

19. CCR composition data of or pertaining to the Power Plant.

**Response:**

20. Any notifications to residents of particulate emissions coming from or related to the Power Plant.

**Response:**

21. Any notifications to residents of radionuclides in coal or CCR coming from or related to the Power Plant.

**Response:**

22. Any analysis of any health risks posed to residents by CCR, coal, or particulates coming from or pertaining to the Power Plant.

**Response:**

23. Documentation of any efforts to abate deposition of CCR and coal ash on the resident's properties.

**Response:**

24. Wind speed and direction data of or pertaining to the Power Plant.

**Response:**

25. Communications with employees or board members of the Orlando Utilities Commission or the Curtis H. Stanton Energy Center arising out of, or related to, any of the items mentioned above in Requests 1 through 24.

**Response:**

26. Communications with government regulators arising out of, or related to, any of the items mentioned above in Requests 1 through 24.

**Response:**

27. All documents (including emails, correspondence, memorandums, meeting minutes, notes, internal or external presentations or analyses, or data) relating to

the health or environmental impacts of CCR or coal coming from or pertaining to the Power Plant.

**Response:**

28. All requests or inquiries from residents, developers, businesses received pertaining to the CCR or coal at the Power Plant.

**Response:**

29. All marketing materials relating to the Power Plant, including but not limited to similar materials provided to homeowners and developers in the surrounding communities.

**Response:**

30. All Plans, Applications, Notices of Proposed Changes, Petitions for modifications, and/or any other documentation submitted or provided to any city and/or county and/or state and/or federal representative, including but not limited to the Orange County Board of County Commissioners, St. Johns River Water Management District, Orange County Planning and Zoning Commission, Florida Game & Fresh Water Fish Commission, Florida Department of Community Affairs, Florida Department of Environmental Protection, the US Environmental Protection Agency, and the Bureau of Land and Water Management.

**Response:**

31. All documentation received from any city and/or county and/or state and/or federal representative, including but not limited to the Orange County Board of County Commissioners, St. Johns River Water Management District, Orange County Planning and Zoning Commission, Florida Game & Fresh Water Fish Commission, Florida Department of Community Affairs, Florida Department of Environmental Protection, the US Environmental Protection Agency, and the Bureau of Land and Water Management.

**Response:**

32. All policies and procedures for maintaining the safety to workers at the Power Plant related to the handling of CCR or coal at the Power Plant.

**Response:**

33. All policies and procedures related to preventing the CCR and coal dust from blowing onto the properties of Residents.

**Response:**

34. All contracts entered into with any third parties to perform on site inspections, including but not limited to safety inspections, maintenance inspections, State and EPA compliance standards

**Response:**

35. All studies, testing, analysis, memorandums, and similar documents related to the study and safety of the surrounding communities to the OUC Coal Power Plant.

**Response:**

36. Organizational charts for the Curtis H. Stanton Energy Center

**Response:**

37. Organizational charts for the managers, officers, directors and Board Members of the of OUC.

**Response:**

38. Organizational charts for OUC's public relations, media relations, and public information employees.

**Response:**

39. Personnel files and/or employee files for all OUC and/or Curtis H. Stanton Energy Center employees whose titles or job descriptions involve health, safety, compliance, or environmental concerns.

**Response:**

40. All quotations, requests for quotations, quotes, and proposals sought or received for coal to be supplied to the Power Plant.

**Response:**

41. All presentations, transcripts, or notes you or your employees or managers or directors or Curtis H. Stanton Energy Center employees or managers or directors used or disseminated when presenting at any conferences, symposiums, meetings, or gatherings regarding any of the following: (1) environmental concerns; (2) carbon dioxide generation; or (3) public health.

**Response:**

42. All quotes, proposals, agreements, memorandums or understanding, "scope of work" documents, and other related documents reflecting any actual or proposed agreement with any consultants, including engineering consultants, environmental consultants, air quality consultants, or water quality consultants related to dust suppression or CCR.

**Response:**

43. All documents related to the disposal of the Power Plant's CCR including, but not limited to, payments to any contractors responsible for managing the disposal of CCR and any correspondence sent to or received from those contractors.

**Response:**

44. All documents related to payments made or funds expended to maintain the Power Plant's CCR and dust suppression systems.

**Response:**

45. All PAH, RN and metal analysis of CCR or coal of or pertaining to the Power Plant.

**Response:**

46. All documents related to cancer incidence in the Class Area.

**Response:**

47. All documents related to the Power Plant's response to the development of residential communities in the Class Area.

**Response:**

48. All documents related to workers' compensation policies and premiums paid.

**Response:**

49. Any documentation related to the installation of wind and other particulate barriers from the coal combustion residual piles, ponds or haul roads.

**Response:**

50. All documentation on the medical health of workers related to cancers, including but not limited to:
- Oral cavity cancer;
  - Blood cancer;
  - Bone cancer;
  - Leukemia;
  - Esophageal cancer;
  - Stomach cancer;
  - Colon cancer;
  - Liver cancer;
  - Lung cancer;
  - Skin cancer;
  - Female breast cancer;
  - Ovary cancer;
  - Urinary bladder cancer;
  - Brain/central nervous system cancer;
  - Thyroid cancer;
  - Non-Hodgkin's Lymphoma;
  - Hodgkin's Lymphoma;
  - DIPG;
  - Ewing's Sarcoma; and,
  - Glioblastoma.

**Response:**

51. Any documentation on the medical health of workers related to non-cancerous effects including but not limited to:
- Decreased immune function;
  - Cataracts;
  - Kidney and liver damage (e.g., jaundice);
  - Breathing problems;
  - Asthma-like symptoms;
  - Lung function abnormalities;
  - Skin inflammation; and,
  - The breakdown of red blood cells.

**Response:**

52. Any documentation on the medical health of workers related to radiation poisoning including but not limited to:
- Nausea and vomiting;
  - Diarrhea;
  - Headache;
  - Fever;
  - Dizziness and disorientation;
  - Weakness and fatigue;
  - Hair loss;
  - Bloody vomit and stools from internal bleeding;
  - Infections; and,
  - Low blood pressure.

**Response:**

53. Any documentation related to the decontamination of motorized vehicles or clothing of workers.

**Response:**

54. Any visual inspection of the Class Area for CCR or coal dust.

**Response:**

55. Any testing of the exposure of Power Plant to radiation.

**Response:**

56. Any soil, air or groundwater sampling or analysis at the CSEC or at or beyond its property boundary related to concentrations of RN, Metals or PAH.

**Response:**

57. Any blood sampling or analysis of workers for RN, Metals, or PAH.

**Response:**

58. Any notifications to workers about the RN, Metals or PAHs detected in the soil, groundwater or air at the Power Plant.

**Response:**

59. Any notifications to Power Plant workers regarding the use of OSHA Level A, Level B or Level C Personal Protection Equipment (PPE) when working with coal or CCR.

**Response:**

60. Any notifications or instructions to Power Plant workers to use: (1) Positive pressure, full face-piece self-contained breathing apparatus (SCBA), or positive pressure supplied air respirator with escape SCBA, approved by the National Institute for Occupational Safety and Health (NIOSH), and/or Full-face or half-mask, air purifying respirators (NIOSH approved), or (2) Totally-encapsulating chemical-protective suit when working with coal or CCR.

**Response:**

61. Any measurements of RN dosage or exposure to Plant workers.

**Response:**



62. Any measurements of RN dosage or exposure within the boundaries of the Power Plant.

**Response:**

63. Any measurements of RN dosage or exposure beyond the boundaries of the Power Plant.

**Response:**

**CERTIFICATE OF SERVICE FOR PLAINTIFFS' INITIAL REQUEST FOR PRODUCTION TO DEFENDANT ORLANDO UTILITIES COMMISSION**

I hereby certify that on this 4th day of January 2019, I electronically filed a true and correct copy of the foregoing with the Clerk of the Court and served upon said Defendant with the Summons and Complaint.

s/Theodore J. Leopold  
\_\_\_\_\_  
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[tleopold@cohenmilstein.com](mailto:tleopold@cohenmilstein.com)  
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Irizarry v. Orlando Utilities Commission, et. al.  
Case No.: 2018-CA-013758-O Div 40  
Page 18

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**Page Break**

IN THE CIRCUIT COURT OF THE NINTH  
JUDICIAL CIRCUIT IN AND FOR ORANGE  
COUNTY, FLORIDA

MICHELLE IRIZARRY, VALERIE WILLIAMS, AND  
JOANNE NIXON,

CASE NO: 2018-CA-013758-O  
DIV 40

Plaintiffs,

v.

ORLANDO UTILITIES COMMISSION; LENNAR  
CORPORATION; U.S. HOME CORPORATION;  
AVALON PARK GROUP MANAGEMENT, INC.,  
D/B/A AVALON PARK GROUP; AND BEAT  
KAHLI,

Defendants.

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**INITIAL REQUEST FOR PRODUCTION TO DEFENDANT**  
**AVALON PARK GROUP MANAGEMENT, INC., D/B/A AVALON PARK GROUP**

Pursuant to Rule 1.350 of the Florida Rules of Civil Procedure, Plaintiffs hereby serve the following discovery requests to Defendant AVALON PARK GROUP MANAGEMENT, INC., d/b/a AVALON PARK GROUP to produce the items and matters hereinafter set forth. Responses to these requests should be served within forty-five (45) days, at the offices of counsel for Plaintiff, or at a mutually agreed upon location.

**I. DEFINITIONS**

The following definitions are applicable to these Requests to Produce.

1. As used herein, "AVALON PARK GROUP MANAGEMENT, INC., d/b/a AVALON PARK GROUP" shall include its subsidiaries, divisions and affiliates and any of its directors, officers, employees, consultants, agents, representatives and attorneys therefore, and/or any other persons or entities purporting to act on behalf of AVALON PARK GROUP MANAGEMENT, INC., d/b/a AVALON PARK GROUP, and/or under any or all of AVALON PARK GROUP MANAGEMENT, INC., d/b/a AVALON PARK GROUP's control.

2. "You", "your" or "yourself" means AVALON PARK GROUP MANAGEMENT, INC., d/b/a AVALON PARK GROUP, its divisions, all wholly owned subsidiaries, agents, servants, attorneys, private investigators, employees, ex-employees, other representatives, and others who are in possession of or may have obtained information for or on behalf of any of the aforementioned persons. As used herein, means AVALON PARK GROUP MANAGEMENT, INC., d/b/a AVALON PARK GROUP, its merged, consolidated, or acquired predecessors, its successors, its subsidiaries, divisions, operating units, and other business entities which are owned in whole or in part by AVALON PARK GROUP MANAGEMENT, INC., d/b/a AVALON PARK GROUP. These terms also include any parent corporations or holding companies with which AVALON PARK GROUP MANAGEMENT, INC., d/b/a AVALON PARK GROUP is associated. Finally, these terms include present and former officers, directors, agents, servants, attorneys, private investigators, employees, ex-employees, other representatives and other who are in possession of or may have obtained information for or on behalf of any of the aforementioned persons, and all other persons acting or purporting to act on behalf of the Defendant.

3. As used herein, the term "concern" or "concerning" "pertaining to" shall mean evidencing, reflecting, incorporating, effecting, including or otherwise pertaining, either directly or indirectly, or being in any way logically or factually connected with, the subject matter of the inquiry or request.

4. "Correspondence" means all letters, memoranda, notes or other writings prepared and/or delivered from or to Defendant, whether by mail, messenger or any other means. "Correspondence" also includes any notes, memoranda or other writings prepared by Defendant relating to any telephone conversations, meetings, discussions, conferences or other dialogues.

5. As used herein, the term "Document(s)" is used in the broadest sense of the word and shall mean all original written, printed, typed, recorded, or graphic matter whatsoever, however produced or reproduced, of every kind, nature, and description, and all non-identical copies of both sides thereof, including, but not limited to, papers, letters, memoranda, correspondence, communications, electronic mail (e-mail) messages (existing in hard copy and/or in electronic storage), faxes, mailgrams, telegrams, cables, telex messages, notes, annotations, working papers, drafts, minutes, records, audio and video recordings, data, databases, other information bases, summaries, charts, tables, graphics, other visual displays, photographs, statements, interviews, opinions, reports, newspaper articles, studies, analyses, evaluations, interpretations, contracts, agreements, jottings, agendas, bulletins, notices, announcements, instructions, blueprints, drawings, as-builts, changes, manuals, publications, work schedules, journals, statistical data, desk, portable and computer calendars, appointment books,

diaries, travel reports, lists, tabulations, computer printouts, data processing program libraries, data processing inputs and outputs, microfilms, microfiches, statements for services, resolutions, financial statements, governmental records, business records, personnel records, work orders, pleadings, discovery in any form, affidavits, motions, responses to discovery, all transcripts, administrative filings and all mechanical, magnetic, photographic and electronic records or recordings of any kind, including any storage media associated with computers, including, but not limited to, information on hard drives, floppy disks, backup tapes, and zip drives, electronic communications, including but not limited to, the Internet and shall include any drafts or revisions pertaining to any of the foregoing, all other things similar to any of the foregoing, however denominated by this Defendant, any other data compilations from which information can be obtained, translated if necessary, into a usable form and any other documents. For purposes of this request, any document which contains any note, comment, addition, deletion, insertion, annotation, or otherwise comprises a non-identical copy of another document shall be treated as a separate document subject to production. In all cases where original and any non-identical copies are not available, "document(s)" also means any identical copies of the original and all non-identical copies thereof. Any document, record, graph, chart, film or photograph originally produced in color must be provided in color. Furnish all documents whether verified by OUC or not. If a document is not in the English language, provide both the original document and an English translation of the document.

6. Whenever appropriate, the singular form of a word should be interpreted in the plural and vice versa. Whenever appropriate, the conjunctive term "and" should be interpreted in the disjunctive, to include the term "or" and vice versa.

7. As used herein, the term "Power Plant" shall mean the Curtis H. Stanton Energy Center.

8. "Class Area" has the meaning as described in the Complaint.

9. "Third Party" means a person or entity not a party to this lawsuit.

10. "Coal combustion residuals" or "CCR" is defined in 40 C.F.R. 257--Subpart D and includes but is not limited to: Coal ash, including Fly Ash, Bottom Ash, Boiler Slag, Flue Gas Desulfurization Material, fluidized bed combustion ash, and scrubber residues.

11. "PAH" means polyaromatic hydrocarbons, including but not limited to:

- Benzo(a)anthracene, 56-55-3
- Benzo(a)phenanthrene (chrysene), 218-01-9
- Benzo(a)pyrene, 50-32-8

- Benzo(b)fluoranthene, 205-99-2
- Benzo(j)fluoranthene, 205-82-3
- Benzo(k)fluoranthene, 207-08-9
- Benzo(j,k)fluorene (fluoranthene), 206-44-0
- Benzo(r,s,t)pentaphene, 189-55-9
- Dibenz(a,h)acridine, 226-36-8
- Dibenz(a,j)acridine, 224-42-0
- Dibenzo(a,h)anthracene, 53-70-3
- Dibenzo(a,e)fluoranthene, 5385-75-1
- Dibenzo(a,e)pyrene, 192-65-4
- Dibenzo(a,h)pyrene, 189-64-0
- Dibenzo(a,l)pyrene, 191-30-0
- 7H-Dibenzo(c,g)carbazole, 194-59-2
- 7,12-Dimethylbenz(a)anthracene, 57-97-6
- Indeno(1,2,3-cd)pyrene 193-39-5
- 3-Methylcholanthrene, 56-49-5
- 5-Methylchrysene, 3697-24-3
- Acenaphthene, 83-32-9
- Acenaphtylene, 208-96-8
- Anthracene, 120-12-7
- Benzo(g,h,i)perylene, 191-24-2
- Fluorene, 86-73-7
- Phenanthrene, 85-01-8
- Pyrene, 129-00-0

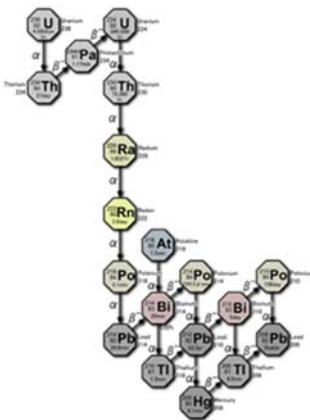
12. "Metals" means:

- Aluminum
- Antimony
- Arsenic
- Barium
- Boron
- Cadmium
- Chromium
- Cobalt
- Copper
- Iron

- Lead
- Manganese
- Mercury
- Molybdenum
- Nickel
- Silver
- Strontium
- Tin
- Thallium
- Vanadium
- Zinc

13. “Properties” means any privately-owned real property tract or parcel or within the Class Area.

14. “RN” means radionuclides emitting alpha, beta or gamma radiation including but not limited to the following:



15. “Residents” is defined as those persons, residing at addresses within the Class Area as defined in the Complaint, and in Zip Codes 32828 and 32825.

16. Wherever appropriate, requests for “documents” or other “information” should be construed as requests for both current and historical documents or other information.

## II. INSTRUCTIONS



1. In response to these inquiries and requests, you are required to furnish all information and/or documents that are available to you or subject to your reasonable inquiry including information and/or documents in the possession of your attorneys, accountants, advisors or other persons directly or indirectly employed by, or connected with you or your attorneys, and anyone else otherwise subject to your control.

2. In responding to these inquiries and requests, you must make a diligent search of your records and of other papers and materials in your possession or available to you or your representative.

3. In responding to these inquiries and requests, you are to furnish all information within your control as well as within your possession. If information and/or documents are not within your possession but are within your control, in the same sense that it is had by a person who has business relationships or contractual relationships with you or any other person with whom you normally deal and would have no difficulty in a business sense in making any request for such information, then you are required to make reasonable efforts to obtain the information and/or documents and include it with your response.

4. If an individual inquiry or request has subparts, respond to each part separately and in full, and do not limit your response to the request as a whole. If any individual inquiry or request cannot be responded to in full, respond to the extent possible.

5. If any of the individual inquiries or requests is ambiguous in any way, please send a letter to the undersigned counsel describing the ambiguity and it will be promptly clarified in a reply letter. If any individual inquiry or request (or subpart thereof) is deemed to be unduly burdensome, please send a letter to the undersigned counsel specifying the reasons why the request is unduly burdensome and stating whatever information and knowledge you have of the information and/or documents called for in the request; and (generally) an attempt will be made to rephrase the request (or subpart thereof) in a reply letter to lessen the burdens of compliance. Any such reply letter may be treated by the parties to whom it is addressed as a modification of the particular request.

6. If you withhold any response (or portion of a full response) to any inquiry or request on the basis of a privilege, identify the privilege claimed (including reference to the statute, rule or decision which is claimed to give rise to the privilege) and describe the general topic of the information you claim to be privileged to the extent possible in a manner consistent with the claimed privilege. If the information as to which privilege is claimed is contained in a document, identify each such document, stating where applicable:

a. The name and title or position of the author and/or sender of the document;

- b. The name and title or position of each and every person to whom the document was sent;
- c. The name and title or position of each and every person to whom the document was sent;
- d. The date of the document;
- e. A brief description of the subject matter and length of the document and or each attachment, appendix and exhibit thereto;
- f. The name and title or position of each and every person having knowledge of the factual basis on which the privilege is asserted; and
- g. The name and title or position of each person on whose behalf the privilege is asserted.

Unless words or terms have been given a specific definition herein, each word or term used herein shall be given its usual and customary dictionary definition except where such words have a specific custom and usage definition in your trade or industry, in which case they shall be interpreted in accordance with such usual custom and usage definition of which you are aware. In construing the inquiries and request herein: (i) the singular shall include the plural and the plural shall include the singular; (ii) a masculine, feminine or neuter pronoun shall not exclude the other genders; and (iii) the words "and" and "or" shall be read in the conjunctive or disjunctive or both, as the case may be, all to the end that the interpretation applied results in the more expansive production.

7. Unless otherwise noted, all Requests to Produce pertain to the time period from 1990 to the present.

When medical records are requested, they may be produced with names redacted and produced pursuant to a Protective Order to be negotiated between Plaintiffs and Defendants.

### **REQUESTS TO PRODUCE**

1. All air emissions monitoring data, reports, tests, and notifications received or gathered at the time of purchase of the Properties or thereafter from any source.

**Response:**

2. All permits and permit applications of or pertaining to Properties.

**Response:**

3. All air emissions modeling data of or pertaining to the Power Plant.

**Response:**

4. Notices of non-compliance related to air emissions of or pertaining to the Power Plant.

**Response:**

5. Notices of non-compliance related to the CCR landfills and surface impoundments of or pertaining to the Power Plant.

**Response:**

6. All Groundwater monitoring data, reports, tests, and notifications of or pertaining to the Properties.

**Response:**

7. All soil monitoring data, reports, tests, and notifications of or pertaining to the Properties.

**Response:**

8. All PAH, metals and RN analysis of CCR, coal air emissions or groundwater of or pertaining to the Properties.

**Response:**

9. Any notifications to residents of particulate emissions coming from or related to the Power Plant.

**Response:**

10. Any notifications to residents of radionuclides, PAHs and metals in coal or CCR coming from or related to the Power Plant.

**Response:**

11. Any analysis of any health risks posed to residents by CCR, coal, or particulates coming from or pertaining to the Power Plant.

**Response:**

12. Documentation of any efforts to abate deposition of CCR and coal ash on the resident's Properties.

**Response:**

13. Communications with employees or board members of the Orlando Utilities Commission or the Curtis H. Stanton Energy Center arising out of, or related to, any of the items mentioned in any of these requests.

**Response:**

14. Communications with government regulators arising out of, or related to, any of the items mentioned in any of these requests.

**Response:**

15. All documents (including emails, correspondence, memorandums, meeting minutes, notes, internal or external presentations or analyses, or data) relating to the health or environmental impacts of CCR or coal coming from or pertaining to the Properties.

**Response:**

16. All documents and your responses relating to requests or inquiries from residents, developers, businesses received pertaining to the CCR or coal at the Power Plant.

**Response:**

17. All sales and marketing materials relating to the Properties and Power Plant.

**Response:**

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19. All seller's disclosure forms relating to the Properties.

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**Response:**

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25. All Plans, Applications, Notices of Proposed Changes, Petitions for modifications, and/or any other documentation submitted or provided to any city and/or county and/or state and/or federal representative, including but not limited to the Orange County Board of County Commissioners, St. Johns River Water Management

District, Orange County Planning and Zoning Commission, Florida Game & Fresh Water Fish Commission, Florida Department of Community Affairs, Florida Department of Environmental Protection, the US Environmental Protection Agency, and the Bureau of Land and Water Management related to the Properties.

**Response:**

26. All documentation received from any city and/or county and/or state and/or federal representative, including but not limited to the Orange County Board of County Commissioners, St. Johns River Water Management District, Orange County Planning and Zoning Commission, Florida Game & Fresh Water Fish Commission, Florida Department of Community Affairs, Florida Department of Environmental Protection, the US Environmental Protection Agency, and the Bureau of Land and Water Management related to the properties.

**Response:**

27. All policies and procedures for maintaining the safety to home owners/residents related to the handling of CCR or coal at the Power Plant.

**Response:**

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**Response:**

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**Response:**

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**Response:**

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**Response:**

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**Response:**

36. Any visual inspection of the Class Area for CCR or coal dust.

**Response:**

37. Any testing of the exposure of radiation to property or person in the Class Area.

**Response:**

38. Any soil, air or groundwater sampling or analysis in the Class Area or at or beyond its property boundary related to concentrations of RN, Metals or PAH.

**Response:**

**CERTIFICATE OF SERVICE FOR PLAINTIFFS' INITIAL REQUEST FOR  
PRODUCTION TO DEFENDANT AVALON PARK GROUP MANAGEMENT, INC.,  
D/B/A AVALON PARK GROUP**

I hereby certify that on this 8th day of January 2019, I electronically filed a true and correct copy of the foregoing with the Clerk of the Court and served upon said Defendant with the Summons and Complaint.

s/Theodore J. Leopold  
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Michael Brightman



Irizarry v. Orlando Utilities Commission, et. al.  
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**Page Break**

IN THE CIRCUIT COURT OF THE NINTH  
JUDICIAL CIRCUIT IN AND FOR ORANGE  
COUNTY, FLORIDA

MICHELLE IRIZARRY, VALERIE WILLIAMS, AND  
JOANNE NIXON,

CASE NO: 2018-CA-013758-O  
DIV 40

Plaintiffs,

v.

ORLANDO UTILITIES COMMISSION; LENNAR  
CORPORATION; U.S. HOME CORPORATION;  
AVALON PARK GROUP MANAGEMENT, INC.,  
D/B/A AVALON PARK GROUP; AND BEAT  
KAHLI,

Defendants.

\_\_\_\_\_ /

**INITIAL REQUEST FOR PRODUCTION TO DEFENDANT**  
**BEAT KAHLI**

Pursuant to Rule 1.350 of the Florida Rules of Civil Procedure, Plaintiffs hereby serve the following discovery requests to Defendant BEAT KAHLI to produce the items and matters hereinafter set forth. Responses to these requests should be served within forty-five (45) days, at the offices of counsel for Plaintiff, or at a mutually agreed upon location.

**I. DEFINITIONS**

The following definitions are applicable to these Requests to Produce.

1. As used herein, "BEAT KAHLI" shall include its subsidiaries, divisions and affiliates and any of its directors, officers, employees, consultants, agents, representatives and attorneys therefore, and/or any other persons or entities purporting to act on behalf of Beat Kahli, and/or under any or all of Beat Kahli's control.
2. "You", "your" or "yourself" means Beat Kahli, its divisions, all wholly owned subsidiaries, agents, servants, attorneys, private investigators, employees, ex-

employees, other representatives, and others who are in possession of or may have obtained information for or on behalf of any of the aforementioned persons. As used herein, means Beat Kahli, its merged, consolidated, or acquired predecessors, its successors, its subsidiaries, divisions, operating units, and other business entities which are owned in whole or in part by Beat Kahli. These terms also include any parent corporations or holding companies with which Beat Kahli is associated. Finally, these terms include present and former officers, directors, agents, servants, attorneys, private investigators, employees, ex-employees, other representatives and other who are in possession of or may have obtained information for or on behalf of any of the aforementioned persons, and all other persons acting or purporting to act on behalf of the Defendant.

3. As used herein, the term "concern" or "concerning" "pertaining to" shall mean evidencing, reflecting, incorporating, effecting, including or otherwise pertaining, either directly or indirectly, or being in any way logically or factually connected with, the subject matter of the inquiry or request.

4. "Correspondence" means all letters, memoranda, notes or other writings prepared and/or delivered from or to Defendant, whether by mail, messenger or any other means. "Correspondence" also includes any notes, memoranda or other writings prepared by Defendant relating to any telephone conversations, meetings, discussions, conferences or other dialogues.

5. As used herein, the term "Document(s)" is used in the broadest sense of the word and shall mean all original written, printed, typed, recorded, or graphic matter whatsoever, however produced or reproduced, of every kind, nature, and description, and all non-identical copies of both sides thereof, including, but not limited to, papers, letters, memoranda, correspondence, communications, electronic mail (e-mail) messages (existing in hard copy and/or in electronic storage), faxes, mailgrams, telegrams, cables, telex messages, notes, annotations, working papers, drafts, minutes, records, audio and video recordings, data, databases, other information bases, summaries, charts, tables, graphics, other visual displays, photographs, statements, interviews, opinions, reports, newspaper articles, studies, analyses, evaluations, interpretations, contracts, agreements, jottings, agendas, bulletins, notices, announcements, instructions, blueprints, drawings, as-builts, changes, manuals, publications, work schedules, journals, statistical data, desk, portable and computer calendars, appointment books, diaries, travel reports, lists, tabulations, computer printouts, data processing program libraries, data processing inputs and outputs, microfilms, microfiches, statements for services, resolutions, financial statements, governmental records, business records, personnel records, work orders, pleadings, discovery in any form, affidavits, motions, responses to discovery, all transcripts, administrative filings and all mechanical, magnetic, photographic and electronic records or recordings of any kind, including any storage

media associated with computers, including, but not limited to, information on hard drives, floppy disks, backup tapes, and zip drives, electronic communications, including but not limited to, the Internet and shall include any drafts or revisions pertaining to any of the foregoing, all other things similar to any of the foregoing, however denominated by this Defendant, any other data compilations from which information can be obtained, translated if necessary, into a usable form and any other documents. For purposes of this request, any document which contains any note, comment, addition, deletion, insertion, annotation, or otherwise comprises a non-identical copy of another document shall be treated as a separate document subject to production. In all cases where original and any non-identical copies are not available, "document(s)" also means any identical copies of the original and all non-identical copies thereof. Any document, record, graph, chart, film or photograph originally produced in color must be provided in color. Furnish all documents whether verified by OUC or not. If a document is not in the English language, provide both the original document and an English translation of the document.

6. Whenever appropriate, the singular form of a word should be interpreted in the plural and vice versa. Whenever appropriate, the conjunctive term "and" should be interpreted in the disjunctive, to include the term "or" and vice versa.

7. As used herein, the term "Power Plant" shall mean the Curtis H. Stanton Energy Center.

8. "Class Area" has the meaning as described in the Complaint.

9. "Third Party" means a person or entity not a party to this lawsuit.

10. "Coal combustion residuals" or "CCR" is defined in 40 C.F.R. 257--Subpart D and includes but is not limited to: Coal ash, including Fly Ash, Bottom Ash, Boiler Slag, Flue Gas Desulfurization Material, fluidized bed combustion ash, and scrubber residues.

11. "PAH" means polyaromatic hydrocarbons, including but not limited to:

- Benzo(a)anthracene, 56-55-3
- Benzo(a)phenanthrene (chrysene), 218-01-9
- Benzo(a)pyrene, 50-32-8
- Benzo(b)fluoranthene, 205-99-2
- Benzo(j)fluoranthene, 205-82-3
- Benzo(k)fluoranthene, 207-08-9
- Benzo(j,k)fluorene (fluoranthene), 206-44-0
- Benzo(r,s,t)pentaphene, 189-55-9

- Dibenz(a,h)acridine, 226-36-8
- Dibenz(a,j)acridine, 224-42-0
- Dibenzo(a,h)anthracene, 53-70-3
- Dibenzo(a,e)fluoranthene, 5385-75-1
- Dibenzo(a,e)pyrene, 192-65-4
- Dibenzo(a,h)pyrene, 189-64-0
- Dibenzo(a,l)pyrene, 191-30-0
- 7H-Dibenzo(c,g)carbazole, 194-59-2
- 7,12-Dimethylbenz(a)anthracene, 57-97-6
- Indeno(1,2,3-cd)pyrene 193-39-5
- 3-Methylcholanthrene, 56-49-5
- 5-Methylchrysene, 3697-24-3
- Acenaphthene, 83-32-9
- Acenaphtylene, 208-96-8
- Anthracene, 120-12-7
- Benzo(g,h,i)perylene, 191-24-2
- Fluorene, 86-73-7
- Phenanthrene, 85-01-8
- Pyrene, 129-00-0

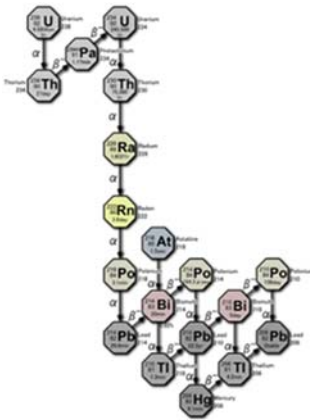
12. "Metals" means:

- Aluminum
- Antimony
- Arsenic
- Barium
- Boron
- Cadmium
- Chromium
- Cobalt
- Copper
- Iron
- Lead
- Manganese
- Mercury
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13. "Properties" means any privately-owned real property tract or parcel or within the Class Area.

14. "RN" means radionuclides emitting alpha, beta or gamma radiation including but not limited to the following:



15. "Residents" is defined as those persons, residing at addresses within the Class Area as defined in the Complaint, and in Zip Codes 32828 and 32825.

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6. If you withhold any response (or portion of a full response) to any inquiry or request on the basis of a privilege, identify the privilege claimed (including reference to the statute, rule or decision which is claimed to give rise to the privilege) and describe the general topic of the information you claim to be privileged to the extent possible in a manner consistent with the claimed privilege. If the information as to which privilege is claimed is contained in a document, identify each such document, stating where applicable:

- a. The name and title or position of the author and/or sender of the document;
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**Response:**

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I hereby certify that on this 8th day of January 2019, I electronically filed a true and correct copy of the foregoing with the Clerk of the Court and served upon said Defendant with the Summons and Complaint.

Irizarry v. Orlando Utilities Commission, et. al.  
Case No.: 2018-CA-013758-O Div 40  
Page 13

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Case No.: 2018-CA-013758-O Div 40  
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IN THE CIRCUIT COURT OF THE NINTH  
JUDICIAL CIRCUIT IN AND FOR ORANGE  
COUNTY, FLORIDA

MICHELLE IRIZARRY, VALERIE WILLIAMS, AND  
JOANNE NIXON,

CASE NO: 2018-CA-013758-O  
DIV 40

Plaintiff,

v.

ORLANDO UTILITIES COMMISSION; LENNAR  
CORPORATION; U.S. HOME CORPORATION;  
AVALON PARK GROUP MANAGEMENT, INC.,  
D/B/A AVALON PARK GROUP; AND BEAT  
KAHLI,

Defendants.

\_\_\_\_\_ /

**INITIAL REQUEST FOR PRODUCTION TO DEFENDANT**  
**LENNAR CORPORATION**

Pursuant to Rule 1.350 of the Florida Rules of Civil Procedure, Plaintiffs hereby serve the following discovery requests to Defendant LENNAR CORPORATION to produce the items and matters hereinafter set forth. Responses to these requests should be served within forty-five (45) days, at the offices of counsel for Plaintiff, or at a mutually agreed upon location.

**I. DEFINITIONS**

The following definitions are applicable to these Requests to Produce.

1. As used herein, "LENNAR CORPORATION" shall include its subsidiaries, divisions and affiliates and any of its directors, officers, employees, consultants, agents, representatives and attorneys therefore, and/or any other persons or entities purporting to act on behalf of Lennar Corporation, and/or under any or all of Lennar Corporation's control.

2. "You", "your" or "yourself" means Lennar Corporation, its divisions, all wholly owned subsidiaries, agents, servants, attorneys, private investigators, employees, ex-employees, other representatives, and others who are in possession of or may have obtained information for or on behalf of any of the aforementioned persons. As used herein, means Lennar Corporation, its merged, consolidated, or acquired predecessors, its successors, its subsidiaries, divisions, operating units, and other business entities which are owned in whole or in part by Lennar Corporation. These terms also include any parent corporations or holding companies with which Lennar Corporation is associated. Finally, these terms include present and former officers, directors, agents, servants, attorneys, private investigators, employees, ex-employees, other representatives and other who are in possession of or may have obtained information for or on behalf of any of the aforementioned persons, and all other persons acting or purporting to act on behalf of the Defendant.

3. As used herein, the term "concern" or "concerning" "pertaining to" shall mean evidencing, reflecting, incorporating, effecting, including or otherwise pertaining, either directly or indirectly, or being in any way logically or factually connected with, the subject matter of the inquiry or request.

4. "Correspondence" means all letters, memoranda, notes or other writings prepared and/or delivered from or to Defendant, whether by mail, messenger or any other means. "Correspondence" also includes any notes, memoranda or other writings prepared by Defendant relating to any telephone conversations, meetings, discussions, conferences or other dialogues.

5. As used herein, the term "Document(s)" is used in the broadest sense of the word and shall mean all original written, printed, typed, recorded, or graphic matter whatsoever, however produced or reproduced, of every kind, nature, and description, and all non-identical copies of both sides thereof, including, but not limited to, papers, letters, memoranda, correspondence, communications, electronic mail (e-mail) messages (existing in hard copy and/or in electronic storage), faxes, mailgrams, telegrams, cables, telex messages, notes, annotations, working papers, drafts, minutes, records, audio and video recordings, data, databases, other information bases, summaries, charts, tables, graphics, other visual displays, photographs, statements, interviews, opinions, reports, newspaper articles, studies, analyses, evaluations, interpretations, contracts, agreements, jottings, agendas, bulletins, notices, announcements, instructions, blueprints, drawings, as-builts, changes, manuals, publications, work schedules, journals, statistical data, desk, portable and computer calendars, appointment books, diaries, travel reports, lists, tabulations, computer printouts, data processing program libraries, data processing inputs and outputs, microfilms, microfiches, statements for services, resolutions, financial statements, governmental records, business records, personnel records, work orders, pleadings, discovery in any form, affidavits, motions,

responses to discovery, all transcripts, administrative filings and all mechanical, magnetic, photographic and electronic records or recordings of any kind, including any storage media associated with computers, including, but not limited to, information on hard drives, floppy disks, backup tapes, and zip drives, electronic communications, including but not limited to, the Internet and shall include any drafts or revisions pertaining to any of the foregoing, all other things similar to any of the foregoing, however denominated by this Defendant, any other data compilations from which information can be obtained, translated if necessary, into a usable form and any other documents. For purposes of this request, any document which contains any note, comment, addition, deletion, insertion, annotation, or otherwise comprises a non-identical copy of another document shall be treated as a separate document subject to production. In all cases where original and any non-identical copies are not available, "document(s)" also means any identical copies of the original and all non-identical copies thereof. Any document, record, graph, chart, film or photograph originally produced in color must be provided in color. Furnish all documents whether verified by OUC or not. If a document is not in the English language, provide both the original document and an English translation of the document.

6. Whenever appropriate, the singular form of a word should be interpreted in the plural and vice versa. Whenever appropriate, the conjunctive term "and" should be interpreted in the disjunctive, to include the term "or" and vice versa.

7. As used herein, the term "Power Plant" shall mean the Curtis H. Stanton Energy Center.

8. "Class Area" has the meaning as described in the Complaint.

9. "Third Party" means a person or entity not a party to this lawsuit.

10. "Coal combustion residuals" or "CCR" is defined in 40 C.F.R. 257--Subpart D and includes but is not limited to: Coal ash, including Fly Ash, Bottom Ash, Boiler Slag, Flue Gas Desulfurization Material, fluidized bed combustion ash, and scrubber residues.

11. "PAH" means polyaromatic hydrocarbons, including but not limited to:

- Benzo(a)anthracene, 56-55-3
- Benzo(a)phenanthrene (chrysene), 218-01-9
- Benzo(a)pyrene, 50-32-8
- Benzo(b)fluoranthene, 205-99-2
- Benzo(j)fluoranthene, 205-82-3
- Benzo(k)fluoranthene, 207-08-9
- Benzo(j,k)fluorene (fluoranthene), 206-44-0

- Benzo(r,s,t)pentaphene, 189-55-9
- Dibenz(a,h)acridine, 226-36-8
- Dibenz(a,j)acridine, 224-42-0
- Dibenzo(a,h)anthracene, 53-70-3
- Dibenzo(a,e)fluoranthene, 5385-75-1
- Dibenzo(a,e)pyrene, 192-65-4
- Dibenzo(a,h)pyrene, 189-64-0
- Dibenzo(a,l)pyrene, 191-30-0
- 7H-Dibenzo(c,g)carbazole, 194-59-2
- 7,12-Dimethylbenz(a)anthracene, 57-97-6
- Indeno(1,2,3-cd)pyrene 193-39-5
- 3-Methylcholanthrene, 56-49-5
- 5-Methylchrysene, 3697-24-3
- Acenaphthene, 83-32-9
- Acenaphtylene, 208-96-8
- Anthracene, 120-12-7
- Benzo(g,h,i)perylene, 191-24-2
- Fluorene, 86-73-7
- Phenanthrene, 85-01-8
- Pyrene, 129-00-0

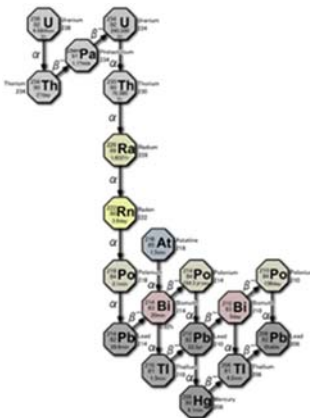
12. "Metals" means:

- Aluminum
- Antimony
- Arsenic
- Barium
- Boron
- Cadmium
- Chromium
- Cobalt
- Copper
- Iron
- Lead
- Manganese
- Mercury
- Molybdenum

- Nickel
- Silver
- Strontium
- Tin
- Thallium
- Vanadium
- Zinc

13. "Properties" means any privately-owned real property tract or parcel or within the Class Area.

14. "RN" means radionuclides emitting alpha, beta or gamma radiation including but not limited to the following:



15. "Residents" is defined as those persons, residing at addresses within the Class Area as defined in the Complaint, and in Zip Codes 32828 and 32825.

16. Wherever appropriate, requests for "documents" or other "information" should be construed as requests for both current and historical documents or other information.

## II. INSTRUCTIONS

1. In response to these inquiries and requests, you are required to furnish all information and/or documents that are available to you or subject to your reasonable inquiry including information and/or documents in the possession of your attorneys, accountants, advisors or other persons directly or indirectly employed by, or connected with you or your attorneys, and anyone else otherwise subject to your control.

2. In responding to these inquiries and requests, you must make a diligent search of your records and of other papers and materials in your possession or available to you or your representative.

3. In responding to these inquiries and requests, you are to furnish all information within your control as well as within your possession. If information and/or documents are not within your possession but are within your control, in the same sense that it is had by a person who has business relationships or contractual relationships with you or any other person with whom you normally deal and would have no difficulty in a business sense in making any request for such information, then you are required to make reasonable efforts to obtain the information and/or documents and include it with your response.

4. If an individual inquiry or request has subparts, respond to each part separately and in full, and do not limit your response to the request as a whole. If any individual inquiry or request cannot be responded to in full, respond to the extent possible.

5. If any of the individual inquiries or requests is ambiguous in any way, please send a letter to the undersigned counsel describing the ambiguity and it will be promptly clarified in a reply letter. If any individual inquiry or request (or subpart thereof) is deemed to be unduly burdensome, please send a letter to the undersigned counsel specifying the reasons why the request is unduly burdensome and stating whatever information and knowledge you have of the information and/or documents called for in the request; and (generally) an attempt will be made to rephrase the request (or subpart thereof) in a reply letter to lessen the burdens of compliance. Any such reply letter may be treated by the parties to whom it is addressed as a modification of the particular request.

6. If you withhold any response (or portion of a full response) to any inquiry or request on the basis of a privilege, identify the privilege claimed (including reference to the statute, rule or decision which is claimed to give rise to the privilege) and describe the general topic of the information you claim to be privileged to the extent possible in a manner consistent with the claimed privilege. If the information as to which privilege is claimed is contained in a document, identify each such document, stating where applicable:

- a. The name and title or position of the author and/or sender of the document;
- b. The name and title or position of each and every person to whom the document was sent;
- c. The name and title or position of each and every person to whom the document was sent;
- d. The date of the document;

- e. A brief description of the subject matter and length of the document and or each attachment, appendix and exhibit thereto;
- f. The name and title or position of each and every person having knowledge of the factual basis on which the privilege is asserted; and
- g. The name and title or position of each person on whose behalf the privilege is asserted.

Unless words or terms have been given a specific definition herein, each word or term used herein shall be given its usual and customary dictionary definition except where such words have a specific custom and usage definition in your trade or industry, in which case they shall be interpreted in accordance with such usual custom and usage definition of which you are aware. In construing the inquiries and request herein: (i) the singular shall include the plural and the plural shall include the singular; (ii) a masculine, feminine or neuter pronoun shall not exclude the other genders; and (iii) the words "and" and "or" shall be read in the conjunctive or disjunctive or both, as the case may be, all to the end that the interpretation applied results in the more expansive production.

7. Unless otherwise noted, all Requests to Produce pertain to the time period from 1990 to the present.

When medical records are requested, they may be produced with names redacted and produced pursuant to a Protective Order to be negotiated between Plaintiffs and Defendants.

### **REQUESTS TO PRODUCE**

- 1. All air emissions monitoring data, reports, tests, and notifications received or gathered at the time of purchase of the Properties or thereafter from any source.

**Response:**

- 2. All permits and permit applications of or pertaining to Properties.

**Response:**

- 3. All air emissions modeling data of or pertaining to the Power Plant.

**Response:**



4. Notices of non-compliance related to air emissions of or pertaining to the Power Plant.

**Response:**

5. Notices of non-compliance related to the CCR landfills and surface impoundments of or pertaining to the Power Plant.

**Response:**

6. All Groundwater monitoring data, reports, tests, and notifications of or pertaining to the Properties.

**Response:**

7. All soil monitoring data, reports, tests, and notifications of or pertaining to the Properties.

**Response:**

8. All PAH, metals and RN analysis of CCR, coal air emissions or groundwater of or pertaining to the Properties.

**Response:**

9. Any notifications to residents of particulate emissions coming from or related to the Power Plant.

**Response:**

10. Any notifications to residents of radionuclides, PAHs and metals in coal or CCR coming from or related to the Power Plant.

**Response:**

11. Any analysis of any health risks posed to residents by CCR, coal, or particulates coming from or pertaining to the Power Plant.

**Response:**

12. Documentation of any efforts to abate deposition of CCR and coal ash on the resident's Properties.

**Response:**

13. Communications with employees or board members of the Orlando Utilities Commission or the Curtis H. Stanton Energy Center arising out of, or related to, any of the items mentioned in any of these requests.

**Response:**

14. Communications with government regulators arising out of, or related to, any of the items mentioned in any of these requests.

**Response:**

15. All documents (including emails, correspondence, memorandums, meeting minutes, notes, internal or external presentations or analyses, or data) relating to the health or environmental impacts of CCR or coal coming from or pertaining to the Properties.

**Response:**

16. All documents and your responses relating to requests or inquiries from residents, developers, businesses received pertaining to the CCR or coal at the Power Plant.

**Response:**

17. All sales and marketing materials relating to the Properties and Power Plant.

**Response:**

18. All warranty agreements relating to the Properties.

**Response:**

19. All seller's disclosure forms relating to the Properties.

**Response:**

20. All subdivision and/or platting applications relating to the Properties.

**Response:**

21. All representations, whether written or oral, in a contract, agreement or marketing material, regarding the Power Plant.

**Response:**

22. All representations, whether written or oral, in a contract, agreement or marketing material, regarding the environmental condition of land owned, operated, marketed, developed, or sold in the Class Area by a Developer.

**Response:**

23. All studies, environmental assessments, reports, Documents or data prepared by a Developer or any third party regarding the environmental condition of land owned, operated, marketed, developed, or sold in the Class Area by a Developer.

**Response:**

24. All contracts or agreements entered into by a Developer with a resident or business in the Class Area.

**Response:**

25. All Plans, Applications, Notices of Proposed Changes, Petitions for modifications, and/or any other documentation submitted or provided to any city and/or county and/or state and/or federal representative, including but not limited to the Orange County Board of County Commissioners, St. Johns River Water Management District, Orange County Planning and Zoning Commission, Florida Game & Fresh Water Fish Commission, Florida Department of Community Affairs, Florida Department of Environmental Protection, the US Environmental Protection Agency, and the Bureau of Land and Water Management related to the Properties.

**Response:**

26. All documentation received from any city and/or county and/or state and/or federal representative, including but not limited to the Orange County Board of County Commissioners, St. Johns River Water Management District, Orange County Planning and Zoning Commission, Florida Game & Fresh Water Fish Commission, Florida Department of Community Affairs, Florida Department of Environmental Protection, the US Environmental Protection Agency, and the Bureau of Land and Water Management related to the properties.

**Response:**

27. All policies and procedures for maintaining the safety to home owners/residents related to the handling of CCR or coal at the Power Plant.

**Response:**

28. All correspondence, emails, and related documents received or sent to OUC regarding the preventing the CCR and coal dust from blowing onto the Properties of Residents.

**Response:**

29. All contracts entered into with any third parties to perform on site inspections, including but not limited to safety inspections, maintenance inspections, and State and EPA compliance standards.

**Response:**

30. All studies, testing, analysis, memorandums, and similar documents related to the study and safety of the surrounding communities to the OUC Coal Power Plant.

**Response:**

31. Organizational charts.

**Response:**

32. Organizational charts for marketing, public relations, media relations, and public information employees.

**Response:**

33. All documents related to cancer incidence in the Class Area.

**Response:**

34. All documents related to the development of residential communities in the Class Area.

**Response:**

35. All insurance policies related that cover the allegations set forth in the operative complaint.

**Response:**

36. Any visual inspection of the Class Area for CCR or coal dust.

**Response:**

37. Any testing of the exposure of radiation to property or person in the Class Area.

**Response:**

38. Any soil, air or groundwater sampling or analysis in the Class Area or at or beyond its property boundary related to concentrations of RN, Metals or PAH.

**Response:**

**CERTIFICATE OF SERVICE FOR PLAINTIFFS' INITIAL REQUEST FOR  
PRODUCTION TO DEFENDANT LENNAR**

I hereby certify that on this 8th day of January 2019, I electronically filed a true and

Irizarry v. Orlando Utilities Commission, et. al.  
Case No.: 2018-CA-013758-O Div 40  
Page 13

correct copy of the foregoing with the Clerk of the Court and served upon said Defendant with the Summons and Complaint.

s/Theodore J. Leopold  
THEODORE J. LEOPOLD, ESQ.  
Florida Bar No: 705608  
[tleopold@cohenmilstein.com](mailto:tleopold@cohenmilstein.com)  
LESLIE M. KROEGER, ESQ.  
Florida Bar No: 989762  
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IN THE CIRCUIT COURT OF THE NINTH  
JUDICIAL CIRCUIT IN AND FOR ORANGE  
COUNTY, FLORIDA

MICHELLE IRIZARRY, VALERIE WILLIAMS, AND  
JOANNE NIXON,

CASE NO: 2018-CA-013758-O  
DIV 40

Plaintiff,

v.

ORLANDO UTILITIES COMMISSION; LENNAR  
CORPORATION; U.S. HOME CORPORATION;  
AVALON PARK GROUP MANAGEMENT, INC.,  
D/B/A AVALON PARK GROUP; AND BEAT  
KAHLI,

Defendants.

\_\_\_\_\_ /

**INITIAL REQUEST FOR PRODUCTION TO DEFENDANT**  
**U.S. HOME CORPORATION**

Pursuant to Rule 1.350 of the Florida Rules of Civil Procedure, Plaintiffs hereby serve the following discovery requests to Defendant U.S. HOME CORPORATION to produce the items and matters hereinafter set forth. Responses to these requests should be served within forty-five (45) days, at the offices of counsel for Plaintiff, or at a mutually agreed upon location.

**I. DEFINITIONS**

The following definitions are applicable to these Requests to Produce.

1. As used herein, "U.S. HOME CORPORATION" shall include its subsidiaries, divisions and affiliates and any of its directors, officers, employees, consultants, agents, representatives and attorneys therefore, and/or any other persons or entities purporting to act on behalf of U.S. Home Corporation, and/or under any or all of U.S. Home Corporation's control.

2. "You", "your" or "yourself" means U.S. Home Corporation, its divisions, all wholly owned subsidiaries, agents, servants, attorneys, private investigators, employees, ex-employees, other representatives, and others who are in possession of or may have obtained information for or on behalf of any of the aforementioned persons. As used herein, means U.S. Home Corporation, its merged, consolidated, or acquired predecessors, its successors, its subsidiaries, divisions, operating units, and other business entities which are owned in whole or in part by U.S. Home Corporation. These terms also include any parent corporations or holding companies with which U.S. Home Corporation is associated. Finally, these terms include present and former officers, directors, agents, servants, attorneys, private investigators, employees, ex-employees, other representatives and other who are in possession of or may have obtained information for or on behalf of any of the aforementioned persons, and all other persons acting or purporting to act on behalf of the Defendant.

3. As used herein, the term "concern" or "concerning" "pertaining to" shall mean evidencing, reflecting, incorporating, effecting, including or otherwise pertaining, either directly or indirectly, or being in any way logically or factually connected with, the subject matter of the inquiry or request.

4. "Correspondence" means all letters, memoranda, notes or other writings prepared and/or delivered from or to Defendant, whether by mail, messenger or any other means. "Correspondence" also includes any notes, memoranda or other writings prepared by Defendant relating to any telephone conversations, meetings, discussions, conferences or other dialogues.

5. As used herein, the term "Document(s)" is used in the broadest sense of the word and shall mean all original written, printed, typed, recorded, or graphic matter whatsoever, however produced or reproduced, of every kind, nature, and description, and all non-identical copies of both sides thereof, including, but not limited to, papers, letters, memoranda, correspondence, communications, electronic mail (e-mail) messages (existing in hard copy and/or in electronic storage), faxes, mailgrams, telegrams, cables, telex messages, notes, annotations, working papers, drafts, minutes, records, audio and video recordings, data, databases, other information bases, summaries, charts, tables, graphics, other visual displays, photographs, statements, interviews, opinions, reports, newspaper articles, studies, analyses, evaluations, interpretations, contracts, agreements, jottings, agendas, bulletins, notices, announcements, instructions, blueprints, drawings, as-builts, changes, manuals, publications, work schedules, journals, statistical data, desk, portable and computer calendars, appointment books, diaries, travel reports, lists, tabulations, computer printouts, data processing program libraries, data processing inputs and outputs, microfilms, microfiches, statements for services, resolutions, financial statements, governmental records, business records, personnel records, work orders, pleadings, discovery in any form, affidavits, motions,

responses to discovery, all transcripts, administrative filings and all mechanical, magnetic, photographic and electronic records or recordings of any kind, including any storage media associated with computers, including, but not limited to, information on hard drives, floppy disks, backup tapes, and zip drives, electronic communications, including but not limited to, the Internet and shall include any drafts or revisions pertaining to any of the foregoing, all other things similar to any of the foregoing, however denominated by this Defendant, any other data compilations from which information can be obtained, translated if necessary, into a usable form and any other documents. For purposes of this request, any document which contains any note, comment, addition, deletion, insertion, annotation, or otherwise comprises a non-identical copy of another document shall be treated as a separate document subject to production. In all cases where original and any non-identical copies are not available, "document(s)" also means any identical copies of the original and all non-identical copies thereof. Any document, record, graph, chart, film or photograph originally produced in color must be provided in color. Furnish all documents whether verified by OUC or not. If a document is not in the English language, provide both the original document and an English translation of the document.

6. Whenever appropriate, the singular form of a word should be interpreted in the plural and vice versa. Whenever appropriate, the conjunctive term "and" should be interpreted in the disjunctive, to include the term "or" and vice versa.

7. As used herein, the term "Power Plant" shall mean the Curtis H. Stanton Energy Center.

8. "Class Area" has the meaning as described in the Complaint.

9. "Third Party" means a person or entity not a party to this lawsuit.

10. "Coal combustion residuals" or "CCR" is defined in 40 C.F.R. 257--Subpart D and includes but is not limited to: Coal ash, including Fly Ash, Bottom Ash, Boiler Slag, Flue Gas Desulfurization Material, fluidized bed combustion ash, and scrubber residues.

11. "PAH" means polyaromatic hydrocarbons, including but not limited to:

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- 3-Methylcholanthrene, 56-49-5
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- Benzo(g,h,i)perylene, 191-24-2
- Fluorene, 86-73-7
- Phenanthrene, 85-01-8
- Pyrene, 129-00-0

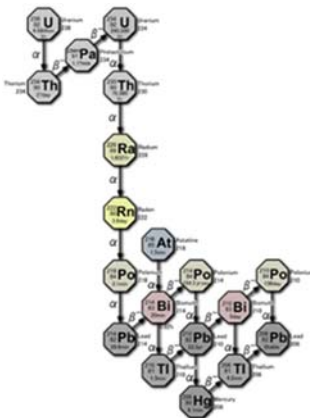
12. "Metals" means:

- Aluminum
- Antimony
- Arsenic
- Barium
- Boron
- Cadmium
- Chromium
- Cobalt
- Copper
- Iron
- Lead
- Manganese
- Mercury
- Molybdenum

- Nickel
- Silver
- Strontium
- Tin
- Thallium
- Vanadium
- Zinc

13. “Properties” means any privately-owned real property tract or parcel or within the Class Area.

14. “RN” means radionuclides emitting alpha, beta or gamma radiation including but not limited to the following:



15. “Residents” is defined as those persons, residing at addresses within the Class Area as defined in the Complaint, and in Zip Codes 32828 and 32825.

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## II. INSTRUCTIONS

1. In response to these inquiries and requests, you are required to furnish all information and/or documents that are available to you or subject to your reasonable inquiry including information and/or documents in the possession of your attorneys, accountants, advisors or other persons directly or indirectly employed by, or connected with you or your attorneys, and anyone else otherwise subject to your control.

2. In responding to these inquiries and requests, you must make a diligent search of your records and of other papers and materials in your possession or available to you or your representative.

3. In responding to these inquiries and requests, you are to furnish all information within your control as well as within your possession. If information and/or documents are not within your possession but are within your control, in the same sense that it is had by a person who has business relationships or contractual relationships with you or any other person with whom you normally deal and would have no difficulty in a business sense in making any request for such information, then you are required to make reasonable efforts to obtain the information and/or documents and include it with your response.

4. If an individual inquiry or request has subparts, respond to each part separately and in full, and do not limit your response to the request as a whole. If any individual inquiry or request cannot be responded to in full, respond to the extent possible.

5. If any of the individual inquiries or requests is ambiguous in any way, please send a letter to the undersigned counsel describing the ambiguity and it will be promptly clarified in a reply letter. If any individual inquiry or request (or subpart thereof) is deemed to be unduly burdensome, please send a letter to the undersigned counsel specifying the reasons why the request is unduly burdensome and stating whatever information and knowledge you have of the information and/or documents called for in the request; and (generally) an attempt will be made to rephrase the request (or subpart thereof) in a reply letter to lessen the burdens of compliance. Any such reply letter may be treated by the parties to whom it is addressed as a modification of the particular request.

6. If you withhold any response (or portion of a full response) to any inquiry or request on the basis of a privilege, identify the privilege claimed (including reference to the statute, rule or decision which is claimed to give rise to the privilege) and describe the general topic of the information you claim to be privileged to the extent possible in a manner consistent with the claimed privilege. If the information as to which privilege is claimed is contained in a document, identify each such document, stating where applicable:

- a. The name and title or position of the author and/or sender of the document;
- b. The name and title or position of each and every person to whom the document was sent;
- c. The name and title or position of each and every person to whom the document was sent;
- d. The date of the document;

- e. A brief description of the subject matter and length of the document and or each attachment, appendix and exhibit thereto;
- f. The name and title or position of each and every person having knowledge of the factual basis on which the privilege is asserted; and
- g. The name and title or position of each person on whose behalf the privilege is asserted.

Unless words or terms have been given a specific definition herein, each word or term used herein shall be given its usual and customary dictionary definition except where such words have a specific custom and usage definition in your trade or industry, in which case they shall be interpreted in accordance with such usual custom and usage definition of which you are aware. In construing the inquiries and request herein: (i) the singular shall include the plural and the plural shall include the singular; (ii) a masculine, feminine or neuter pronoun shall not exclude the other genders; and (iii) the words "and" and "or" shall be read in the conjunctive or disjunctive or both, as the case may be, all to the end that the interpretation applied results in the more expansive production.

7. Unless otherwise noted, all Requests to Produce pertain to the time period from 1990 to the present.

When medical records are requested, they may be produced with names redacted and produced pursuant to a Protective Order to be negotiated between Plaintiffs and Defendants.

### **REQUESTS TO PRODUCE**

- 1. All air emissions monitoring data, reports, tests, and notifications received or gathered at the time of purchase of the Properties or thereafter from any source.

**Response:**

- 2. All permits and permit applications of or pertaining to Properties.

**Response:**

- 3. All air emissions modeling data of or pertaining to the Power Plant.

**Response:**

4. Notices of non-compliance related to air emissions of or pertaining to the Power Plant.

**Response:**

5. Notices of non-compliance related to the CCR landfills and surface impoundments of or pertaining to the Power Plant.

**Response:**

6. All Groundwater monitoring data, reports, tests, and notifications of or pertaining to the Properties.

**Response:**

7. All soil monitoring data, reports, tests, and notifications of or pertaining to the Properties.

**Response:**

8. All PAH, metals and RN analysis of CCR, coal air emissions or groundwater of or pertaining to the Properties.

**Response:**

9. Any notifications to residents of particulate emissions coming from or related to the Power Plant.

**Response:**

10. Any notifications to residents of radionuclides, PAHs and metals in coal or CCR coming from or related to the Power Plant.

**Response:**

11. Any analysis of any health risks posed to residents by CCR, coal, or particulates coming from or pertaining to the Power Plant.



**Response:**

12. Documentation of any efforts to abate deposition of CCR and coal ash on the resident's Properties.

**Response:**

13. Communications with employees or board members of the Orlando Utilities Commission or the Curtis H. Stanton Energy Center arising out of, or related to, any of the items mentioned in any of these requests.

**Response:**

14. Communications with government regulators arising out of, or related to, any of the items mentioned in any of these requests.

**Response:**

15. All documents (including emails, correspondence, memorandums, meeting minutes, notes, internal or external presentations or analyses, or data) relating to the health or environmental impacts of CCR or coal coming from or pertaining to the Properties.

**Response:**

16. All documents and your responses relating to requests or inquiries from residents, developers, businesses received pertaining to the CCR or coal at the Power Plant.

**Response:**

17. All sales and marketing materials relating to the Properties and Power Plant.

**Response:**

18. All warranty agreements relating to the Properties.

**Response:**

19. All seller's disclosure forms relating to the Properties.

**Response:**

20. All subdivision and/or platting applications relating to the Properties.

**Response:**

21. All representations, whether written or oral, in a contract, agreement or marketing material, regarding the Power Plant.

**Response:**

22. All representations, whether written or oral, in a contract, agreement or marketing material, regarding the environmental condition of land owned, operated, marketed, developed, or sold in the Class Area by a Developer.

**Response:**

23. All studies, environmental assessments, reports, Documents or data prepared by a Developer or any third party regarding the environmental condition of land owned, operated, marketed, developed, or sold in the Class Area by a Developer.

**Response:**

24. All contracts or agreements entered into by a Developer with a resident or business in the Class Area.

**Response:**

25. All Plans, Applications, Notices of Proposed Changes, Petitions for modifications, and/or any other documentation submitted or provided to any city and/or county and/or state and/or federal representative, including but not limited to the Orange County Board of County Commissioners, St. Johns River Water Management District, Orange County Planning and Zoning Commission, Florida Game & Fresh Water Fish Commission, Florida Department of Community Affairs, Florida Department of Environmental Protection, the US Environmental Protection Agency, and the Bureau of Land and Water Management related to the Properties.

**Response:**

26. All documentation received from any city and/or county and/or state and/or federal representative, including but not limited to the Orange County Board of County Commissioners, St. Johns River Water Management District, Orange County Planning and Zoning Commission, Florida Game & Fresh Water Fish Commission, Florida Department of Community Affairs, Florida Department of Environmental Protection, the US Environmental Protection Agency, and the Bureau of Land and Water Management related to the properties.

**Response:**

27. All policies and procedures for maintaining the safety to home owners/residents related to the handling of CCR or coal at the Power Plant.

**Response:**

28. All correspondence, emails, and related documents received or sent to OUC regarding the preventing the CCR and coal dust from blowing onto the Properties of Residents.

**Response:**

29. All contracts entered into with any third parties to perform on site inspections, including but not limited to safety inspections, maintenance inspections, and State and EPA compliance standards.

**Response:**

30. All studies, testing, analysis, memorandums, and similar documents related to the study and safety of the surrounding communities to the OUC Coal Power Plant.

**Response:**

31. Organizational charts.

**Response:**

32. Organizational charts for marketing, public relations, media relations, and public information employees.

**Response:**

33. All documents related to cancer incidence in the Class Area.

**Response:**

34. All documents related to the development of residential communities in the Class Area.

**Response:**

35. All insurance policies related that cover the allegations set forth in the operative complaint.

**Response:**

36. Any visual inspection of the Class Area for CCR or coal dust.

**Response:**

37. Any testing of the exposure of radiation to property or person in the Class Area.

**Response:**

38. Any soil, air or groundwater sampling or analysis in the Class Area or at or beyond its property boundary related to concentrations of RN, Metals or PAH.

**Response:**

**CERTIFICATE OF SERVICE FOR PLAINTIFFS' INITIAL REQUEST FOR  
PRODUCTION TO DEFENDANT U.S. HOME CORPORATION**

I hereby certify that on this 8th day of January 2019, I electronically filed a true and

correct copy of the foregoing with the Clerk of the Court and served upon said Defendant with the Summons and Complaint.

s/Theodore J. Leopold  
THEODORE J. LEOPOLD, ESQ.  
Florida Bar No: 705608  
[tleopold@cohenmilstein.com](mailto:tleopold@cohenmilstein.com)  
LESLIE M. KROEGER, ESQ.  
Florida Bar No: 989762  
[lkroeger@cohenmilstein.com](mailto:lkroeger@cohenmilstein.com)  
DIANA L. MARTIN, ESQ.  
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Cohen Milstein Sellers & Toll, PLLC  
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T: (206) 516-3880 Telephone  
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SUSMAN GODFREY L.L.P.  
1000 Louisiana, Suite 5100

Irizarry v. Orlando Utilities Commission, et. al.  
Case No.: 2018-CA-013758-O Div 40  
Page 14

Houston, TX 77002-5096  
T: (713) 651-9366  
F: (713) 654-6666

**Page Break**

RETURN OF SERVICE

State of Florida

County of Orange

9th Circuit Court

Case Number: 2018-CA-13758-O

Plaintiff:  
Michelle Irizarry, Valerie Williams,  
and Joanne Nixon



vs.

Defendant:  
Orlando Utilities Commission; Lennar Corporation;  
U.S. Home Corporation; Avalon Park Group  
Management, Inc., d/b/a Avalon Park Group; and  
Beat Kahli

For:  
Theodore J. Leopold, Esq.  
Cohen Milstein Sellers & Toll, PLLC  
2925 PGA Boulevard  
Suite 200  
Palm Beach Gardens, FL 33410

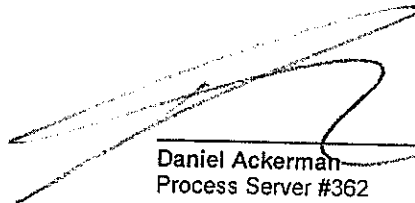
Received by Daniel Ackerman on the 10th day of January, 2019 at 2:47 pm to be served on Lennar Corporation By  
Serving: Registered Agent: CT Corporation System, 1200 Pine Island Rd., Suite 250, Plantation, FL 33324.

I, Daniel Ackerman, do hereby affirm that on the 11th day of January, 2019 at 2:15 pm, I:

**CORPORATE REGISTERED AGENT EMPLOYEE:** served by delivering a true copy of the **Summons, Class Action Complaint, Exhibits, and Request for Production** with the date and hour of service endorsed thereon by me, to: Donna Moch who is an employee for the Registered Agent for Lennar Corporation at the address of 1200 South Pine Island Road, Plantation, FL 33324, and informed said person of the contents therein, in compliance with Federal Rules of Civil Procedure, Florida Statute 48.081(3)(a) or other state statute as applicable after having first made an attempt during registered agent hours and the registered agent not being available.

Description of Person Served: Age: 50, Sex: F, Race/Skin Color: White, Height: 5'3", Weight: 150, Hair: Brown, Glasses: N

Under penalty of perjury, I declare that I have read the foregoing and that the facts stated in it are true. I hereby certify that I am over the age of 18, have no interest in the above action, and that I am a special process server appointed by the sheriff, in good standing, in the Judicial Circuit in which service was effected.

  
Daniel Ackerman  
Process Server #362

Rock Legal Services & Investigations Inc  
2048 Ponce De Leon Avenue  
West Palm Beach, FL 33407  
(561) 296-7574

Our Job Serial Number: ROC-2019000600  
Ref: Irizarry v. OUC





**Page Break**

**AFFIDAVIT OF SERVICE**

State of Florida

County of Orange

9th Circuit Court

Case Number: 2018-CA-13758-O



ROC2019000272

Plaintiff:

**Michelle Irizarry, Valerie Williams,  
and Joanne Nixon**

vs.

Defendant:

**Orlando Utilities Commission; Lennar Corporation;  
U.S. Home Corporation; Avalon Park Group  
Management, Inc., d/b/a Avalon Park Group; and  
Beat Kahli**

For:

Theodore J. Leopold, Esq.  
Cohen Milstein Sellers & Toll, PLLC  
2925 PGA Boulevard  
Suite 200  
Palm Beach Gardens, FL 33410

Received by Rock Legal Services & Investigations Inc on the 7th day of January, 2019 at 9:33 am to be served on **Orlando Utilities Commission, 100 W. Anderson Street, Orlando, FL 32801.**

I, Marbel Hernandez, being duly sworn, depose and say that on the **9th day of January, 2019 at 11:55 am, I:**

**GOVERNMENT AGENCY:** served by delivering a true copy of the **Summons, Class Action Complaint, and Request for Production** with the date and hour of service endorsed thereon by me, to: **CHARLES WOODY as DEPUTY GENERAL COUNSEL** At the address of: **100 W. Anderson Street, Orlando, FL 32801** for **Orlando Utilities Commission**, and informed said person of the contents therein, in compliance with State Statutes.

**Description of Person Served:** Age: 56, Sex: M, Race/Skin Color: Black, Height: 5'9", Weight: 185, Hair: Salt & Pepper, Glasses: Y

I certify that I am over the age of 18, have no interest in the above action, and am a Certified Process Server, in good standing, in the judicial circuit in which the process was served.

Subscribed and Sworn to before me on the 9th day of January, 2019 by the affiant who is personally known to me.

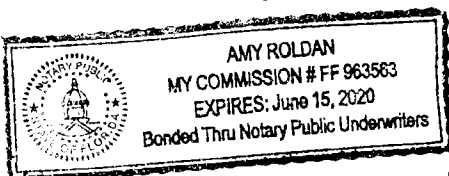
NOTARY PUBLIC

**Marbel Hernandez**

I.D. No.: 0368

**Rock Legal Services & Investigations Inc  
2048 Ponce De Leon Avenue  
West Palm Beach, FL 33407  
(561) 296-7574**

Our Job Serial Number: ROC-2019000272  
Ref: Avalon Park Orlando (Irizarry v. OUC)



**Page Break**

**RETURN OF SERVICE**

State of Florida

County of Orange

9th Circuit Court

Case Number: 2018-CA-13758-O

Plaintiff:  
Michelle Irizarry, Valerie Williams,  
and Joanne Nixon



vs.

Defendant:  
Orlando Utilities Commission; Lennar Corporation;  
U.S. Home Corporation; Avalon Park Group  
Management, Inc., d/b/a Avalon Park Group; and  
Beat Kahl

For:  
Theodore J. Leopold, Esq.  
Cohen Milstein Sellers & Toll, PLLC  
2925 PGA Boulevard  
Suite 200  
Palm Beach Gardens, FL 33410

Received by Daniel Ackerman on the 10th day of January, 2019 at 2:47 pm to be served on U.S. Home Corporation By Serving: Registered Agent: CT Corporation System, 1200 Pine Island Rd., Suite 250, Plantation, FL 33324.

I, Daniel Ackerman, do hereby affirm that on the 11th day of January, 2019 at 2:15 pm, I:

**CORPORATE REGISTERED AGENT EMPLOYEE:** served by delivering a true copy of the Summons, Class Action Complaint, Exhibits, and Request for Production with the date and hour of service endorsed thereon by me, to: Donna Moch who is an employee for the Registered Agent for U.S. Home Corporation at the address of 1200 South Pine Island Road, Plantation, FL 33324, and informed said person of the contents therein, in compliance with Federal Rules of Civil Procedure, Florida Statute 48.081(3)(a) or other state statute as applicable after having first made an attempt during registered agent hours and the registered agent not being available.

Description of Person Served: Age: 50, Sex: F, Race/Skin Color: White, Height: 5'3", Weight: 150, Hair: Brown, Glasses: N

Under penalty of perjury, I declare that I have read the foregoing and that the facts stated in it are true. I hereby certify that I am over the age of 18, have no interest in the above action, and that I am a special process server appointed by the sheriff, in good standing, in the Judicial Circuit in which service was effected.

Daniel Ackerman  
Process Server #362

Rock Legal Services & Investigations Inc  
2048 Ponce De Leon Avenue  
West Palm Beach, FL 33407  
(561) 296-7574

Our Job Serial Number: ROC-2019000602  
Ref: Irizarry v. OUC



**Page Break**

**IN THE CIRCUIT COURT OF THE  
NINTH JUDICIAL CIRCUIT, IN AND FOR  
ORANGE COUNTY, FLORIDA**

**MICHELLE IRIZARRY, VALERIE WILLIAMS,  
and JOANNE NIXON,**

**Plaintiff,**

vs.

**CASE NO.: 2018-CA-13758-O**

**ORLANDO UTILITIES COMMISSION, LENNAR  
CORPORATION, U.S. HOME CORPORATION,  
AVALON PARK GROUP MANAGEMENT, INC.,  
D/B/A AVALON PARK GROUP, and BEAT KAHLI,**

**Defendants.**

---

**DEFENDANTS LENNAR CORPORATION AND U.S. HOME  
CORPORATION'S NOTICE OF APPEARANCE OF COUNSEL  
AND DESIGNATION OF E-MAIL ADDRESSES**

Defendants, Lennar Corporation and U.S. Home Corporation, hereby give notice of the appearance of Daniel J. Gerber, Suzanne Barto Hill and Dara L. Lindquist of the firm of Rumberger, Kirk & Caldwell, A Professional Association, as their counsel herein, whose primary and secondary e-mail addresses are as follows:

Counsel's name:	Daniel J. Gerber
Primary e-mail address:	dgerber@rumberger.com
Secondary e-mail addresses:	docketingorlando@rumberger.com dgerbersecy@rumberger.com

Counsel's name:	Suzanne Barto Hill
Primary e-mail address:	shill@rumberger.com
Secondary e-mail addresses:	docketingorlando@rumberger.com shillsecy@rumberger.com

Counsel's name:	Dara L. Lindquist
Primary e-mail address:	dlindquist@rumberger.com
Secondary e-mail addresses:	docketingorlando@rumberger.com dlindquistsecy@rumberger.com

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy of the foregoing was served by e-filing with the Clerk of Court and via Florida e-Filing Portal to the following counsel or parties of record, this 18<sup>th</sup> day of January, 2019.

Theodore J. Leopold, Esquire  
Cohen Milstein Sellers & Toll, PLLC  
2925 PGA Boulevard, Suite 200  
Palm Beach Gardens, FL 33410  
[tleopold@cohenmilstein.com](mailto:tleopold@cohenmilstein.com)  
[lucumo@cohenmilstein.com](mailto:lucumo@cohenmilstein.com)

*s/ Suzanne Barto Hill*

---

DANIEL J. GERBER, ESQUIRE

Florida Bar No. 0764957

E-mail: [dgerber@rumberger.com](mailto:dgerber@rumberger.com) (primary)  
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SUZANNE BARTO HILL, ESQUIRE

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RUMBERGER, KIRK & CALDWELL

A Professional Association

Lincoln Plaza, Suite 1400

300 South Orange Avenue (32801)

Post Office Box 1873

Orlando, Florida 32802-1873

Telephone: (407) 872-7300

Telecopier: (407) 841-2133

**Attorneys for Defendants,  
Lennar Corporation and  
U.S. Home Corporation**

**Page Break**



IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
ORANGE COUNTY, FLORIDA  
CIVIL DIVISION

Michelle Irizarry, Valerie Williams,  
and Joann Nixon,

Plaintiffs,

vs.

Case No. 2018-CA-13758-O

Orlando Utilities Commission, Lennar  
Corporation, U.S. Home Corporation,  
Avalon Park Group Management, Inc.  
d/b/a Avalon Park Group, and Beat Kahli,

Defendants,

---

NOTICE OF APPEARANCE

PLEASE TAKE NOTICE that the undersigned attorneys, David B. Weinstein and Christopher Torres, of the law firm Greenberg Traurig, P.A. appear as counsel for Defendant, Orlando Utilities Commission. The undersigned requests service of all pleadings, notices, and other papers filed or served in this case. Pursuant to Florida Rule of Judicial Administration 2.516(b)(1), the following primary and secondary email addresses are designated.

Counsel's name: David B. Weinstein  
Primary Email Address: [weinsteind@gtlaw.com](mailto:weinsteind@gtlaw.com)  
Secondary Email Address: [thomasm@gtlaw.com](mailto:thomasm@gtlaw.com)

Counsel's name: Christopher Torres  
Primary Email Address: [torresch@gtlaw.com](mailto:torresch@gtlaw.com)  
Secondary Email Address: [quicenoj@gtlaw.com](mailto:quicenoj@gtlaw.com)

CERTIFICATION OF SERVICE

I hereby certify that on January 23, 2019, I electronically filed the foregoing with the Clerk of the Court via Florida E-Filing Portal, which will cause a copy to be served via email to the following:

Theodore J. Leopold, Esquire  
Cohen Milstein Sellers & Toll, PLLC  
2925 PGA Boulevard, Suite 200  
Palm Beach Gardens, FL 33410  
[tleopold@cohenmilstein.com](mailto:tleopold@cohenmilstein.com)  
[lucumo@cohenmilstein.com](mailto:lucumo@cohenmilstein.com)

Daniel J. Gerber, Esquire  
Suzanne Barto Hill, Esquire  
Dara L. Lindquist, Esquire  
Rumberger, Kirk, Caldwell  
A Professional Association  
Lincoln Plaza, Suite 1400  
300 South Orange Avenue (32801)  
P.O. Box 1873  
Orlando, FL 32802-1873  
[dgerber@rumberger.com](mailto:dgerber@rumberger.com)  
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[dgerbersecy@rumberger.com](mailto:dgerbersecy@rumberger.com)  
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/s/ David B. Weinstein  
David B. Weinstein (FBN 604410)  
[weinsteind@gtlaw.com](mailto:weinsteind@gtlaw.com)  
Christopher Torres (FBN 0716731)  
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101 E. Kennedy Blvd., Ste. 1900  
Tampa, FL 33602  
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Secondary Emails: [thomasm@gtlaw.com](mailto:thomasm@gtlaw.com)  
[FLService@gtlaw.com](mailto:FLService@gtlaw.com)

*Attorneys for Defendant, Orlando Utilities  
Commission*

**Page Break**

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY, FLORIDA

MICHELLE IRIZARRY, VALERIE  
WILLIAMS, and JOANNE NIXON,

Plaintiffs,

v.

CASE NO. 2018-CA-13758-O

ORLANDO UTILITIES COMMISSION,  
LENNAR CORPORATION, U.S. HOME  
CORPORATION, AVALON PARK GROUP  
MANAGEMENT, INC., d/b/a AVALON  
PARK GROUP, and BEAT KAHLI,

Defendants.

---

**NOTICE OF APPEARANCE**

PLEASE TAKE NOTICE that David A. Theriaque, Esquire, and S. Brent Spain, Esquire, of the law firm of Theriaque & Spain, and Ralph A. DeMeo, Esquire, and Lauren D. Brooks, Esquire, of the law firm of Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C., hereby appear as co-counsel for Defendants AVALON PARK GROUP MANAGEMENT, INC., d/b/a AVALON PARK GROUP, and BEAT KAHLI. All pleadings, motions, orders, and other documents filed or served in this action shall be served upon them at the addresses listed below.

RESPECTFULLY SUBMITTED on this 23rd day of January 2019.

/s/ *S. Brent Spain*

/s/ *Ralph A. DeMeo*

---

DAVID A. THERIAQUE, ESQUIRE  
Florida Bar No. 832332  
S. BRENT SPAIN, ESQUIRE  
Florida Bar. No. 320810  
THERIAQUE & SPAIN  
9100 Conroy Windermere Road, Ste. 200  
Windermere, Florida 34786  
Telephone: 407/258-3733  
Facsimile: 407/264-6132  
dat@theriaquelaw.com  
sbs@theriaquelaw.com

---

RALPH A. DEMEO, ESQUIRE  
Florida Bar No. 471763  
LAUREN D. BROOKS, ESQUIRE  
Florida Bar No. 104847  
BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ, P.C.  
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Facsimile: 850/270-6735  
rdemeo@bakerdonelson.com  
lbrooks@bakerdonelson.com

CO-COUNSEL FOR DEFENDANTS  
AVALON PARK GROUP MANAGEMENT,  
INC., and BEAT KAHLI

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I electronically filed the foregoing with the Clerk of the Court by using the *ePortal* system and served a copy thereof via Electronic Mail to: **Theodore J. Leopold, Esquire** (tleopold@cohenmilstein.com); **Leslie M. Kroeger, Esquire** (lkroeger@cohenmilstein.com); **Diana L. Martin, Esquire** (dmartin@cohenmilstein.com); **Stephen Morrissey, Esquire** (smorrissey@susmangodfrey.com); **Vineet Bhatia, Esquire** (vbhatia@susmangodfrey); **Michael Brightman, Esquire** (mbrightman@susmangodfrey); **Daniel Wilson, Esquire** (dwilson@sumangodfrey.com); and all other counsel of record, on this 23rd day of January 2019.

*/s/ S. Brent Spain*

---

S. BRENT SPAIN, ESQUIRE

**Page Break**

**IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
ORANGE COUNTY, FLORIDA  
CIVIL DIVISION**

Michelle Irizarry, Valerie Williams, and  
Joann Nixon,

Case No. 2018-CA-13758-O

Plaintiff,

v.

Orlando Utilities Commission, Lennar  
Corporation, U.S. Home Corporation,  
Avalon Park Group Management, Inc. d/b/a  
Avalon Park Group, and Beat Kahli,

Defendants.

---

**NOTICE OF APPEARANCE**

PLEASE TAKE NOTICE that the undersigned attorney, Ryan T. Hopper, of the law firm Greenberg Traurig, P.A. hereby appears as counsel for Defendant Orlando Utilities Commission. The undersigned requests service of all pleadings, notices, and other papers filed or served in this case. Pursuant to Florida Rule of Judicial Administration 2.516(b)(1), Mr. Hopper designates hopperr@gtlaw.com as his primary email address and thomasm@gtlaw.com as his secondary email address.

Date: February 6, 2019

Respectfully submitted,

/s/ Ryan Hopper  
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**CERTIFICATE OF SERVICE**

I **CERTIFY** that on February 6, 2019, I electronically filed the foregoing with the Clerk of the Court via the Florida E-Filing Portal, which will cause a copy to be served via email to the following: **Theodore J. Leopold, Esquire** ([tleopold@cohenmilstein.com](mailto:tleopold@cohenmilstein.com)); **Leslie M. Kroeger, Esquire** ([lkroeger@cohenmilstein.com](mailto:lkroeger@cohenmilstein.com)); **Diana L. Martin, Esquire** ([dmartin@cohenmilstein.com](mailto:dmartin@cohenmilstein.com)); **S. Brent Spain, Esquire** ([sbs@theriaquelaw.com](mailto:sbs@theriaquelaw.com)); **David A. Theriaque, Esquire** ([dat@theriaquelaw.com](mailto:dat@theriaquelaw.com)); **Ralph A. DeMeo, Esquire** ([rdemeo@bakerdonelson.com](mailto:rdemeo@bakerdonelson.com)); **Lauren D. Brooks, Esquire** ([lbrooks@bakerdonelson.com](mailto:lbrooks@bakerdonelson.com)); **Daniel J. Gerber, Esquire** ([dgerber@rumberger.com](mailto:dgerber@rumberger.com)); **Suzanne Barto Hill, Esquire** ([shill@rumberger.com](mailto:shill@rumberger.com)); **Dara L. Lindquist, Esquire** ([dlindquist@rumberger.com](mailto:dlindquist@rumberger.com)).

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*Attorney for Defendant, Orlando  
Utilities Commission*



**Page Break**

**IN THE CIRCUIT COURT OF THE  
NINTH JUDICIAL CIRCUIT, IN AND FOR  
ORANGE COUNTY, FLORIDA**

**MICHELLE IRIZARRY, VALERIE WILLIAMS,  
and JOANNE NIXON,**

**Plaintiff,**

vs.

**CASE NO.: 2018-CA-13758-O**

**ORLANDO UTILITIES COMMISSION, LENNAR  
CORPORATION, U.S. HOME CORPORATION,  
AVALON PARK GROUP MANAGEMENT, INC.,  
D/B/A AVALON PARK GROUP, and BEAT KAHLI,**

**Defendants.**

---

**DEFENDANTS LENNAR CORPORATION AND U.S. HOME  
CORPORATION'S NOTICE OF ADDITIONAL APPEARANCE  
OF COUNSEL AND DESIGNATION OF E-MAIL ADDRESSES**

Defendants, Lennar Corporation and U.S. Home Corporation, hereby give notice of the additional appearance of Christian H. Tiblier of the firm of Rumberger, Kirk & Caldwell, A Professional Association, whose primary and secondary e-mail addresses are as follows:

Counsel's name:	Christian H. Tiblier
Primary e-mail address:	ctiblier@rumberger.com
Secondary e-mail addresses:	docketingorlando@rumberger.com ctibliersecy@rumberger.com

Daniel J. Gerber, Suzanne Barto Hill and Dara L. Lindquist will continue as counsel for said Defendants, and should continue to be served in this case at the following e-mail addresses:

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Counsel's name: Suzanne Barto Hill  
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Counsel's name: Dara L. Lindquist  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy of the foregoing was served by e-filing with the Clerk of Court and via Florida e-Filing Portal to the following counsel or parties of record, this 7<sup>th</sup> day of February, 2019.

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**(Counsel for Avalon Park Group  
Management, Inc. and Beat Kahli)**

s/ Christian H. Tiblier

---

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**Attorneys for Defendants,  
Lennar Corporation and  
U.S. Home Corporation**

# EXHIBIT B

**IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
ORANGE COUNTY, FLORIDA  
CIVIL DIVISION**

Michelle Irizarry, Valerie Williams,  
and Joann Nixon,

Plaintiffs,

Case No. 2018-CA-13758-O

vs.

Orlando Utilities Commission, Lennar  
Corporation, U.S. Home Corporation,  
Avalon Park Group Management, Inc.  
d/b/a Avalon Park Group, and Beat  
Kahli,

Defendants.

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**DEFENDANT ORLANDO UTILITIES COMMISSION'S NOTICE OF FILING  
NOTICE OF REMOVAL**

PLEASE TAKE NOTICE that on February 8, 2019, Defendant Orlando Utilities Commission filed a Notice of Removal with the Clerk of the U.S. District Court for the Middle District of Florida, Orlando Division, pursuant to 42 U.S.C. § 2210(n)(2), 28 U.S.C. § 1331, and M.D. Fla. R. 4.02. A true and correct copy of the Notice of Removal is attached as Exhibit "A." Pursuant to 28 U.S.C. § 1446(d), this Court shall proceed no further.

*[Attorney signature on next page.]*

/s/ David Weinstein

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*Attorneys for Defendant, Orlando  
Utilities Commission*

**CERTIFICATE OF SERVICE**

I CERTIFY that on February 8, 2019, I electronically filed the foregoing with the Clerk of the Court via the Florida E-Filing Portal, which will cause a copy to be served via email to the following: **Theodore J. Leopold, Esquire** (tleopold@cohenmilstein.com); **Leslie M. Kroeger, Esquire** (lkroeger@cohenmilstein.com); **Diana L. Martin, Esquire** (dmartin@cohenmilstein.com); **S. Brent Spain, Esquire** (sbs@theriaquelaw.com); **David A. Theriaque, Esquire** (dat@theriaquelaw.com); **Ralph A. DeMeo, Esquire** (rdemeo@bakerdonelson.com); **Lauren D. Brooks, Esquire** (lbrooks@bakerdonelson.com); **Daniel J. Gerber, Esquire** (dgerber@rumberger.com); **Suzanne Barto Hill, Esquire** (shill@rumberger.com); **Dara L. Lindquist, Esquire** (dlindquist@rumberger.com); **Christian H. Tiblier, Esquire** (ctiblier@rumberger.com).

/s/ David Weinstein  
Attorney

**FORM 1.997. CIVIL COVER SHEET**

The civil cover sheet and the information contained in it neither replace nor supplement the filing and service of pleadings or other documents as required by law. This form must be filed by the plaintiff or petitioner for the use of the Clerk of Court for the purpose of reporting judicial workload data pursuant to section 25.075, Florida Statutes. (See instructions for completion.)

**I. CASE STYLE**

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT,  
IN AND FOR ORANGE COUNTY, FLORIDA

Case No.: \_\_\_\_\_  
Judge: \_\_\_\_\_

Michelle Irizarry, Valerie Williams, Joanne Nixon  
Plaintiff

vs.

Orlando Utilities Commission, Lennar Corporation, US Home Corporation, Avalon Park Group Management Inc, Beat Kahli  
Defendant

**II. TYPE OF CASE**

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li><input type="checkbox"/> Condominium</li> <li><input type="checkbox"/> Contracts and indebtedness</li> <li><input type="checkbox"/> Eminent domain</li> <li><input type="checkbox"/> Auto negligence</li> <li><input checked="" type="checkbox"/> Negligence – other             <ul style="list-style-type: none"> <li><input type="checkbox"/> Business governance</li> <li><input type="checkbox"/> Business torts</li> <li><input checked="" type="checkbox"/> Environmental/Toxic tort</li> <li><input type="checkbox"/> Third party indemnification</li> <li><input type="checkbox"/> Construction defect</li> <li><input type="checkbox"/> Mass tort</li> <li><input type="checkbox"/> Negligent security</li> <li><input type="checkbox"/> Nursing home negligence</li> <li><input type="checkbox"/> Premises liability – commercial</li> <li><input type="checkbox"/> Premises liability – residential</li> </ul> </li> <li><input type="checkbox"/> Products liability</li> <li><input type="checkbox"/> Real Property/Mortgage foreclosure             <ul style="list-style-type: none"> <li><input type="checkbox"/> Commercial foreclosure \$0 - \$50,000</li> <li><input type="checkbox"/> Commercial foreclosure \$50,001 - \$249,999</li> <li><input type="checkbox"/> Commercial foreclosure \$250,000 or more</li> <li><input type="checkbox"/> Homestead residential foreclosure \$0 – 50,000</li> <li><input type="checkbox"/> Homestead residential foreclosure \$50,001 - \$249,999</li> <li><input type="checkbox"/> Homestead residential foreclosure \$250,000 or more</li> <li><input type="checkbox"/> Non-homestead residential foreclosure \$0 - \$50,000</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li><input type="checkbox"/> Non-homestead residential foreclosure \$50,001 - \$249,999</li> <li><input type="checkbox"/> Non-homestead residential foreclosure \$250,00 or more</li> <li><input type="checkbox"/> Other real property actions \$0 - \$50,000</li> <li><input type="checkbox"/> Other real property actions \$50,001 - \$249,999</li> <li><input type="checkbox"/> Other real property actions \$250,000 or more</li> <li><input type="checkbox"/> Professional malpractice             <ul style="list-style-type: none"> <li><input type="checkbox"/> Malpractice – business</li> <li><input type="checkbox"/> Malpractice – medical</li> <li><input type="checkbox"/> Malpractice – other professional</li> </ul> </li> <li><input type="checkbox"/> Other             <ul style="list-style-type: none"> <li><input type="checkbox"/> Antitrust/Trade Regulation</li> <li><input type="checkbox"/> Business Transaction</li> <li><input type="checkbox"/> Circuit Civil - Not Applicable</li> <li><input type="checkbox"/> Constitutional challenge-statute or ordinance</li> <li><input type="checkbox"/> Constitutional challenge-proposed amendment</li> <li><input type="checkbox"/> Corporate Trusts</li> <li><input type="checkbox"/> Discrimination-employment or other</li> <li><input type="checkbox"/> Insurance claims</li> <li><input type="checkbox"/> Intellectual property</li> <li><input type="checkbox"/> Libel/Slander</li> <li><input type="checkbox"/> Shareholder derivative action</li> <li><input type="checkbox"/> Securities litigation</li> <li><input type="checkbox"/> Trade secrets</li> <li><input type="checkbox"/> Trust litigation</li> </ul> </li> </ul> |
|---|--|



**COMPLEX BUSINESS COURT**

This action is appropriate for assignment to Complex Business Court as delineated and mandated by the Administrative Order. Yes  No

**III. REMEDIES SOUGHT** (check all that apply):

- Monetary;
- Non-monetary declaratory or injunctive relief;
- Punitive

**IV. NUMBER OF CAUSES OF ACTION: ( )**  
(Specify)

1

**V. IS THIS CASE A CLASS ACTION LAWSUIT?**

- Yes
- No

**VI. HAS NOTICE OF ANY KNOWN RELATED CASE BEEN FILED?**

- No
- Yes – If “yes” list all related cases by name, case number and court:

**VII. IS JURY TRIAL DEMANDED IN COMPLAINT?**

- Yes
- No

---

I CERTIFY that the information I have provided in this cover sheet is accurate to the best of my knowledge and belief, and that I have read and will comply with the requirements of Florida Rule of Judicial Administration 2.425.

Signature s/ Theodore J Leopold  
Attorney or party

FL Bar No.: 705608

(Bar number, if attorney)

Theodore J Leopold 12/20/2018  
(Type or print name)

Date

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Irizarry, Michelle ; Williams, Valerie; and Nixon, Joanne

(b) County of Residence of First Listed Plaintiff Orange County (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

See attachment

DEFENDANTS

Orlando Utilities Commission; Lennar Corporation; U.S. Home Corporation; Avalon Park Group Management, Inc., d/b/a Avalon Park Group; and Kahli, Beat

County of Residence of First Listed Defendant Orange County (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

See attachment

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and business location (Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country).

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, LABOR, IMMIGRATION, FORFEITURE/PENALTY, SOCIAL SECURITY, BANKRUPTCY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 42 U.S.C. § 2210(n)(2)
Brief description of cause: strict liability under § 376.313, Fla. Stat.; inverse condemnation

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

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