

ORIGINAL

IN THE PROBATE COURT OF SHELBY COUNTY, ALABAMA

HPH Properties, LLC, )  
an Alabama limited liability company, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
The Estate of Douglas H. Ballard; Betty R. )  
Ballard, individually and as heir at law to )  
Douglas H. Ballard; Douglas Ballard, Jr., )  
as heir at law to Douglas H. Ballard; )  
Fictitious Parties 1-5, being that person, )  
persons, or entity appointed as the executor )  
or administrator of the Estate of Douglas H. )  
Ballard, Fictitious Parties 6-10, being that )  
person, persons or entities who are the heirs )  
at law of Douglas H. Ballard, Fictitious Parties )  
11-15, being that entity which is or will be )  
created by operation of law as the Estate of )  
Douglas H. Ballard, Fictitious Parties 16-20, )  
being that person, persons or entities which )  
presently owns legal title to the Property )  
described herein and made the basis hereof, )  
Fictitious Parties 21-25, being that person, )  
persons or entities which made the material )  
misrepresentations to plaintiff described herein )  
and made the basis hereof, Fictitious Parties )  
26-30, being that person, persons or entity which )  
breached the Contract described herein and )  
made the basis hereof, the true identities of )  
which fictitious parties are unknown to Plaintiff )  
at this time, but which will be substituted )  
pursuant to the applicable rules of civil )  
procedure once their true identities are known, )  
 )  
Defendants. )

NOTICE OF LIS PENDENS

NOTICE IS HEREBY GIVEN that the above-named Plaintiff, HPH Properties, LLC, an Alabama limited liability company ("HPH"), on the 7<sup>th</sup> day of August, 2003, filed an action against the above-named Defendants with the Circuit Court of Shelby County, Alabama, Case No. CV 03 984 seeking, among other remedies, that the above-named Defendants be required, by specific performance, to transfer and convey that

certain real property (the "Property") situated in Shelby County, Alabama, which is more particularly described in Exhibit A attached hereto and incorporated herein by reference to the Plaintiff in accordance with the terms and provisions of an Agreement of Purchase and Sale dated October 14, 2002, entered into between HPH and Doug Ballard, a married man, deceased, whose estate and heirs are some of the Defendants in the aforesaid action. In addition, such action also requests that the Circuit Court of Shelby County, Alabama, grant a preliminary injunction enjoining any of the Defendants from selling, transferring, leasing or otherwise encumbering the Property other than to Plaintiff, HPH.

The following named persons are the parties who are the owners or who may claim an interest in the Property:

The Estate of Douglas H. Ballard

Betty R. Ballard, individually and as heir at law to Douglas H. Ballard

Douglas Ballard, Jr., as heir at law to Douglas H. Ballard

Fictitious Parties 1-5, being that person, persons, or entity appointed as the executor or administrator of the Estate of Douglas H. Ballard

Fictitious Parties 6-10, being that person, persons or entities who are the heirs at law of Douglas H. Ballard

Fictitious Parties 11-15, being that entity which is or will be created by operation of law as the Estate of Douglas H. Ballard

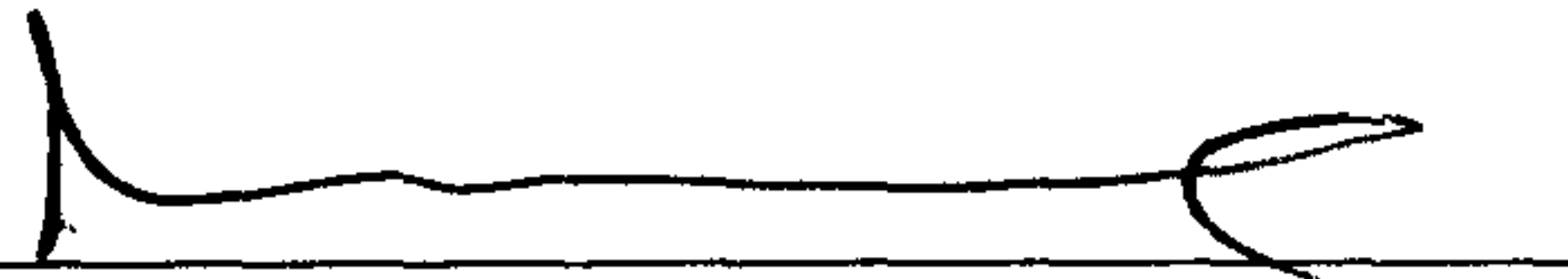
Fictitious Parties 16-20, being that person, persons or entities which presently owns legal title to the Property described herein and made the basis hereof

Fictitious Parties 21-25, being that person, persons or entities which made the material misrepresentations to plaintiff described herein and made the basis hereof

Fictitious Parties 26-30, being that person, persons or entity which breached the Contract described herein and made the basis hereof, the true identities of which fictitious parties are unknown to Plaintiff at this time, but which will be substituted pursuant to the applicable rules of civil procedure once their true identities are known.

Dated as of the 6<sup>th</sup> day of August, 2003.

**HPH PROPERTIES, LLC**, an Alabama  
limited liability company

By:   
Alan C. Howard  
one of its Managers

This instrument prepared by and  
upon recording should be returned to:  
Stephen R. Monk, Esq.  
Bradley Arant Rose & White LLP  
One Federal Place  
1819 Fifth Avenue North  
Birmingham, Alabama 35203-2104

1/1080560.1

## EXHIBIT A

### Legal Description

#### PARCEL ONE

A parcel of land containing 254.77 acres, more or less, being located in the South half of Section 31, Township 21 South, Range 2 West and the East half of the West half of Section 6, Township 22 South, Range 2 West, Shelby County, Alabama, also being portions of those properties described in Book 345, Page 695; Instrument No. 1993-08838 and Book 345, Page 704; being more particularly described as follows with a bearing basis being the Right of Way for Shelby County Highway 22:

Commence and begin at a 3/4 inch rebar found at the Northeast Corner of the Northwest Quarter of the Southeast Quarter of Section 31, Township 21 South, Range 2 West, Shelby County, Alabama; thence run South 2°59'41" East 1364.37 feet to a 1/2 inch rebar found; thence South 3°29'39" East 1329.29 feet to a 1/2 inch rebar set (all set with a "CAE 00010" imprinted on a yellow cap); thence South 89°11'38" West 1346.74 feet to a "K B Weygand" iron pin found; thence South 04°16'44" East 664.29 feet to a capped rebar found; thence North 89°04'15" East 72.79 feet to a 1/2 inch rebar set; thence South 3°09'12" East 663.08 feet along an agreed upon fence line per Case No. CV 96-577 to a 1/2 inch rebar set; thence South 88°31'47" West 14.23 feet; thence South 5°35'11" East 1404.02 feet along a line agreed upon in Instrument No. 1995-02270 and established by Instrument No. 1996-05829 to a 1/2 inch rebar set on the North right-of-way line of Shelby County Highway 22, being a point on a curve to the left, concave Southerly with a radius of 1081.75 feet, a central angle of 8°43'44", a chord bearing of South 62°44'14" West and a chord of 164.76 feet; thence run Westerly, then Southwesterly 164.80 feet along the arc of the aforesaid curve and along the North right-of-way line of Shelby County Highway 22 to a 1/2 inch rebar set; thence North 1°19'02" East 124.65 feet along the East line of Instrument No. 1995-33573 to a 1" crimp iron found; thence South 88°54'10" West 474.61 feet along the North line of Instrument No. 1995-33573 to a 1/4 inch found rebar; thence South 72°15'31" West 146.04 feet to a 1 inch crimp iron found; thence South 30°07'08" West 188.92 feet to a 1/2 inch crimp iron found; thence South 44°12'35" West 244.64 feet along the North line of Instrument 1994-15035 to a 1/4 inch rebar found; thence South 39°48'44" East 344.29 feet to a 1/4 inch rebar found on the North right of-way line of Shelby County Highway 22; thence South 50°10'00" West 163.67 feet along the North right of way line of Shelby County Highway 22 to an iron pin capped "JAR"; thence North 39°16'12" West 300.00 feet along the East line of Instrument No. 1999-46404 to an iron pin capped "JAR"; thence South 50°07'18" West 119.86 feet to an iron pin capped "JAR"; thence North 39°14'30" West 27.66 feet to a 1/4 inch rebar found at the Northeast Corner of Book 329, Page 485; thence South 50°45'16" West 232.27 feet to a pipe found on the East line of Instrument No. 1995-09796; thence North 2°59'06" West 701.20 feet to an iron pin capped "JAR" being the Northwest Comer of the Northeast Quarter of the Southwest Quarter of Section 6, Township 22 South, Range 2 West; thence North 89°39'37" East 45.47 feet to a 1/2" crimp iron found at an agreed upon property line shown on the Albright Baker Survey as recorded in Map Book

6, Page 104 in the Office of the Judge of Probate of Shelby County, Alabama; thence North 3°45'09" West 1591.42 feet along said agreed upon property line to a 1/2 inch crimp iron found at the Northeast corner of the Albright Baker Survey, also being at the Southeast Corner of the Albright Estate Distribution recorded in Instrument No. 1992-16870; thence North 3°49'08" West 2172.44 feet along said East line of the Albright Estate to a 1 inch pipe found; thence North 3°34'33" West to an iron pin capped "K B Weygand" at the Southwest Corner of Savannah Pointe Sector VI as recorded in Map Book 30, Page 41 in the Office of the Judge of Probate of Shelby County, Alabama; thence North 88°57'40" East 1316.08 feet to an iron pin capped "K B Weygand"; thence North 88°58'06" East 1218.74 feet along the South line of Savannah Pointe Sector III, Phase I as recorded in Map Book 25, Page 113 in the Office of the Judge of Probate of Shelby County, Alabama to a point on a curve to the right, concave Southerly with a radius of 280.00 feet, a central angle of 26°27' 13", a chord bearing of North 75°27'20" East and a chord of 128.15 feet; thence run Northeasterly, then Easterly 129.28 feet along the arc of said curve to a 1/2 inch rebar found; thence South 3°56' 14" East 30.00 feet to the Point of Beginning.

## PARCEL TWO

A parcel of land containing 38.89 acres, more or less, being located South of Shelby County Highway 22 in the East half of the West half of Section 6, Township 22 South, Range 2 West, Shelby County, Alabama, also being portions of those properties described in Book 345, Page 695; being more particularly described as follows with a bearing basis being the Right of Way for Shelby County Highway 22:

Commence at the Southwest Corner of Section 6, Township 22 South, Range 2 West, Shelby County, Alabama; thence run Easterly along the South line of Section 6 a distance of 1024.00 feet to the Southwest Corner of that parcel described in Instrument No. 1993-40930; thence continue Easterly along the South line of Section 6 a distance of 419.00 feet to a pipe found at the Southeast Corner of the aforesaid described parcel; thence left 93°56'00" and run North 4°02'15" West 1495.65 feet to a 1/2 inch rebar set (capped with a yellow plastic cap imprinted "CARR 00010") on the Southerly right-of-way line of Shelby County Highway 22; thence along said Southerly right-of-way line North 50°10'00" East 1436.94 feet to a 1/2 inch rebar set at the point of curvature of a curve to the right, concave Southeasterly with a radius of 1001.75 feet, a central angle of 7°21'10", a chord bearing of North 53°50'35" East and a chord of 128.47 feet; thence run Northeasterly, then Easterly 128.55 feet along said right-of way line curve to a 1/2 inch rebar set; thence South 5°35'12" East 742.37 feet along the West line of Instrument No. 2001-00237 to a 1/2 inch rebar set; thence North 88°43'03" West 526.53 feet to a solid pipe found; thence South 1°11'17" West 1157.75 feet to a 1 1/2 inch post found; thence North 85°15'56" East 277.69 feet; thence South 1°20'41" West 621.72 feet to a 1/2 inch pipe found, being 470.10 feet Westerly of the Southeast Corner of the Southeast Quarter of the Southwest Quarter of Section 6, Township 22 South, Range 2 West; thence South 89°40'41" West 885.90 feet to the Point of Beginning.