

December 18, 2015

Mr. John Weaver, Lancaster County Attorney  
Lancaster County Administration Building  
P.O. Box 1809  
Lancaster, SC 29721

Dear Mr. Weaver,

Thank you for speaking with Heidi and me on Dec. 11<sup>th</sup> about the construction and arbitration issues raised by our Pulte home buying experience. We sincerely appreciate your willingness to do so. Thank you also for your empathetic email of Dec. 17<sup>th</sup> and for passing along Mr. Wylie's telephone number and email address.

I have had a chance to reflect upon our discussion, your email, and Mr. Yeargin's responses to our questions. Here are some further thoughts.

Mr. Yeargin states,

"Lancaster County has adopted the 2012 International residential Code that lists minimum soil bearing capacities for homes. To ensure that these bearing minimums are met, ALL subdivisions are required to provide documentation from a licensed soil engineering company that the footings meet the minimums. This document bars [sic] the seal of a licensed engineer."

But several questions and issues arise. First, if a licensed engineering company, bearing the seal of a licensed engineer, is providing documentation that the "bearing minimums" are being met, then why are the homes sinking? A licensed professional engineer is in effect stating that, "This fill lot has been engineered and prepared in such a way as to meet the standards for minimum soil bearing capacities for building a home upon it." But it is a *fact* that for us and many other homeowners the soil has *not* been engineered and prepared in such a way as to meet the standards for minimum soil bearing capacities for building a home upon it precisely because the houses are sinking. It seems we are left with the following options.

- a) either the standards are insufficient, or
- b) the soil is not meeting the "bearing minimums."

One would assume that the minimum soil bearing capacity standards for homes in the 2012 International Residential Code were created and agreed upon because when they are met the soil will not settle so as to cause structural problems to the home.<sup>1</sup> If "the standards" are not sufficient to hold the home, how and why did they become "the standards" and why were they adopted by the county to be our standards?

So let's assume that the county did not mindlessly adopt the 2012 International Residential Code for soil bearing minimums and that they actually do what they are supposed to do, that is, sufficiently support the home so as to avoid structural damage. I therefore take it as an obvious truth that Blythe, S&ME, and Pulte are violating the standards set out in that code. If they weren't, the soil wouldn't be failing and the houses wouldn't be sinking, cracking, and sustaining structural damage.

That raises a troubling issue. Even though Lancaster County has adopted a standard for minimum soil bearing capacities, houses are still sinking, cracking, and sustaining structural damage. Therefore, it is inconceivable that Lancaster County has no laws, standards, statutes or regulations to assure that the homes built in South Carolina on artificially engineered lots should satisfactorily support the home.

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<sup>1</sup> This precisely Pulte's claim in their Limited Warranty. They state, "Your home has been placed on soil engineered to withstand the anticipated settlement based on soil conditions found in your area. It should not settle in such a way as to create structural problems during the warranty period." - *Home Protection Plan*, "What The Homeowner Has A Right To Expect From The Builder: 1. Soil Drainage," p.4.

Perhaps someone will say, "Well, the standards for the "bearing minimums" were met at the *footings* but as far as the rest of the lot, we don't have any standards in that regard." But that would be nonsensical. What good is firm soil under a footing when the soil mass that the footing itself rests upon is sinking and/or shifting as a whole? And what does it matter if every element of the superstructure (i.e., framing, electrical, plumbing, etc.), including "the footings," meet the adopted codes, yet the soil that the whole superstructure rests upon can't hold any of it? I realize that the suitability of the soil on the lot is left to the engineers to put their seal of approval on. I think we can all agree that by simply adopting a "code" and accepting "documentation from a licensed soil engineering company that the footings meet the minimums" and think that the county is doing due diligence with respect to a standard of care in residential construction is only to deceive yourselves. The proof of meaningful, effective residential building standards and codes is in the final result. The houses should not sink, crack and be structurally damaged by improperly engineered fill soil. Can we agree that common sense tells us we don't want our citizens buying homes that sink and crack? Do we really want to have such an absurd homebuilding practice as the norm in the state of South Carolina?

So, let's assume that the standards, if met, do work. Therefore we can eliminate option a), that the standards are insufficient. We are therefore left with option b), the soil is not meeting the "bearing minimums." If b) then either,

- c) the engineering company and the licensed engineer are properly recording the data from their field tests which reveals the standards or "bearing minimums" are not being met, yet, the engineer, the builder, and the county ignore the data and fail to correct the soil failure issues, or
- d) the engineering company and the licensed engineer are falsifying the data to make it appear the standards are being met when they are not.

This highlights the seriousness of this issue. It raises the question as to what it means for Lancaster County to require documentation from a licensed engineer that the footings meet the "bearing minimums" when that documentation is either being falsified or not reviewed for whether or not those standards are being met on any particular fill lot. The fact is that homes are sinking and being damaged despite the fact that the county requires that a licensed soil engineer provide documentation that the standards of "bearing minimums" have been met.

It also raises the question as to whether these licensed contractors and engineers are performing their duties responsibly. The fact remains that Pulte homes in Sun City and other neighborhoods are sinking. Why? Again, we must presume that if the soil was meeting those "bearing minimums," the houses would stand firm, so the answer must be b), the soil is not meeting the "bearing minimums." But yet licensed engineers are putting their seal on documents that either record that those "bearing minimums" are not being met on certain lots and yet they are not correcting what their data tells them, or they are falsifying the documents to make it appear that the soil meets the "bearing minimums." Either way, they are being irresponsible and unethical and are violating the South Carolina Code of Laws.

Interestingly, in our case the data showed that the standards for "bearing minimums" were not met. Option c) was the reality - the engineering company (S&ME) and the licensed engineer properly recorded the data from their field tests which revealed that the standards or "bearing minimums" were not met. Yet all the responsible parties - Blythe, S&ME, Pulte and apparently the Lancaster County officials - ignored the data and failed to correct the soil issues before constructing the home. If "ALL subdivisions are required to provide documentation from a licensed soil engineering company that the footings meet the minimums" and "this document bears the seal of a licensed engineer" yet the homes are sinking anyway, something is seriously amiss. What then is the purpose of having a licensed engineer's seal on a document? Why is this required if nothing is done about it when they don't meet the minimums as in our case? Houses presently continue to sink in Sun City. Why? I can only conclude that the responsible parties and procedures are not serving their function of assuring that the soil placed in fill lots will support the home. They are not performing their duty to protect the rights of the citizens of South Carolina.

You empathetically acknowledged that,

"It was obvious from our conversation that your "win" for rescission before the Arbitrator nonetheless has had devastating consequences for you both. I wish there was some advice that I could offer to make your situation better, but I cannot."<sup>2</sup>

We appreciate those thoughts. You also added,

"I wish that there was some county law or regulation that I could point to that would aid prospective residential purchasers in knowing that what has been promised is actually what is delivered; but that, too, is elusive. Remember that we all recognized that what may be immoral and unethical may not be illegal automatically in a court of law."<sup>3</sup>

Now, in my opinion, this leads us to heart of the matter. Your point is well taken that "what may be immoral and unethical may not be illegal automatically in a court of law." But I submit that this dichotomy of "unethical yet legal" is not the situation in our case. It overlooks the fact that in our case Pulte committed blatant illegalities. Those illegalities are what my letter has stated and defended with the facts. I contend that Pulte violated the laws of South Carolina. And what I cannot understand is how those blatant violations of Federal and State laws were not a concern to the arbitrator and are presently not a concern to the governing authorities in our state and county. Pulte's lack of ethics resulted in violations of the law. Pulte continues to violate the law. Why no one is acknowledging this and why no one is concerned about upholding the law is perplexing and disturbing. I would be willing to listen to how it is that Pulte has not violated the law, but it seems that the overwhelming evidence shows that they have. I have provided justification for this position in my letter.

Furthermore, when a construction industry practice is unethical and immoral we ought not to accept that situation. A mindset of indifference to unethical and immoral practices that allows them to continue as "legal" destroys justice and the confidence of the citizen in their governmental and judicial leadership. We should not forfeit the common morality and the common sense. Ideally, what is immoral and unethical ought to be illegal, and we should strive for making high ideals a reality. Perhaps the situation I have documented and defended can serve to advance our laws and regulations toward moral and ethical clarity. The courts of law and arbitration processes ought to be forums in which impartial justice prevails. Justice matters and the law is a teacher. We cannot be indifferent to the reality that what is immoral and unethical in the residential construction industry should be allowed to remain the norm for that industry. And the aid to be given prospective buyers ought to lie with requiring Pulte to cease its fraudulent business dealings and substandard construction practices. We cannot turn away from violations of the law.

You say you wish that there was some county law or regulation that you could point to that would aid prospective residential purchasers in knowing what is promised is actually what is delivered. Well isn't there? I thought that when a business does not give the consumer what it promised and it knows beforehand that what it is giving them is flawed and deficient, that is at worst fraud and at the least misrepresentation. I thought there were laws against that. So let's enforce the law we already have.

Steve Yeargin states that "at the time footings are poured, Lancaster County requires that a soil report from a licensed engineer certifies [sic] that the lot is capable of soil bearing capacity as required by the Residential Code." Ok. Now what? Houses are sinking and cracking. People, especially the elderly, are being inconvenienced, moved out of their homes, and experiencing the anxiety and stress of a situation that could have been prevented. They are also losing much of the value of their greatest investment. Because of what Pulte does, their peace of mind and assets are being stolen from these homeowners.

When homeowners call the county with various issues, Mr. Yeargin states that,

"We advise them to contact the warranty department for Pulte or file a complaint with the SC Residential Builders Commission."<sup>4</sup>

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<sup>2</sup> December 17, 2015 email.

<sup>3</sup> Ibid.

<sup>4</sup> December 4, 2015 email to Mr. Willis and Mr. Weaver.

First, if the homeowner is experiencing soil failure, I have shown that the warranty does not apply and that Pulte misrepresents the applicability of their warranty in such situations. This misrepresentation is a violation of the law. Secondly, the SC Residential Builders Commission, despite the fact that Pulte is violating the South Carolina Code of laws, gives numerous reasons why they will not open a case. Again, serious violations of the law are occurring. Those responsible for creating, upholding and enforcing the laws, standards and regulations need to face the reality of what is happening and act responsibly.

If more direct and applicable laws are needed to remedy this problem in the construction industry and protect the rights of consumers and citizens, then let's make them. We could then point to county laws or regulations that would aid prospective buyers if only we would enact them. Would this be so difficult so as to be impossible? Why? Such laws are necessary when they protect the rights and possessions of our senior citizens from Pulte's shoddy construction practices. The county laws or regulations that would prevent builders from committing fraud, negligent misrepresentation, breach of contract, concealment, etc. need not be elusive if we make them a reality. But as I say, if we enforce the laws that do apply to such practices when they do occur this will go a long way to preventing them. We already have laws that Pulte is violating. We should enforce those laws that already exist. Any new laws should reckon with preventing these problems from occurring and reforming or doing away with mandatory arbitration clauses.<sup>5</sup> As I fully documented and argued, Pulte's violations of the present laws of South Carolina were numerous and egregious. It was a mandatory arbitration process that short-circuited justice, but that does not prevent the state and county authorities from acting on what is presently occurring in this regard. In fact, they should use this incident to do so. So what is stopping the county administrators, building official, and the legislature from enforcing the present laws that have been violated and correcting these violations of ethics and morality? It should be stressed that ours is not an isolated incident. This is happening to many people in Sun City and in other Pulte neighborhoods. A plan of action to prevent or at least minimize these problems can and should be developed. Enforcing the present laws and standards and developing the necessary new ones is the responsibility of our state and county representatives, state licensing agencies, ethical associations, and the county administrators and legislators. It is the role, responsibility, and duty of the state and county governments to attend to unethical, immoral, substandard building practices that violate the law. If that is not the role of our governing officials, what is?

I'll never forget the day a Lancaster County inspector came to examine the damages to our rear sunroom, deck, and patio soon after the house was built. Upon leaving he said, "It's too bad. I see you have spent a lot of money here, but I am not on your side." When the Lancaster County Building Official was asked, "...what do you think about the fact that houses have in the past and are presently sinking and cracking in Sun City?" He responded, "No comment." When asked, "Given that houses have and are presently sinking in Sun City, do you think that Lancaster County or the State of South Carolina has a responsibility to change its construction practices in this regard?" his answer was "The South Carolina Building Codes Council and legislature adopt all building codes and mandate that counties adopt them without modification."<sup>6</sup>

Sadly, in the meantime, the homeowners continue to bear the brunt of Pulte's unethical and illegal actions. To be candid, it seems to me that there is a moral indifference and confusion in the residential construction industry in Lancaster County. On the one hand we have the claim that there are codes, standards and engineering safeguards and seals to prevent the deficient construction of fill lots, and on the other hand houses continue to sink on deficiently constructed fill lots. This is confusing. Moreover, I am told there is nothing that can be done about it. This is troubling. Amidst claims of standards and engineer's reports and seals, Pulte is still allowed to build homes on ill-prepared soil that is causing the homes to sink, crack and sustain structural damage. I think we can all agree that building houses on soil that won't hold them is it a bizarre construction practice. If Pulte will not monitor its own construction processes, including the placement and testing of the fill soil, one would think that it is the county's

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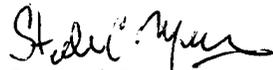
<sup>5</sup> I can think of several laws and regulations that if they were "on the books" would stop this problem immediately.

<sup>6</sup> Mr. Yeargin's responses to a December 4, 2015 email to Mr. Weaver and Mr. Willis.

responsibility, along with the Department of Labor, Licensing and Regulations to investigate this matter and stop it, not only because it is absurd, but because it violates the law and victimizes the homeowner. Those responsible need to prevent the common place absurdity of homes being build on artificially constructed lots that will not hold them. I have documented the reasons why it rises to the level of a violation of the Unfair Trade Practices Act. It must be stopped. Why won't the county act on this matter?

As a South Carolina citizen it is my duty to document and inform the authorities that South Carolina law is being violated. I took the only contractual legal recourse open to me and suffered the injustices of that recourse. Now there is something the county can do for those of us who find ourselves the victims of Pulte's practices. Investigate Pulte's substandard construction and unethical practices. Talk to the victims.<sup>7</sup> Examine their damaged homes. Investigate the data provided by S&ME and other engineering firms. Enforce the standards and regulations. Enforce the laws. Change the standards and laws if need be. Rectify the injustices done. Prevent further crimes and injustices in the future. Protect the citizens from Pulte's unfair trade practices. Action from those in authority is required now.

Very Respectfully Always,

  
Stephen C. Marcy

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803-270-1422  
[shmarcy@comporium.net](mailto:shmarcy@comporium.net)

Cc: Steve Willis, Lancaster County Administrator  
Steve Yeargin, Lancaster County Building Official  
Todd Bond, South Carolina Department of Labor, Licensing and Regulations

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<sup>7</sup> On December 1, 2015 I met another couple in Sun City whose foundation is cracking because it was placed on improperly engineered soil. I was in their home, saw the damages, and they are distressed over what is happening and what the Pulte representatives are telling them. They also have friends that are experiencing the same issue. Perhaps these "real time" situations provide a good opportunity to visit these homes, talk to these people, see what they are going through, and observe the damages first hand.

On December 2, 2015 I received a thread of emails in which numerous Pulte homeowners at the Chimneys of Marvin are telling each other of the problems they are now experiencing with their foundations. Granted, they are in North Carolina, but their testimonies are typical of many homeowners in South Carolina and support what I have argued above and in my letter. I can send you the file "Pulte Foundation Issues at Chimneys of Marvin."

December 18, 2015

Mr. Todd Bond  
South Carolina Department of Labor, Licensing and Regulations  
Office of Investigations and Enforcement  
P.O. Box 11329  
Columbia, SC 29211-1329

RE: Unethical Business Dealings and Substandard Construction Practices of Pulte Homes and Its Engineering Subcontractors.

Dear Mr. Bond,

Thank you for your response to my letter of November 2, 2015 in which I documented the unethical business dealings and substandard building practices of the Pulte Home Corporation in the Sun City Carolina Lakes community in Indian Land, SC. Jessica Breaux's response stated,

"After reviewing the applicable statute and regulations, the department has determined the facts of your complaint, as alleged, provide an insufficient basis to pursue disciplinary action as it is outside the agency's jurisdiction. This agency has no jurisdiction to review or overturn an arbiter's decision."

The last point is well taken. I realize you do not have "jurisdiction to review or overturn an arbiter's decision." But that is a separate issue from whether you have "jurisdiction" regarding the objective facts discovered at that arbitration that have direct bearing upon whether Pulte, Blythe and S&ME, the firms you license, are performing their duties with ethical integrity and according to the statutes and regulations governing the building and construction trade in South Carolina. In that regard you do have jurisdiction.

For the purposes of this discussion the arbitration decision and the fact of substandard construction should not be conflated. I communicated the arbitration details in my letter, not with the expectation that you should correct that injustice, but that you would know the extent of the negative ramifications to us consumers and homebuyers of Blythe's, S&ME's, and Pulte's failure to adhere to the statutes and regulations governing the home building process. I wanted to communicate to you that Pulte, in conjunction with their subcontractors, Blythe and S&ME, are failing at their attempts to construct lots that support the homes they build upon them.

Jessica also stated that,

"...the role of the Board that regulates a particular profession or occupation is to administer and enforce the statutes and regulations governing the area of practice. The Board has no authority beyond the statutes that apply to a particular license area."

Agreed. Are you therefore saying that there are no standards, statutes, and regulations governing the construction of artificial lots composed of fill soil such that those standards, statutes, and regulations serve the purpose of assuring that those lots will hold the homes built upon them?

On December 4<sup>th</sup> I emailed Mr. Steve Willis, Lancaster County Administrator and Mr. John Weaver, Lancaster County Attorney on these matters. In response to my question, "Are there Lancaster County building codes and standards for compaction, consistency, moisture, etc. for lots that are artificially constructed with retained fill soil?", Steve Yeargin, the Lancaster County Building Official, responded,

"Lancaster County has adopted the 2012 International residential [sic] Code that lists the minimum soil bearing capacities for homes. To ensure that these bearing minimums are met, ALL subdivisions are required to provide documentation from a licensed soil engineering company that the footings meet the

minimums. This documentation bars [sic] the seal of a licensed engineer. Lancaster County inspectors are not licensed by the State of South Carolina to evaluate the soil bearing capacity.”

Let’s assume that the 2012 International Residential Code for soil bearing minimums actually do what they are supposed to do, that is, sufficiently support the home so as to avoid structural damage. I therefore take it as an obvious truth that Blythe, S&ME, and Pulte are violating the standards set out in this code. If they weren’t, why would the soil be failing and the houses be sinking, cracking, and sustaining structural damage? It is inconceivable to think that the Department has no statutes or regulations to assure that the homes built in South Carolina on artificially engineered lots should satisfactorily support the home. What does it matter if every element of the superstructure, including “the footings,” meet the codes, statues, and regulations, but the soil that all these rest upon can’t hold any of it? I think we can all agree that this is basic common sense. We don’t want our citizens to be buying homes that sink and crack. And we don’t want to have an absurd homebuilding practice as the norm in the state of South Carolina.

So, given Mr. Yeargin’s statement that there are standards that the county requires, and there are homes sustaining structural damage because of improperly engineered soil, why isn’t action by your Department warranted? Is Jessica stating that there are no “statues or regulations governing this area of practice” requiring Pulte, Blythe and S&ME to properly construct their lots so that they hold the homes built upon them? Then legislative action by the state and Lancaster County needs to be taken as soon as possible to rectify this serious problem. But if there are such codes, standards, statues and regulations (as Mr. Yeargin points out), any homebuilder and its subcontractors that repeatedly create lots that cannot hold the homes they place upon them must certainly be violating those codes and standards - and it appears contemptuously - and has forfeited any claims to competence, quality and integrity. Such a situation would seem to be within your jurisdiction.

In fact, it appears to me, that given the nature of this problem the following section from the South Carolina Code of Laws applies.

SECTION 6-9-5. Public policy for building codes.

(A) The public policy of South Carolina is to maintain reasonable standards of construction in buildings and other structures in the State consistent with the public health, safety, and welfare of its citizens.

Who could credibly argue that engineered lots that won’t hold the homes built upon them is a “reasonable standard of construction?” Who could plausibly claim that such a practice is consistent with the “welfare of its citizens?” Homes built on artificially engineered soil that cannot hold the home is not a “reasonable standard” either ethically or practically for the residential home construction industry.

As to the ethics of the practice, what do we do when the home builder has the data that tells them the lot will not hold the home and they ignore and conceal this information and sell the home to the customer anyway? What do we do with the engineer who put his seal to the data and yet did nothing to correct the substandard soil? What do we do with the company that is responsible to place fill suitable as to its consistency and compaction so that it will hold the home built upon it? To have no statutes and regulations to prevent these unethical practices and disastrous results is simply absurd. To have statutes and regulations that are supposed to prevent this from happening, yet homes are continually allowed to be built on faulty soil that cannot hold the home is also absurd.

Again, these licensed engineers are putting their seal on documents that either falsify the data or if they correctly report that the soil does not meet specification they are not doing anything about it. They are complicit in these catastrophic soil failures. And Pulte, knowing that the soil does not meet those standards, builds the home upon the lot anyway. Can it be argued that any of this conforms to the ethical standards of the industry? I think that too would be absurd.

Note that The South Carolina Code of Laws also states,

SECTION 40-1-110. Additional grounds for disciplinary action.

In addition to other grounds contained in this article and the respective board's chapter:

- (1) A board may cancel, fine, suspend, revoke, or restrict the authorization to practice of an individual who:
- (b) has had a license to practice a regulated profession or occupation in another state or jurisdiction canceled, revoked, or suspended or who has otherwise been disciplined;
  - (d) has intentionally used a fraudulent statement in a document connected with the practice of the individual's profession or occupation;
  - (f) has committed a dishonorable, unethical, or unprofessional act that is likely to deceive, defraud, or harm the public;
  - (g) lacks the professional or ethical competence to practice the profession or occupation;
  - (k) violates a provision of this article or of a regulation promulgated under this article;
  - (l) violates the code of professional ethics adopted by the applicable licensing board for the regulated profession or occupation or adopted by the department with the advice of the advisory panel for the professions and occupations it directly regulates.

These statutes seem to fit the facts of our case and what is presently happening to other Pulte homebuyers and homeowners. Perhaps an investigation is warranted.

Again, although you cannot rectify the injustice in our arbitration, that arbitration provides us with the disturbing facts regarding unethical practices in the residential construction area. These are facts regarding Pulte, Blythe and S&ME's failure to adhere to the statutes, regulations, and standards that control their profession and to whom you provide licensing. It's hard to see how such a fundamental failure of these firms at their occupation as home builders and construction engineers along with their derelict attitudes and actions don't rise to any ethical violation of the "statutes and regulations" of the Department. Fill lots are not being constructed to specification. Why? Surely this warrants investigation with respect to why these soils are failing, what the test data is communicating (especially to the Lancaster County officials who are relying on it), and why Pulte is allowed to continue this unethical, substandard building practice. What warrant is there for allowing such unethical and illegal business dealings and substandard construction processed to continue?

If it is being argued that these actions do not rise to a violation of any existing statutes and regulations governing the construction of lots with fill soil, then it would be hard to avoid the conclusion that such standards are meaningless. It would also be hard to avoid the conclusion that the state and local administrators and legislators are simply indifferent to these unethical practices. That is most troubling.

In addition, even though our situation is "outside the time limits for investigation," it should be a concern of the appropriate Board that the same violations are *happening right now* within those time limits. Do these victims need to file their own complaints for this matter to be of concern to your Department? Will these matters be stalled by the misleading statements of Pulte representatives and the false assertion that these are warranty issues? Will the grading, fill and other site work be investigated on these lots for these homeowners and in Pulte's other residential construction projects? If not, why not?

Finally, you write that,

"The Department does not have the authority to intercede in contractual issues, arbitrate disputes, or require a licensee to refund money or perform any act regarding the matters alleged in your complaint."

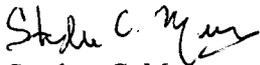
Again, your point is well taken with regard to the first three matters, but to say that "The Department does not have the authority to...perform any act regarding the matters alleged in your complaint" seems to be saying that it is of no concern to the Department that a home builder in South Carolina is building houses on artificially constructed lots that will not hold those houses. If such a fundamental issue to residential home building as the ability for the soil to hold the home without causing structural damage is not a concern to the Department of Labor, Licensing and Regulations, or there are no statutes or regulations about such egregiously poor construction practices, then it seems to me that either our legislators or the Department or both are remiss in their duties. There should be such laws, standards, and regulations.

In short, surely it is the duty of Pulte, Blythe and S&ME to engineer lots that can hold the homes they build upon them, represent them with honesty and integrity, and put their seal to them only when they meet the applicable standards. But when they are not doing so, or when the standards and laws that

are in place are not functioning to any meaningful purpose, it is the duty of government and its agencies to protect the rights of its citizens. Right now people's homes are sinking, cracking and sustaining structural damage. That is a fact. These homeowners are experiencing financial loss and personal distress. Surely this is not in accord with any code of ethics governing the construction industry or the South Carolina Code of Laws. Yet it seems to me that your position is that these unethical and substandard construction practices are of no great concern and will be allowed to continue unchecked as normal construction practice in South Carolina.

Hopefully you will give these matters further thought as to the role and responsibility of your Department to correct these appalling construction practices.

Very Respectfully Always,



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Cc: Steve Willis, Lancaster County Administrator  
John Weaver, Lancaster County Attorney  
Steve Yeargin, Lancaster County Building Official

January 4, 2016

The Honorable Nikki R. Haley  
Office of the Governor  
1205 Pendleton St.  
Columbia, SC 29201

RE: Violations of Federal and South Carolina Law by Pulte Homes, S&ME, and Blythe Engineering

Dear Governor Haley,

On July 20, 2015 I sent you a letter documenting the unethical business dealings and substandard building practices of the Pulte Home Corporation in the Sun City Carolina Lakes community in Indian Land, SC. I thank you for your response of July 31, 2015 in which Max Globber informed me of the separation of departments and duties in our South Carolina government which precludes your office from intervening in any legal proceeding.

Although as Governor you are precluded from intervening in “legal proceedings” (which in our case was an arbitration which is now complete),<sup>1</sup> clearly the facts of our case have revealed that the Pulte Home Corp., S&ME, and Blythe violated South Carolina Law and the Federal and State Unfair Trade Practices Act.

The fact that “the Governor does not have the authority to overrule or intervene in any legal proceedings”<sup>2</sup> is clearly understood and the point is well taken. I realize you do not have jurisdiction to review or overturn an arbiter’s decision. But that is a separate issue from whether you have jurisdiction regarding the objective facts discovered at that arbitration that have direct bearing upon whether Pulte, Blythe and S&ME are violating the law in South Carolina. In that regard I believe you do have an official responsibility and duty as Governor. The South Carolina Constitution, Section 15: Faithful Execution of Laws, states, “The Governor shall take care that the laws be faithfully executed.” Our arbitration revealed that South Carolina laws, statutes, and regulations governing the building, construction, and engineering industry in South Carolina were violated and there is substantive evidence that they are *presently* and *continually* being violated. I submit to you that these laws are not being upheld as I argue in the accompanying letters.

The fact that there was an arbitration that resulted in a gross injustice, and the fact that Pulte, S&ME, and Blythe are violating the law by engaging in unethical and substandard construction and engineering practices should not be conflated. I communicated the arbitration details in my letter, not with the expectation that you should correct the gross injustice of the arbitrator’s decisions or lack thereof, but that you would be made aware of the fact that Pulte, S&ME, and Blythe are violating the law in their failure to adhere to the statutes and regulations governing the home building process in South Carolina. I also wanted to communicate to you the extent of the negative personal and financial ramifications to us consumers and homebuyers. I wanted to communicate to you that Pulte, in conjunction with their subcontractors, Blythe and S&ME, are committing fraud and misrepresentation by knowingly constructing lots that do not meet the engineering specifications so as to support the homes they build upon them contrary to South Carolina law and their contractual and warranty claims. The issue is not whether you need to interfere in a legal issue but that you are made aware and acknowledge that federal and state law is being violated.

I take it that assuring that the laws of the state of South Carolina are faithfully executed is the responsibility of the governor and within the authority of the state’s executive branch. Therefore, as the person charged with overseeing that the laws of the state are upheld and faithfully executed, I would again

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<sup>1</sup> AAA Case # 31 530 00392 12. Stephen C Marcy and Heidi A. Marcy (Plaintiffs) Vs. Pulte Home Corporation d/b/a Dell Webb (Defendant)

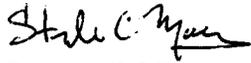
<sup>2</sup> Max Globber’s letter of July 31, 2015.

request you review this situation regarding these illegal practices which take personal and financial advantage of the elderly within Sun City, those in other communities, and are harmful to our society as a whole.

I have had discussion and/or correspondence with the Lancaster County Attorney, John Weaver, and the Lancaster County Building Official, Steve Yeargin, and Todd Bond of the South Carolina Department of Labor, Licensing and Regulation, Office of Investigations and Enforcement. I have included these correspondences for your further information on the perspectives and position of our local administrators which seem to me to be inconsistent and indifferent.

Thank you again for your kind consideration in this matter.

Sincerely,



Stephen C. Marcy  
5055 Cressingham Dr.  
Indian Land, SC 29707  
803-207-1422