

IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS
STATE OF MISSOURI

DAVE LAMB and ERIN LAMB,)

Plaintiffs,)

v.)

Case No. 18SL-CC04584

BUILD-WORK PROPERTIES, LLC,)

Division 18

and)

KOEHNEMANN KONSTRUCTION, LLC)

d/b/a K-BUILD,)

Serve Registered Agent at:)

Lorna Frahm)

300 First Executive Avenue, Suite D)

St. Peters, Missouri 63376)

and)

WORK HORSE CUSTOM CONCRETE, LLC,)

Serve Registered Agent at:)

Brock Allen Harvey)

118 Conor Court)

New Melle, Missouri 63356)

and)

DAN SMITH PLUMBING, INC.,)

Serve Registered Agent at:)

Danny R. Smith)

1936 Herky Horine Road)

Pevely, Missouri 63070)

and)

STEPHEN C. HOSACK d/b/a)

SC HOSACK PLUMBING AND EXCAVATION,)

Serve Authorized Agent at:)

Stephen Hosack)

713 Loretta Drive)

O'Fallon, Missouri 63366)

and)

CITY OF TOWN AND COUNTRY, MISSOURI,)
Serve: Mayor Jon Dalton)
1011 Municipal Center Drive)
Town and Country, Missouri 63017)
Defendants.)

PLAINTIFFS’ FIRST AMENDED PETITION

COME NOW Plaintiffs Dave and Erin Lamb (“Plaintiffs” or “Lambs”), and for their First Amended Petition state and allege as follows:

PARTIES

1. Plaintiffs, a married couple, are individuals who reside and own property in St. Louis County, Missouri.

2. Defendant Build-Work Properties, LLC (“Build Work”) is a Missouri limited liability company with its principal place of business located in St. Louis County, Missouri.

3. Defendant Koehnemann Konstruktion, LLC d/b/a K-Build (“K-Build” and together with “Build Work” referred to as the “Builders”) is a Missouri limited liability company with its principal place of business located in St. Louis County, Missouri. Upon information and belief, Joshua Koehnemann and Raichel G. Koehnemann (the “Koehnemanns”) are the owners/ members of K-Build.

4. Defendant Work Horse Custom Concrete, LLC d/b/a Work Horse Construction Group, LLC (“Work Horse”), is a Missouri limited liability company with its principal place of business located in St. Louis County, Missouri.

5. Defendant Dan Smith Plumbing, Inc. (“Dan Smith Plumbing”) is a Missouri company with its principal place of business located in St. Louis County, Missouri.

6. Defendant Stephen Hosack is an individual doing business under the name SC Hosack Plumbing and Excavation (“Hosack” and collectively with Work Horse and Dan Smith Plumbing referred to as the “Contractors”) in St. Louis County, Missouri.

7. Defendant City of Town and Country (the “City”) is a City of the Fourth Class, municipal corporation and political subdivision of the State of Missouri.

JURISDICTION AND VENUE

8. Jurisdiction is proper in this Court under Mo. Rev. Stat § 478.070.

9. Venue is proper in this Court because the real property which gives rise to the claims stated herein is located within the City, and the City is a municipality within the jurisdiction of this Court. RSMo. §§ 536.110.3, 536.150, and 508.050. Venue is also proper under Section 508.030 because the real property addressed as 603 Greenwich Green Lane, Town and Country, Missouri 63017 (“Lot 603”) is located in St. Louis County, and all acts described herein occurred in Missouri.

FACTUAL BACKGROUND

A. 601 and 603 Greenwich Green Lane.

10. On September 26, 2011, the Lambs purchased the property located at 603 Greenwich Green Lane, Town and Country, MO 63017 (the “Home” or “603 Greenwich”).

11. At all times mentioned herein, the Lambs have owned the Home.

12. The Lambs’ Home is situated along Greenwich Green Lane, and it faces the East.

13. The Lambs’ Home is downhill and down-gradient from 601 Greenwich Green Lane, Town and Country, MO 63017 (“New Home” or “601 Greenwich”), which is situated to the South of 603 Greenwich.

14. A water shed is located behind and to the West of 601 and 603 Greenwich.

15. On or about April 27, 2016, the Koehnemanns, who are the owners of Defendant K-Build, purchased 601 Greenwich.

16. K-Build is engaged in among, other things, residential real estate construction and improvements.

17. Shortly thereafter, on May 18, 2017, the Koehnemanns transferred 601 Greenwich to Build-Work, by virtue of a Quit Claim Deed.

18. Build-Work is an entity engaged in, among other things, the development of residential real estate.

19. Builders entered into a relationship to redevelop 601 Greenwich for profit.

20. In particular, Builders undertook to demolish the former residence situated on 601 Greenwich in order to erect the larger New Home, which the Builders did.

21. This re-development of 601 Greenwich also included, among other things, removal of trees and vegetation, changes to the grading, and changes to the sewers and water drainage systems and natural drainage pattern.

22. In furtherance of the Builders' plans, they entered into agreements with various Contractors to perform plumbing and drain-laying services, among other services, at 601 Greenwich.

23. These Contractors include Dan Smith Plumbing and Hosack, and both are engaged in, among other things, professional plumbing services.

24. In particular, during June 2017, Dan Smith Plumbing obtained permits, approval of which was overseen by the City, for installation of a 30-foot drain on 601 Greenwich, and it later completed the work.

25. Also in June 2017, Hosack obtained a plumbing, approval of which was overseen by the City, in connection with construction of a new drainage system at 601 Greenwich, and it later completed the work.

26. The Builders also retained Work Horse to perform construction services, grading and other services, including but not limited to, installation of piping and water drainage measures to address the issues caused by the construction at 601 Greenwich.

27. The work performed by Builders and Contractors fails to meet the City's ordinances designed to prevent erosion and excess water runoff.

28. Despite absence of compliance with the City's ordinances, the City approved the work completed under each of these permits after inspection of 601 Greenwich.

29. Prior to the re-development of 601 Greenwich, storm water runoff on the Lambs' Home naturally flowed to the street, the watershed, or otherwise drained without pooling or creating other problems.

30. In the course of re-developing 601 Greenwich, the Builders and Contractors unreasonably changed and interfered with the grade, and the collection and drainage of surface water in and around 601 Greenwich.

31. These changes interfered with, among other things, the water drainage characteristics of 601 Greenwich.

32. Further, Builders and Dan Smith Plumbing caused the installation of a PVC pipe during construction of 601 Greenwich that directs and continues to direct water runoff to 603 Greenwich, not to the water shed located behind the properties.

33. Not only does this PVC pipe direct water onto the Lambs' Home, it also encroaches onto 603 Greenwich.

34. Since March 2017 and to present, surface and storm water runoff from 601 Greenwich is now being diverted directly to, entering, surfacing, and flooding 603 Greenwich, causing damage to the Lambs' Home.

35. Eventually, in July 2019, K-Build sold the New Home on 601 Greenwich and profited from the sale.

B. The Plot Plans for Redevelopment of 601 Greenwich.

36. The City is obligated by various local and state regulations to ensure the City has proper storm water control and infrastructure.

37. To that end, the City is charged with enforcing building codes, issuing building permits, and performing building inspections, among other things, and the City's Planning and Public Works Department oversees some of these functions.

38. The City also works with the St. Louis County, Missouri Department of Development and Public Works ("County Planning Department") in connection with the issuance of some building permits.

39. 601 Greenwich would not be re-developed without various permits, inspections and approvals from the City and County Planning Department.

40. To engage in the permit process with the City and County Planning Department, K-Build commissioned engineering plot plans that were prepared for it on or about January 30, 2017 for the re-development of 601 Greenwich (the "Plot Plans").

41. The Plot Plans were obtained by the City and County Planning Department in connection with permit applications submitted by the Builders and Contractors in connection with the re-development of 601 Greenwich.

42. The Plot Plans, among other things, indicated placement of the New Home with respect to the lot, and provided information concerning soil grades, water runoff patterns, and landscaping features for 601 Greenwich.

43. The Plot Plans clearly shows the Lambs' property line, which is identified as Lot 7 on said plans.

44. The City through its own Planning and Public Works Department approved the Plot Plans after at least four revisions were made to the same.

45. The Plot Plans, as approved by the City, showed no construction or encroachment onto the Lambs' property, when in fact, the PVC Pipe that Defendants caused to be installed on 601 Greenwich encroaches onto 603 Greenwich.

46. Further, the approved Plot Plans indicated that the redevelopment of 601 Greenwich would comply with the City's ordinances governing, among other things, controlled runoff and discharge; and lot coverage requirements related to setbacks and greenspace.

47. Nonetheless, the City inspected and subsequently approved the work completed to redevelop 601 Greenwich despite non-compliance with the City's ordinances and codes related to erosion control and residential lot requirements.

48. Further, the City has issued occupancy permits to the current owners of 601 Greenwich that purchased the New Home from Build Work after its re-development despite the fact that Lot 601 was not constructed in compliance with City ordinances and codes.

C. Lambs' Communications with Defendants.

49. On March 13, 2017, the Lambs informed the City of their concern about the excess water runoff caused by early construction of the New Home on 601 Greenwich during a regular meeting of the City's Architectural Review Board (the "ARB").

50. K-Build and Work Horse were also present during this March 13, 2017 ARB meeting.

51. In response to the Lambs' concerns, K-Build and Work Horse represented at the ARB meeting that water from 601 Greenwich would be directed to the street and away from neighboring properties.

52. With these assurances, the City authorized issuance of a building permit for 601 Greenwich at the March 13, 2017 ARB meeting.

53. Between July 2017 and late 2018, the Lambs repeatedly voiced their concerns to Builders, Work Horse and the City about damage to their Home caused by the construction on 601 Greenwich.

54. Also during this time, the Lambs requested that Defendants remediate the storm water runoff caused by the construction on 601 Greenwich.

55. In response to the Lambs' concerns, Builders, Work Horse and the City repeatedly assured the Lambs that both temporary and permanent measures would be taken to protect their Home from the surface water redirected from the 601 Greenwich development site.

56. In fact, the City acknowledged that construction of the New Home, including but not limited to, the installation of the PVC pipe onto the Lambs' Home, violated the City's ordinances and code.

57. Further, the City assured the Lambs that 601 Greenwich would be brought into compliance with the City's ordinances before it approved the work completed on the New Home site.

58. Still, the Builders refused to make or require repairs to the storm water and drainage facilities and infrastructure on 601 Greenwich to prevent damage to the Lambs' Home caused by the unreasonable use of 601 Greenwich.

59. Despite these assurances, to date the Lambs' Home continues to be damaged by the water runoff directed to, entering, surfacing, and flooding their property as a result of the re-development of 601 Greenwich.

60. Further, the PVC pipe continues to encroach on 603 Greenwich.

61. Today, nearly a year after K-Build sold the New Home, the Lambs' Home continues to be damaged by excess water runoff from 601 Greenwich.

62. As a direct and proximate result, the Lambs' Home has been diminished in value, and the Lambs have been forced to incur expenses to remediate the damage done by the surface water redirected from the New Home site, and will in the future be forced to incur expenses to take measures to prevent further damage resulting from the intrusion of water diverted from the New Home site to the Lambs' Home.

63. Further, the City's actions have severely diminished and permanently deprived the Lambs of the value of their Home.

COUNT I – NEGLIGENCE
(BUILD WORK)

64. The Lambs hereby adopt and incorporate by reference each and every allegation set forth in the above paragraphs as if fully set forth herein.

65. Build Work had a legal duty to conform to a standard of care of a qualified professional to protect the Lambs, as owners of property adjacent to 601 Greenwich, against unreasonable risk and foreseeable damage, in the re-development of 601 Greenwich.

66. Further, Build Work had a legal duty to supervise its agents, contractors, engineers, and other employed by or retained by Build Work.

67. Build Work breached these duties and standards of conduct by, among other things, failing to provide for a mechanism to drain water away from the Lambs' Home, and failing to properly install the PVC Pipe according to the approved Plot Plans, among other things.

68. Build Work further breached these duties by failing to supervise its agents, contractors, engineers and others retained by it to ensure that the Lambs, as adjoining property owners, were protected against unreasonable risk caused by the water runoff from 601 Greenwich development site.

69. As a direct and proximate result, the Lambs' Home has been diminished in value, and the Lambs have been forced to incur expenses to remediate the damage done by the surface water redirected from the New Home site, and will in the future be forced to incur expenses to take measures to prevent further damage resulting from the intrusion of water diverted from the New Home site to the Lambs' Home.

70. Further, Build Work's actions have severely diminished and permanently deprived the Lambs of the value of their Home.

71. Build Work's conduct was intentional and outrageous because it was done in reckless indifference to the rights of the Lambs, thereby warranting an award of punitive or exemplary damages to punish Build Work and to deter such conduct in the future.

WHEREFORE, Plaintiffs David Lamb and Erin Lamb respectfully request that the Court enter judgment in their favor and against Defendant Build-Work Properties, LLC in an amount that is fair and reasonable in excess of \$25,000.00 to be proven at trial, including interest, for an

award of compensatory and punitive damages, for pre- and post-judgment interest, court costs and for any other and further relief as the Court deems just and proper.

COUNT II – NEGLIGENCE
(K-BUILD)

72. The Lambs hereby adopt and incorporate by reference each and every allegation set forth in the above paragraphs as if fully set forth herein.

73. K-Build had a legal duty to conform to a standard of care of a qualified professional to protect the Lambs, as owners of property adjacent to 601 Greenwich, against unreasonable risk and foreseeable damage, in the re-development of 601 Greenwich.

74. Further, K-Build had a legal duty to supervise its agents, contractors, engineers, and other employed by or retained by K-Build.

75. K-Build breached these duties and standards of conduct by, among other things, failing to provide for a mechanism to drain water away from the Lambs' Home, and failing to properly install the PVC Pipe according to the approved Plot Plans, among other things.

76. K-Build further breached these duties by failing to supervise its agents, contractors, engineers and others retained by it to ensure that the Lambs, as adjoining property owners, were protected against unreasonable risk caused by the water runoff from 601 Greenwich development site.

77. As a direct and proximate result, the Lambs' Home has been diminished in value, and the Lambs have been forced to incur expenses to remediate the damage done by the surface water redirected from the New Home site, and will in the future be forced to incur expenses to take measures to prevent further damage resulting from the intrusion of water diverted from the New Home site to the Lambs' Home.

78. Further, K-Build's actions have severely diminished and permanently deprived the Lambs of the value of their Home.

79. K-Build's conduct was intentional and outrageous because it was done in reckless indifference to the rights of the Lambs, thereby warranting an award of punitive or exemplary damages to punish K-Build and to deter such conduct in the future.

WHEREFORE, Plaintiffs David Lamb and Erin Lamb respectfully request that the Court enter judgment in their favor and against Defendant Koehnemann Konstruktion, LLC in an amount that is fair and reasonable in excess of \$25,000.00 to be proven at trial, including interest, for an award of compensatory and punitive damages, for pre and post-judgment interest, court costs and for any other and further relief as the Court deems just and proper.

COUNT III – NEGLIGENCE
(WORK HORSE)

80. The Lambs hereby adopt and incorporate by reference each and every allegation set forth in the above paragraphs as if fully set forth herein.

81. Work Horse had a legal duty to conform to a standard of care of a qualified professional to protect the Lambs, as owners of property adjacent to 601 Greenwich, against unreasonable risk and foreseeable damage, in the re-development of 601 Greenwich.

82. Further, Work Horse had a legal duty to supervise its agents, contractors, engineers, and other employed by or retained by Work Horse.

83. Specifically, Work Horse was involved with the underground piping on the New Home construction site, and it assured the Lambs that this piping would be tied underground and directed into an onsite retention area per the approved Plot Plans.

84. Work Horse breached these duties and standards of conduct by, among other things, failing to provide for a mechanism to drain water away from the Lambs' Home, and

failing to install proper erosion and siltation control measures at 601 Greenwich, among other things.

85. Work Horse further breached these duties by failing to supervise its agents, contractors, engineers and others retained by it to ensure that the Lambs, as adjoining property owners, were protected against unreasonable risk caused by the water runoff from 601 Greenwich development site.

86. As a direct and proximate result, the Lambs' Home has been diminished in value, and the Lambs have been forced to incur expenses to remediate the damage done by the surface water redirected from the New Home site, and will in the future be forced to incur expenses to take measures to prevent further damage resulting from the intrusion of water diverted from the New Home site to the Lambs' Home.

87. Further, Work Horse's actions have severely diminished and permanently deprived the Lambs of the value of their Home.

88. Work Horse's conduct was intentional and outrageous because it was done in reckless indifference to the rights of the Lambs, thereby warranting an award of punitive or exemplary damages to punish Work Horse and to deter such conduct in the future.

WHEREFORE, Plaintiffs David Lamb and Erin Lamb respectfully request that the Court enter judgment in their favor and against Defendant Work Horse Custom Concrete, LLC in an amount that is fair and reasonable in excess of \$25,000.00 to be proven at trial, including interest, for an award of compensatory and punitive damages, for pre- and post-judgment interest, court costs and for any other and further relief as the Court deems just and proper.

COUNT IV – NEGLIGENCE
(DAN SMITH PLUMBING)

89. The Lambs hereby adopt and incorporate by reference each and every allegation set forth in the above paragraphs as if fully set forth herein.

90. Dan Smith Plumbing had a legal duty to conform to a standard of care of a qualified professional to protect the Lambs, as owners of property adjacent to 601 Greenwich, against unreasonable risk and foreseeable damage, in the re-development of 601 Greenwich.

91. Further, Dan Smith Plumbing had a legal duty to supervise its agents, contractors, engineers, and other employed by or retained by Dan Smith Plumbing.

92. Dan Smith Plumbing breached these duties and standards of conduct by, among other things, failing to provide for a mechanism to drain water away from the Lambs' Home, and failing to properly install the PVC Pipe according to the approved Plot Plans, among other things.

93. Dan Smith Plumbing further breached these duties by failing to supervise its agents, contractors, engineers and others retained by it to ensure that the Lambs, as adjoining property owners, were protected against unreasonable risk caused by the water runoff from 601 Greenwich development site.

94. As a direct and proximate result, the Lambs' Home has been diminished in value, and the Lambs have been forced to incur expenses to remediate the damage done by the surface water redirected from the New Home site, and will in the future be forced to incur expenses to take measures to prevent further damage resulting from the intrusion of water diverted from the New Home site to the Lambs' Home.

95. Further, Dan Smith Plumbing's actions have severely diminished and permanently deprived the Lambs of the value of their Home.

96. Dan Smith Plumbing's conduct was intentional and outrageous because it was done in reckless indifference to the rights of the Lambs, thereby warranting an award of punitive or exemplary damages to punish Dan Smith Plumbing and to deter such conduct in the future.

WHEREFORE, Plaintiffs David Lamb and Erin Lamb respectfully request that the Court enter judgment in their favor and against Defendant Dan Smith Plumbing, Inc. in an amount that is fair and reasonable in excess of \$25,000.00 to be proven at trial, including interest, for an award of compensatory and punitive damages, for pre- and post-judgment interest, court costs and for any other and further relief as the Court deems just and proper.

COUNT V – NEGLIGENCE
(HOSACK)

97. The Lambs hereby adopt and incorporate by reference each and every allegation set forth in the above paragraphs as if fully set forth herein.

98. Hosack had a legal duty to conform to a standard of care of a qualified professional to protect the Lambs, as owners of property adjacent to 601 Greenwich, against unreasonable risk and foreseeable damage, in the re-development of 601 Greenwich.

99. Further, Hosack had a legal duty to supervise its agents, contractors, engineers, and other employed by or retained by it.

100. Hosack breached these duties and standards of conduct by, among other things, failing to properly install plumbing infrastructure that would drain water away from the Lambs' Home, among other things.

101. Hosack further breached these duties by failing to supervise its agents, contractors, engineers and others retained by it to ensure that the Lambs, as adjoining property owners, were protected against unreasonable risk caused by the water runoff from 601 Greenwich development site.

102. As a direct and proximate result, the Lambs' Home has been diminished in value, and the Lambs have been forced to incur expenses to remediate the damage done by the surface water redirected from the New Home site, and will in the future be forced to incur expenses to take measures to prevent further damage resulting from the intrusion of water diverted from the New Home site to the Lambs' Home.

103. Further, Hosack's actions have severely diminished and permanently deprived the Lambs of the value of their Home.

104. Hosack's conduct was intentional and outrageous because it was done in reckless indifference to the rights of the Lambs, thereby warranting an award of punitive or exemplary damages to punish Hosack and to deter such conduct in the future.

WHEREFORE, Plaintiffs David Lamb and Erin Lamb respectfully request that the Court enter judgment in their favor and against Defendant Stephen C. Hosack d/b/a SC Hosack Plumbing and Excavation in an amount that is fair and reasonable in excess of \$25,000.00 to be proven at trial, including interest, for an award of compensatory and punitive damages, for pre- and post-judgment interest, court costs and for any other and further relief as the Court deems just and proper.

COUNT VI – TRESPASS
(BUILD WORK)

105. The Lambs hereby adopt and incorporate by reference each and every allegation set forth in the above paragraphs as if fully set forth herein.

106. At all relevant times, the Lambs were in rightful and actual possession of their Home.

107. In connection with the development, design, and construction of 601 Greenwich, Build Work was at all times under a duty to use reasonable care in the use of the New Home site,

including the duty to protect adjoining property owners, like the Lambs, against unreasonable risk.

108. By the actions described above, Build Work negligently and unreasonably caused and permitted the flow of natural and storm water runoff to be diverted and directed away from 601 Greenwich toward and onto the Lambs' Home.

109. Further, upon information and belief, Build Work negligently and unreasonably caused the installation of a PVC pipe during construction of 601 Greenwich that directs and continues to direct water runoff to 603 Greenwich, not to the water shed located behind the properties.

110. Further, this PVC pipe encroaches onto the Lambs' Home and does not conform to the approved Plot Plans.

111. As a result of this redirection of storm and natural water runoff, Build Work trespassed upon the Lambs' property without license or consent from the Lambs.

112. Further, as a result of installation of a PVC pipe onto the Lambs' Home, Build Work trespassed upon the Lambs' property without license or consent from the Lambs.

113. The Lambs have repeatedly requested that the Defendants remove the portion of the PVC Pipe that encroaches onto 603 Greenwich and to use proper erosion and siltation control measures to stop the unnatural diversion of water.

114. Build-Work has continually refused to remove the encroachment to the Lambs' detriment.

115. By reason of these acts, trespasses, and the intentional conduct of Build Work, the Lambs' Home has been diminished in value, and the Lambs have been forced to incur expenses to remediate the damage done by the surface water redirected from 601 Greenwich site and will

in the future be forced to incur expenses to take measures to prevent further damage resulting from the intrusion of water diverted from 601 Greenwich to the Lambs' Home.

116. The Lambs' right to peacefully enjoy their property has been unreasonably and substantially impaired.

WHEREFORE, Plaintiffs David Lamb and Erin Lamb pray this Court enter a judgment against Defendant Build-Work Properties, LLC, in an amount that is fair and reasonable and in excess of \$25,000.00, for actual and punitive damages; award the Lambs their costs and attorneys' fees incurred; enter an Order requiring Defendant Build-Work Properties, LLC to remove the encroachment upon 603 Greenwich; and for such other and further relief as this Court may deem just and proper under the circumstances.

COUNT VII – TRESPASS
(K-BUILD)

117. The Lambs hereby adopt and incorporate by reference each and every allegation set forth in the above paragraphs as if fully set forth herein.

118. At all relevant times, the Lambs were in rightful and actual possession of their Home.

119. In connection with the development, design, and construction of 601 Greenwich, K-Build was at all times under a duty to use reasonable care in the use of the New Home site, including the duty to protect adjoining property owners, like the Lambs, against unreasonable risk.

120. By the actions described above, K-Build negligently and unreasonably caused and permitted the flow of natural and storm water runoff to be diverted and directed away from 601 Greenwich toward and onto the Lambs' Home.

121. Further, upon information and belief, K-Build negligently and unreasonably caused the installation of a PVC pipe during construction of 601 Greenwich that directs and continues to direct water runoff to 603 Greenwich, not to the water shed located behind the properties.

122. Further, this PVC pipe encroaches onto the Lambs' Home and does not conform to the approved Plot Plans.

123. As a result of this redirection of storm and natural water runoff, K-Build trespassed upon the Lambs' property without license or consent from the Lambs.

124. Further, as a result of installation of a PVC pipe onto the Lambs' Home, K-Build trespassed upon the Lambs' property without license or consent from the Lambs.

125. The Lambs have repeatedly requested that the Defendants remove the portion of the PVC Pipe that encroaches onto 603 Greenwich and to use proper erosion and siltation control measures to stop the unnatural diversion of water.

126. K-Build has continually refused to remove the encroachment to the Lambs' detriment.

127. By reason of these acts, trespasses, and the intentional conduct of K-Build, the Lambs' Home has been diminished in value, and the Lambs have been forced to incur expenses to remediate the damage done by the surface water redirected from 601 Greenwich site and will in the future be forced to incur expenses to take measures to prevent further damage resulting from the intrusion of water diverted from 601 Greenwich to the Lambs' Property.

128. The Lambs' right to peacefully enjoy their property has been unreasonably and substantially impaired.

WHEREFORE, Plaintiffs David Lamb and Erin Lamb pray this Court enter a judgment against Defendant Koehnemann Konstruktion, LLC, in an amount that is fair and reasonable and in excess of \$25,000.00, for actual and punitive damages; award the Lambs their costs and attorneys' fees incurred; enter an Order requiring Defendant Koehnemann Konstruktion, LLC to remove the encroachment upon 603 Greenwich; and for such other and further relief as this Court may deem just and proper under the circumstances.

COUNT VIII – TRESPASS
(WORK HORSE)

129. The Lambs hereby adopt and incorporate by reference each and every allegation set forth in the above paragraphs as if fully set forth herein.

130. At all relevant times, the Lambs were in rightful and actual possession of their Home.

131. In connection with the development, design, and construction of 601 Greenwich, Work Horse was at all times under a duty to use reasonable care in the use of the New Home site, including the duty to protect adjoining property owners, like the Lambs, against unreasonable risk.

132. By the actions described above, Work Horse negligently and unreasonably caused and permitted the flow of natural and storm water runoff to be diverted and directed away from 601 Greenwich toward and onto the Lambs' Home.

133. Further, upon information and belief, Work Horse negligently and unreasonably caused the installation of piping and certain erosion and siltation controls during construction of 601 Greenwich that directs and continues to direct water runoff to 603 Greenwich, not to the water shed located behind the properties.

134. As a result of this redirection of storm and natural water runoff, Work Horse trespassed upon the Lambs' property without license or consent from the Lambs.

135. The Lambs have repeatedly requested that the Defendants remove the portion of the PVC Pipe that encroaches onto 601 Greenwich and to use proper erosion and siltation control measures to stop the unnatural diversion of water.

136. Work Horse has continually refused to remove the encroachment to the Lambs' detriment.

137. By reason of these acts, trespasses, and the intentional conduct of Work Horse, the Lambs' Home has been diminished in value, and the Lambs have been forced to incur expenses to remediate the damage done by the surface water redirected from 601 Greenwich site and will in the future be forced to incur expenses to take measures to prevent further damage resulting from the intrusion of water diverted from 601 Greenwich to the Lambs' Property.

138. The Lambs' right to peacefully enjoy their property has been unreasonably and substantially impaired.

WHEREFORE, Plaintiffs David Lamb and Erin Lamb pray this Court enter a judgment against Defendant Work Horse Custom Concrete, LLC, in an amount that is fair and reasonable and in excess of \$25,000.00, for actual and punitive damages; award the Lambs their costs and attorneys' fees incurred; enter an Order requiring Defendant Work Horse Custom Concrete, LLC to remove the encroachment upon 603 Greenwich; and for such other and further relief as this Court may deem just and proper under the circumstances.

COUNT IX- TRESPASS
(DAN SMITH PLUMBING)

139. The Lambs hereby adopt and incorporate by reference each and every allegation set forth in the above paragraphs as if fully set forth herein.

140. At all relevant times, the Lambs were in rightful and actual possession of their Home.

141. In connection with the development, design, and construction of 601 Greenwich, Dan Smith Plumbing was at all times under a duty to use reasonable care in the use of the New Home site, including the duty to protect adjoining property owners, like the Lambs, against unreasonable risk.

142. By the actions described above, Dan Smith Plumbing negligently and unreasonably caused and permitted the flow of natural and storm water runoff to be diverted and directed away from 601 Greenwich toward and onto the Lambs' Home by installing the PVC Pipe during construction of 601 Greenwich that directs and continues to direct water runoff to 603 Greenwich.

143. Further, this PVC pipe encroaches onto the Lambs' Home and does not conform to the approved Plot Plans.

144. As a result of this redirection of storm and natural water runoff, Dan Smith Plumbing trespassed upon the Lambs' property without license or consent from the Lambs.

145. Further, as a result of installation of a PVC pipe onto the Lambs' Home, Dan Smith Plumbing trespassed upon the Lambs' property without license or consent from the Lambs.

146. The Lambs have repeatedly requested that the Defendants remove the portion of the PVC Pipe that encroaches onto 601 Greenwich and to use proper erosion and siltation control measures to stop the unnatural diversion of water.

147. Dan Smith Plumbing has continually refused to remove the encroachment to the Lambs' detriment.

148. By reason of these acts, trespasses, and the intentional conduct of Dan Smith Plumbing, the Lambs' Home has been diminished in value, and the Lambs have been forced to incur expenses to remediate the damage done by the surface water redirected from 601 Greenwich site and will in the future be forced to incur expenses to take measures to prevent further damage resulting from the intrusion of water diverted from 601 Greenwich to the Lambs' Home.

149. The Lambs' right to peacefully enjoy their property has been unreasonably and substantially impaired.

WHEREFORE, Plaintiffs David Lamb and Erin Lamb pray this Court enter a judgment against Defendant Dan Smith Plumbing, Inc., in an amount that is fair and reasonable and in excess of \$25,000.00, for actual and punitive damages; award the Lambs their costs and attorneys' fees incurred; enter an Order requiring Defendant Dan Smith Plumbing, Inc. to remove the encroachment upon 603 Greenwich; and for such other and further relief as this Court may deem just and proper under the circumstances.

COUNT X – TRESPASS
(HOSACK)

150. The Lambs hereby adopt and incorporate by reference each and every allegation set forth in the above paragraphs as if fully set forth herein.

151. At all relevant times, the Lambs were in rightful and actual possession of their Home.

152. In connection with the development, design, and construction of 601 Greenwich, Hosack was at all times under a duty to use reasonable care in the use of the New Home site, including the duty to protect adjoining property owners, like the Lambs, against unreasonable risk.

153. By the actions described above, Hosack negligently and unreasonably caused and permitted the flow of natural and storm water runoff to be diverted and directed away from 601 Greenwich toward and onto the Lambs' Home.

154. Further, upon information and belief, Hosack negligently and unreasonably caused the installation of a plumbing infrastructure during construction of 601 Greenwich that directs and continues to direct water runoff to 603 Greenwich, not to the water shed located behind the properties.

155. As a result of this redirection of storm and natural water runoff, Hosack trespassed upon the Lambs' property without license or consent from the Lambs.

156. The Lambs have repeatedly requested that the Defendants install proper erosion and siltation control measures to stop the unnatural diversion of water that continues to trespass onto the 601 Greenwich.

157. Hosack has continually refused to remove the encroachment to the Lambs' detriment.

158. By reason of these acts, trespasses, and the intentional conduct of Hosack, the Lambs' Home has been diminished in value, and the Lambs have been forced to incur expenses to remediate the damage done by the surface water redirected from 601 Greenwich site and will in the future be forced to incur expenses to take measures to prevent further damage resulting from the intrusion of water diverted from 601 Greenwich to the Lambs' Property.

159. The Lambs' right to peacefully enjoy their property has been unreasonably and substantially impaired.

WHEREFORE, Plaintiffs David Lamb and Erin Lamb pray this Court enter a judgment against Defendant Stephen C. Hosack d/b/a SC Hosack Plumbing and Excavation, in an amount

that is fair and reasonable and in excess of \$25,000.00, for actual and punitive damages; award the Lambs their costs and attorneys' fees incurred; enter an Order requiring Defendant Stephen C. Hosack d/b/a SC Hosack Plumbing and Excavation to remove the encroachment upon 603 Greenwich; and for such other and further relief as this Court may deem just and proper under the circumstances

COUNT XI – INVERSE CONDEMNATION
(CITY)

160. The Lambs hereby adopt and incorporate by reference each and every allegation set forth in the above paragraphs as if fully set forth herein.

161. At all relevant times, the Lambs are fee simple owners of the real estate addressed as 603 Greenwich and were in rightful and actual possession of their Home.

162. The City is a municipal corporation duly organized and existing in good standing under the laws of the State of Missouri and a political subdivision of the State of Missouri.

163. The City specifically possesses the power of eminent domain.

164. Between March 2017 and July 2019, Contractors and Builders were engaged in the re-development of 601 Greenwich and construction of the New Home.

165. During this time, Contractors and Builders applied for various permits from the City, who is obligated by various local and state regulations to ensure the City has proper storm water control and infrastructure.

166. 601 Greenwich would not be re-developed without various permits, inspections and approvals from the City.

167. To engage in the permit process with the City, Builders and Contractors submitted the Plot Plans to the City.

168. The Plot Plans were obtained by the City in connection with permit applications submitted by the Builders and Contractors in connection with the re-development of 601 Greenwich.

169. The Plot Plans, among other things, indicated placement of the New Home with respect to the lot, and provided information concerning soil grades, water runoff patterns, and landscaping features for 601 Greenwich.

170. The Plot Plans clearly shows the Lambs' property line, which is identified as Lot 7 on said plans.

171. The City approved the Plot Plans after at least four revisions were made to the same.

172. The Plot Plans, as approved by the City, showed no construction or encroachment onto the Lambs' property, when in fact, the PVC Pipe that Defendants caused to be installed on 601 Greenwich encroaches onto 603 Greenwich.

173. Further, the approved Plot Plans indicated that the redevelopment of 601 Greenwich would comply with the City's ordinances governing, among other things, controlled runoff and discharge; and lot coverage requirements related to setbacks and greenspace.

174. The City acknowledged that construction of the New Home, including but not limited to, the installation of the PVC pipe onto the Lambs' Home, violated the City's ordinances and code.

175. Further, the City assured the Lambs that 601 Greenwich would be brought into compliance with the City's ordinances before it approved the work completed on the New Home site.

176. Nonetheless, the City inspected and subsequently approved the work completed to redevelop 601 Greenwich despite non-compliance with the City's ordinances and codes related to erosion control and residential lot requirements.

177. Further, the City has issued occupancy permits to the current owners of 601 Greenwich that purchased the New Home from Build Work after its re-development despite the fact that Lot 601 was not constructed in compliance with City ordinances and codes.

178. As a direct and proximate result, the Lambs' Home has been diminished in value, and the Lambs have been forced to incur expenses to remediate the damage done by the surface water redirected from the New Home site, and will in the future be forced to incur expenses to take measures to prevent further damage resulting from the intrusion of water diverted from the New Home site to the Lambs' Home.

179. The City's actions constitute a wrongful appropriation of 601 Greenwich for which no compensation has been given, resulting in damage to the Lambs in an amount in excess of \$25,000.00 and to be proven at trial.

WHEREFORE, Plaintiffs David Lamb and Erin Lamb respectfully request that the Court enter judgment in their favor and against Defendant the City of Town and Country, Missouri in an amount that is fair and reasonable, to be proven at trial, including interest, for pre- and post-judgment interest, court costs and for any other and further relief as the Court deems just and proper.

COUNT XII- NUISANCE
(BUILD WORK)

180. The Lambs hereby adopt and incorporate by reference each and every allegation set forth in the above paragraphs as if fully set forth herein.

181. During the time that Build Work owned 603 Greenwich, Build Work failed to provide for a mechanism to drain water away from the Lambs' Home, and failing to properly install the PVC Pipe according to the approved Plot Plans, among other things.

182. As a direct result of Build Work's above-described actions, all of which were unreasonable, Build Work has severely diminished and permanently deprived the Lambs of the value of their Home.

183. Build Work's conduct was intentional and outrageous because it was done in reckless indifference to the rights of the Lambs, thereby warranting an award of punitive or exemplary damages to punish Build Work and to deter such conduct in the future

WHEREFORE, Plaintiffs David Lamb and Erin Lamb respectfully requests that the Court enter judgment in their favor and against Defendant Build-Work Properties, LLC in an amount that is fair and reasonable in excess of \$25,000.00 to be proven at trial, including interest, for an award of compensatory and punitive damages, for pre and post-judgment interest, court costs and for any other and further relief as the Court deems just and proper.

Respectfully submitted,

CARMODY MacDONALD P.C.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on May 29, 2020, the foregoing was filed with the Clerk of Court electronically, to be served by operation of the Court's electronic filing system upon the following:

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