IN RE: PETITION FOR SPECIAL HEARING

SE side Pulaski Highway 2,475 feet SW

c/l Stevens Road

11<sup>th</sup> Election District

5<sup>th</sup> Councilmanic District

(11025 Pulaski Highway)

Larry Kersey
Petitioner

BEFORE THE

DEPUTY ZONING

COMMISSIONER

\* FOR BALTIMORE COUNTY

Case No. 08-170-SPH

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

\*

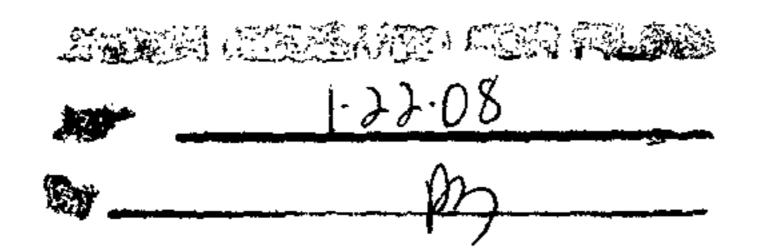
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\*

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Special Hearing filed by Larry Kersey, the legal property owner. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve a nonconforming use to operate an auto repair/towing/storage facility in an M.L. zone (previously zoned B.R.). The subject property and requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the requested special hearing was Petitioner Larry Kersey and his attorney Frank V. Boozer, Jr., Esquire. Also appearing in support of the requested relief was Dakota Brewer, a witness for Petitioner, and Kenneth Wells with KJ Wells, Inc., the property line surveyor who prepared the site plan. There were no Protestants or other interested persons in attendance at the hearing.

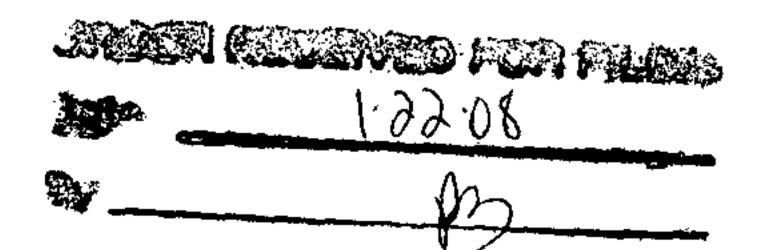
This matter is currently the subject of an active violation case (Case No. 07-8314) with the Division of Code Inspections and Enforcement. A Correction Notice for code violation was issued in this matter on June 29, 2007 for auto/vehicle service activity (repair, towing, storage), and for untagged and unlicensed vehicles being stored along Pulaski Highway, and junk behind the fence.



It should be noted, for the record, that the fact that a violation is issued is generally not relevant in a zoning case. This means that Petitioner cannot use the fact that a particular use has been ongoing to set a precedent in order to allow it to continue. Nor does the fact that it may be costly for Petitioner to discontinue such use come into consideration in the zoning case. The reason for this is that this condition may be self-imposed and as such cannot be a basis for a showing of hardship or practical difficulty required by the zoning regulations. Conversely, the fact that a use has been occurring which could violate the regulations is not held against Petitioner in considering the merits of this case as some sort of additional punishment. Zoning enforcement is conducted by the Department of Permits and Development Management, which has the authority to impose fines and other penalties for violation of law, and is not the province of this office.

As to the instant matter, testimony and evidence offered revealed that the subject property is a rectangular-shaped parcel containing approximately 94,961 square feet or 2.18 acres, more or less, and zoned M.L. The property is located on the southeast side of Pulaski Highway (U.S. Route 40) in the White Marsh area of Baltimore County. It is improved with several structures including a 3,905 square foot one-story frame building close to the street (along with a two-story stone and stucco building attached therein), as well as a one-story brick garage located toward the center of the property.

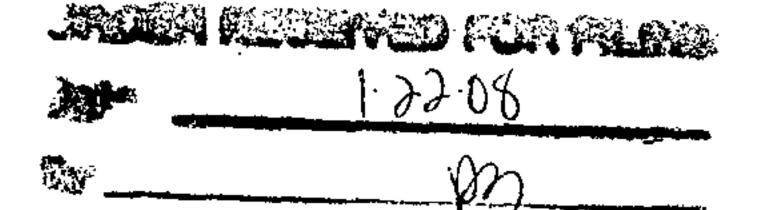
The property is currently owned by Petitioner, who also owns and operates K&M Automotive d/b/a Captain Hook Towing. Petitioner indicated he has operated the business at the subject location since at least 1997, when he rented the property from the legal owners at that time, Carmen and Rae Summa. On August 8, 2002, Petitioner entered into a formal lease agreement with the owners with an option to purchase. A copy of the lease was marked and



accepted into evidence as Petitioner's Exhibit 2. On October 19, 2004, Petitioner purchased the property from the Carmen A. Summa Trust for \$200,000.00. Shortly thereafter, Petitioner investigated and obtained the zoning information for the property. Marked and accepted into evidence as Petitioner's Exhibit 3 was a printout indicating the zoning at that time, prior to the comprehensive rezoning, to be B.R.-A.S. Also marked and accepted into evidence as Petitioner's Exhibit 4 was a copy of the deed transferring ownership of the property to Petitioner. It was Petitioner's understanding that use of the property for towing and storage of vehicles was permitted, as well as an automotive service garage in a B.R.-A.S. zone. Petitioner became aware of the current M.L. zoning when he was informed by the Code Inspections and Enforcement Division and issued the Correction Notice. At this juncture, Petitioner desires to continue the towing business at the property, as well as light automotive service repairs. As such, Petitioner is requesting special hearing relief to approve the current operation as a nonconforming use.

In support of the requested relief, Petitioner called Mr. Brewer to testify concerning the past use of the property. Mr. Brewer indicated that he has been familiar with the property for the last 10 years and is familiar with Petitioner's business at the location. During that time, Mr. Brewer operated D&R Automotive on Back River Neck Road. Being familiar with Petitioner, Mr. Brewer utilized Captain Hook Towing for his company's and his customer's towing needs. Mr. Brewer now operates Other People's Junk, known as OPJ's, a hauling business, and has continued to utilize Petitioner's services. During this period, Mr. Brewer has known the subject property to be used for vehicle towing and storage, and as an automotive service garage.

Petitioner then testified that he has been very conscientious about the appearance of the property, especially since the property was inspected by Code Enforcement in June 2007. He has taken steps to remove abandoned vehicles on the property at his expense, and recognizes that it is



not appropriate to store or park vehicles in front of the property, near the shoulder areas of Pulaski Highway.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comments received from the State Highway Administration (SHA) dated October 22, 2007 indicate that SHA reviewed the site plan as well as existing conditions. SHA noted that the annual average daily traffic volume on section of U.S. Route 40 to be 33,210 vehicle trips per day, and that based on the proposed use, SHA finds that existing conditions are inconsistent with State Highway Access Manual Guidelines, such that improvements may be required to accommodate trucks and vehicles. In a field investigation, SHA also observed that vehicles were stored in the State right-of-way, which it believes presents potential safety problems as well as a violation of Maryland vehicle law concerning storing vehicles within State highway limits. Hence, SHA requests that a minimum setback be established within the property limit for the display and storing of vehicles.<sup>1</sup> Comments were also received from the Department of Environmental Protection and Resource Management (DEPRM) dated December 18, 2007 indicating that development of the property must comply with the Chesapeake Bay Critical Area Regulations, and that the property is located within an Intensely Developed Area (IDA) and must comply with all IDA requirements including the 10% phosphorus reduction requirement and stream buffers.

Based on the testimony and evidence presented, I am persuaded to grant the special hearing relief to permit the nonconforming use of the property to operate the towing and storage business and the automotive service garage. A review of the official zoning map for 1996 shows

Petitioner indicated in response to SHA's observation of vehicles parked in front of the business that these vehicles were parked at the location as a courtesy to customers picking up vehicles and were not stored in that area overnight or for any significant length of time. Nonetheless, Petitioner recognized the need to discontinue this practice in the future.

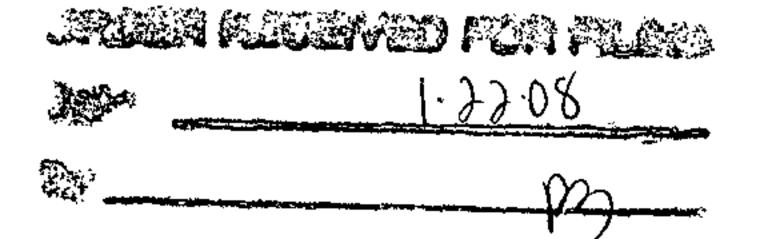
that the subject property was previously zoned B.R.-A.S. This zone would have allowed Petitioner to operate the towing and storage business and the automotive service garage, which Petitioner has done since at least 1997. In 2004, the zoning on the property was changed. A review of the official zoning map for 2004 shows the subject property became zoned M.L. Notwithstanding, Petitioner has continued to operate in the same manner without interruption as during the prior zoning.

In my judgment, Petitioner's proposed use is acceptable and appropriate and there was no evidence presented that it would be detrimental to the health, safety, or general welfare of the surrounding locale.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by the Petitioner, I find that the Petitioner's request for special hearing should be granted with conditions.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this Jana day of January, 2008, that Petitioner's request for Special Hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) to approve a nonconforming use to operate an auto repair/towing/storage facility in a M.L. zone (previously zoned B.R.) is herby GRANTED subject to the following restrictions which are conditions precedent to the relief granted herein:

1. Petitioner may apply for permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.



- 2. Consistent with the ZAC comment from the State Highway Administration (SHA) dated October 22, 2007, Petitioner shall consult SHA and refer to the State Highway Access Manual guidelines and shall make any necessary improvements to the site to accommodate trucks and vehicles with the existing use and site conditions. In addition, Petitioner shall not store vehicles in the State right-of-way on Pulaski Highway.
- 3. Petitioner shall comply with the ZAC comment from the Department of Environmental Protection and Resource Management (DEPRM) dated December 18, 2007, that the development of the subject property must comply with the Chesapeake Bay Critical Area Regulations, and that the property is located within an Intensely Developed Area (IDA) and must comply with all IDA requirements including the 10% phosphorus reduction requirement and stream buffers.
- 4. Petitioner shall not park or store vehicles outside the front fenced area of the property along Pulaski Highway. In addition, Petitioner shall properly maintain the property and keep the property free of abandoned vehicles, junk, and debris, and free from overgrown vegetation, weeds, and grass. In order to show compliance with Baltimore County laws and regulations, Petitioner shall make the property available for inspection by the Division of Code Inspections and Enforcement during regular business hours.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

Deputy Zoning Commissioner for Baltimore County

THB:pz



THOMAS H. BOSTWICK Deputy Zoning Commissioner

January 22, 2008

FRANK W. BOOZER, JR., ESQUIRE COVAHEY, BOOZER, DEVAN & DORE, PA 614 BOSLEY AVENUE TOWSON, MD 21204

Re: Petition for Special Hearing
Case No. 08-170-SPH
Property: 11025 Pulaski Highway

Dear Mr. Boozer:

Enclosed please find the decision rendered in the above-captioned case.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

THOMAS H. BOSTWICK

Deputy Zoning Commissioner

for Baltimore County

THB:pz

Enclosure

c: Kenneth Wells, KJ Wells Inc., 7403 New Cut Road, Kingsville MD 21087 Larry Kersey, 11025 Pulaski Highway, White Marsh MD 21162 Dakota Brewer, 129 Wiltshire Road, Baltimore MD 21221

# - CBCA Frad



# Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at _	11025 PULASKI
	presently zoned ML

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

> A NONCONFORMING USE TO OPERATE AN AUTO REPAIR/TOWING/STORAGE FACILITY IN A ML ZONE (PREVIOUSLY ZONED BR).

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

> I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

### Contract Durch coord con-

### Lamal Oumariale

Contract Purchaser/L	<u>.essee.</u>		<u>Legar Owner(s):</u>
Name - Type or Print	<del></del>		LARRY KERSEY  Name - Type or Print
Signature			Signature
Address	<u> </u>	Telephone No.	Name - Type or Print
City	State	Zip Code	e Signature
<b>Attorney For Petition</b>	<u>er:</u>		11025 PULASKI HIGHWAY (410-391-310
FRANK V. BOOZER,	ID ECO		Address Telephone No.
Name - Type or Print	JR., ESQ.		WHITE MARSH, MD 21162 City State Zip Code
			Representative to be Contacted:
Signature		_	
COVAHEY, BOOZER, DI	EVAN & DORE	<u>, P.A.</u>	Name
514 BOSLEY AVE	( <u>410</u> -	-828-9441)	
Address		-828-9441) Telephone No.	Address Telephone No.
TOWSON	MD State	21204 Zip Code	e City State Zip Code
•		- <i>4</i>	
			OFFICE USE ONLY
			ESTIMATED LENGTH OF HEARING
Case No. 08 - 170	1-5PH		UNAVAILABLE FOR HEARING
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REV 9/15/94 3 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2			
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### kjWellsInc

Land Surveying and Site Planning

Telephone: (410) 592-8800

Fax: (410) 817-4055 Email: <u>kwells@kjwellsinc.com</u> 7403 New Cut Road Kingsville, Md. 21087-1132

### Zoning Description 11025 Pulaski Highway

Baltimore County
Maryland
11<sup>th</sup> Election District
5<sup>th</sup> Councilmanic District

Beginning at a point located on the southeast side of Pulaski Highway which is 150 feet wide at a distance of 2,475 feet more or less southwest from the centerline of the nearest improved street known as Stevens Road, thence leaving the southeast side of said Pulaski Highway South 39 degrees 24 minutes 30 seconds East 464.53 feet; thence South 36 degrees 26 minutes 10 seconds West 208.46 feet; thence North 34 degrees 24 minutes 30 seconds West 497.92 feet to the southeast side of said Pulaski Highway; thence along the southeast side of said Highway North 45 degrees 24 minutes 30 seconds East 200.00 feet to the place of beginning. Containing 2.18 acres of land more or less as described in a Deed recorded in Liber 20979 folio 362.



# DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

### ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The <u>Baltimore County Zoning Regulations</u> (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

### OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:
Item Number or Case Number: 08 - 170 - SPH
Petitioner: LARR-IKERSEV
Address or Location: 11625 Poursu Hickury
PLEASE FORWARD ADVERTISING BILL TO:
Name: LARRY WERSET
Address: 11025 PULKSLI HIGHLAM
BAUTINOUÉ NO
21162
Telephone Number: <u>Чゆろう1 ろいめ</u>

### NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: # 08-170-SPH

11025 Pulaski Highway
S/east side of Pulaski Highway, 2,475 feet s/west of centerline of Stevens Road
11th Election District — 5th Councilmanic District

Legal Owner(s): Larry Kersey

Special Hearing: for a nonconforming use to operate an auto repair/towing/storage facility in a ML zone (previously zoned BR).

Hearing: Wednesday, December 12, 2007 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204.

WILLIAM J. WISEMAN, III

Zoning Commissioner for Baltimore County
NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

JT 11/788 Nov. 27

### CERTIFICATE OF PUBLICATION

1129,2007
THIS IS TO CERTIFY, that the annexed advertisement was published
in the following weekly newspaper published in Baltimore County, Md.,
once in each ofsuccessive weeks, the first publication appearing
on 1127,20 <u>07</u>
The Jeffersonian
☐ Arbutus Times
☐ Catonsville Times
☐ Towson Times
Owings Mills Times
☐ NE Booster/Reporter
☐ North County News
2 Wilking
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LEGAL ADVERTISING

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BALTIMORE COUNTY, MA OFFICE OF BUDGET AND MISCELLANEOUS RECEIP	Fund Agey Orgn	300			Rec Carlah,			DISTRIBUTION WHITE - CASHIER	•

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### CERTIFICATE OF POSTING

ATTENTION: KRISTEN MATTHEWS

**DATE:** 11/26/07

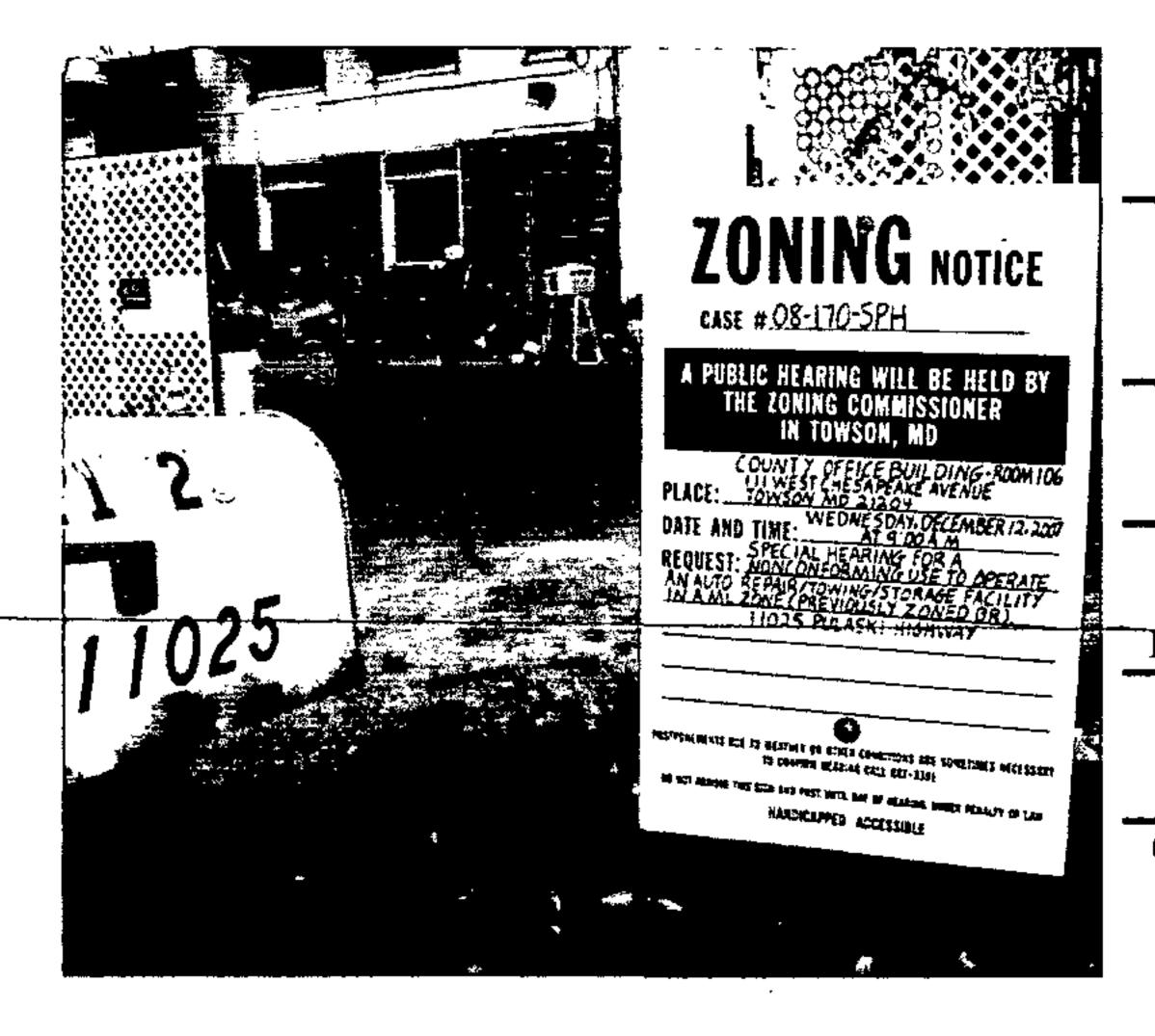
Case Number: 08-170-SPH

Petitioner / Developer: FRANK BOOZER JR. ESQ.~LARRY KERSEY

Date of Hearing (Closing): DECEMBER 12, 2007

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: 11025 PULASKI HIGHWAY

The sign(s) were posted on: 11/25/07



(Signature of Sign Poster)

Linda O'Keefe

(Printed Name of Sign Poster)

523 Penny Lane

(Street Address of Sign Poster)

Hunt Valley, Maryland 21030

(City, State, Zip of Sign Poster)

410 - 666 - 5366

(Telephone Number of Sign Poster)

TO: PATUXENT PUBLISHING COMPANY

Tuesday, November 27, 2007 Issue - Jeffersonian

Please forward billing to:

Larry Kersey 11025 Pulaski Highway Baltimore, MD 21162 410-391-3100

### **NOTICE OF ZONING HEARING**

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 08-170-SPH

11025 Pulaski Highway

S/east side of Pulaski Highway, 2,475 feet s/west centerline of Stevens Road

11<sup>th</sup> Election District – 5<sup>th</sup> Councilmanic District

Legal Owners: Larry Kersey

Special Hearing for a nonconforming use to operate an auto repair/towing/storage facility in a ML zone (previously zoned BR).

Hearing: Wednesday, December 12, 2007 at 9:00 a.m. in Room 106, County Office Building 111 West Chesapeake Avenue, Towson 21204

WILLIAM J. WISEMAN III

ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.

(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



October 23, 2007
TIMOTHY M. KOTROCO, Director

### NOTICE OF ZONING HEARING

Department of Permits and Development Management

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 08-170-SPH

11025 Pulaski Highway
S/east side of Pulaski Highway, 2,475 feet s/west centerline of Stevens Road
11<sup>th</sup> Election District – 5<sup>th</sup> Councilmanic District

Legal Owners: Larry Kersey

Special Hearing for a nonconforming use to operate an auto repair/towing/storage facility in a ML zone (previously zoned BR).

Hearing: Wednesday, December 12, 2007 at 9:00 a.m. in Room 106, County Courts Building #401 Bosley Avenue, Towson 21204

Muty Kotroco

Timothy Kotroco Director

TK:klm

C: Frank Boozer, Jr., 614 Bosley Avenue, Towson 21204 Larry Kersey, 11025 Pulaski Highway, White Marsh 21162

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, NOVEMBER 27,2007

- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



November 2, 2007
TIMOTHY M. KOTROCO, Director
Department of Permits and

### CORRECTED NOTICE OF ZONING HEARING elopment Management

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 08-170-SPH

11025 Pulaski Highway

S/east side of Pulaski Highway, 2,475 feet s/west centerline of Stevens Road

11<sup>th</sup> Election District – 5<sup>th</sup> Councilmanic District

Legal Owners: Larry Kersey

Timothy Ketrock Lorrocco

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TK:klm

C: Frank Boozer, Jr., 614 Bosley Avenue, Towson 21204 Larry Kersey, 11025 Pulaski Highway, White Marsh 21162

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- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



TIMOTHY M. KOTROCO, Director
Department of Permits and
Development Management

December 5, 2007

Frank V. Boozer, Jr., Esquire Covahey, Boozer, Devan & Dore, P.A. 614 Bosley Avenue Towson, Maryland 21204

Dear Mr. Boozer:

RE: Case Number: 08-170-SPH, 11025 Pulaski Highway

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on October 10, 2007. This letter is not an approval, but only a **NOTIFICATION**.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:amf Enclosures

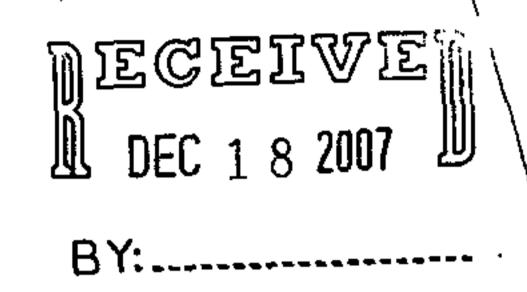
.c: People's Counsel

Larry Kersey 11025 Pulaski Highway White Marsh 21162

### BALTIMORE COUNTY, MARYLAND

### Inter-Office Correspondence





TO:	
TO.	

Timothy M. Kotroco

FROM:

Dave Lykens, DEPRM - Development Coordination JWL

DATE:

December 18, 2007

SUBJECT:

Zoning Item

# 08-170-SPH

Address

11025 Pulaski Highway

(Kersey Property)

Zoning Advisory Committee Meeting of October 15, 2007

\_\_\_\_ The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

<u>X</u> The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).

Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

\_X\_\_\_ Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004, and other Sections, of the Baltimore County Code).

### Additional Comments:

The property is within an Intensely Developed Area (IDA) and must comply with all IDA requirements, including the 10% phosphorus reduction requirement and stream buffers.

Reviewer:

Regina Esslinger

Date: 11/27/07



Martin O'Malley, Governor Anthony G. Brown, Lt. Governor

John D. Porcari, Secretary
Neil J. Pedersen, Administrator

### Maryland Department of Transportation October 22, 2007

Ms. Kristen Matthews.

Baltimore County Office Of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE:

Baltimore County
Item No. 08-170-SPH

US 40 (Pulaski Highway)

2,475' southwest of Stevens Road Plan to Accompany a Petition for

Special Hearing Mile Post 22.02

Dear Ms. Matthews:

7

Thank you for the opportunity to review ZAC Agenda plan to accompany a petition for special hearing 8-170-SPH on the subject of the above captioned, which was received on October 16<sup>th</sup>. The plan illustrates proposal for a repair/towing/storage facility for automobiles.

We have completed a cursory review of the site plan as well as existing field conditions. The following Comments are offered for your consideration:

- The subject property is located on the northeast side of US 40 (Pulaski Highway). Our State Highway Location reference indicates that US 40 (Pulaski Highway) is principle arterial divide highway. The Annual Average Daily Traffic volume on this section of US 40 is 33210 vehicle trips per day.
- Based on the proposed use, we find that the existing conditions are inconsistent with State Highway Access Manual guidelines. Improvements may be required to accommodate trucks and vehicles. Also, in a recent field investigation it appears that the owner/operator is storing vehicles in the State right-of-way. This practice presents a potential safety problem as well as a violation of the Maryland Motor Vehicle Law "prohibiting storing vehicles within State highway limits.
- We request that a minimum set back is established within the property limit for the display and storing of vehicles.

In conclusion- We recommend that the above comments be a condition of 11025 Pulaski Highway Property Item No. 08-170-SPH approval. Please include our remarks in your staff report to the Zoning Hearing Examiner.

Should you have any questions regarding this matter, please contact Michael Bailey at 410-545-5593 or 1-800-876-4742 extension 5593. Also, you may E-mail him at (<a href="mailto:mbailey@sha.state.md.us">mbailey@sha.state.md.us</a>). Thank you for your attention.

Very truly yours,

A Steven D. Foster, Chief ()
Engineering Access Permits

Division

 Ms. Kristen Matthews October 22, 2007 Item No. 07-170-SPH

### SDF/MB

Cc: Mr. Larry Kersey, Applicant

Mr. David Malkowski, District Engineer, SHA

Mr. Joe Merrey, Department of Permits & Development Management, Baltimore County

Mr. Michael Pasquariello, Utility Engineer, SHA

Mr. Kenneth J. Wells, Consultant Engineer, kj Wells, Inc.



### INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

**DATE:** October 25, 2007

Department of Permits and

Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

DECEIVE DCT 2 9 2007

BY:

SUBJECT: Zoning Advisory Petition(s): Case(s) 08-170- Special Hearing

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer.

For further questions or additional information concerning the matters stated herein, please contact Donnell Zeigler in the Office of Planning at 410-887-3480.

Prepared By

**Division Chief:** 

CM/LL

### BALTIMORE COUNTY, MARYLAND

### INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

**DATE:** October 25, 2007

Department of Permits and

Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT: Zoning Advisory Petition(s): Case(s) 08-170- Special Hearing

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer.

For further questions or additional information concerning the matters stated herein, please contact Donnell Zeigler in the Office of Planning at 410-887-3480.

Prepared By:

Division Chief:

CM/LL



JOHN J. HOHMAN, Chief
Fire Department

County Office Building, Room 111 Mail Stop #1105 111 West Chesapeake Avenue Towson, Maryland 21204 October 11, 2007

ATTENTION: Zoning Review Planners

Distribution Meeting Of: October 15, 2007

Item Number: Item Number 156,160, 162, 163, 164, 165, 166,167,168, 169,170

Pursuant to your request, the referenced plan(s) have been reviewed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

## 1. The Fire Marshal's Office has no comments at this time.

Lieutenant Roland P Bosley Jr. Fire Marshal's Office 410-887-4880 (C)443-829-2946 MS-1102F

cc: File

### BALTIMORE COUNTY, MARYLAND

### INTEROFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

**DATE:** October 15, 2007

Department of Permits & Development

Management

FROM:

Dennis A. Kennedy, Supervisor

Bureau of Development Plans Review

**SUBJECT:** 

Zoning Advisory Committee Meeting

For October 22, 2007

Item Nos. 08-156, 160, 162, 164, 165,

166, 167, 169, and 170

The Bureau of Development Plans Review has reviewed the subject zoning items and we have no comments.

DAK:CEN:clw

cc: File

ZAC-NO COMMENTS-10152007.doc

RE: PETITION FOR SPECIAL HEARING 11025 Pulaski Highway; SE/S Pulaski Highway, 2,475' SW c/line Stevens Road 11<sup>th</sup> Election & 5<sup>th</sup> Councilmanic Districts Legal Owner(s): Larry Kersey

Petitioner(s)

BEFORE THE

\* ZONING COMMISSIONER

\* FOR

\* BALTIMORE COUNTY

\* 08-170-SPH

ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent and all documentation filed in the case.

PETER MAX ZIMMERMAŃ

People's Counsel for Baltimore County

CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of October, 2007, a copy of the foregoing Entry of Appearance was mailed to, Frank V. Boozer, Jr., Esquire, Covahey, Boozer, Devan & Dore, P.A., 614 Bosley Avenue, Towson, MD 21204, Attorney for Petitioner(s).

RECEIVED

CCT 15 2007

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Per....

# PLEASE PRINT CLEARLY

CASE NAME
CASE NUMBER 08-163DATE

# PETITIONER'S SIGN-IN SHEET

(2) Cast an E- MAIL MD 20087 20116 W 100/0 2,204 CITY, STATE, ZIP EULGUULE EULGUULE White March 1409 HEVI COT RO 11035 Palusia, # ADDRESS (काप KEULETH WELLS MKDIA BREWER LARRY Kevsey FRANK BOOKE NAME

Case No.: 08 - 170 - 5PH

### Exhibit Sheet

### Petitioner/Developer

### Protestant

No. 1	Tile Plan	
No. 2	Leave Agreement	
No. 3	Zaring Lufformter	
No. 4	Deal - 10/19/09	
No. 5	Resussing State to part Jalune of \$160,006	
No. 6		
No. 7		-
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

# DIVISION OF CODE INSPECTIONS AND ENFORCEMENT VIOLATION CASE DOCUMENTS

**VIOLATION CASE: 07-8314** 

11025 Pulaski Higway

ZONING CASE: 08-170-SPH 11025 Pulaski Highway

### BALTIMORE COUNTY, MARYLAND INTEROFFICE CORRESPONDENCE

DATE:

November 9, 2007

TO:

W. Carl Richards, Jr.

Zoning Review Supervisor

FROM:

Rick Wisnom, Hearing Officer

Division of Code Inspections & Enforcement

SUBJECT:

Item No.: 170

Legal Owner/Petitioner: Larry Kersey

Contract Purchaser:

Property Address: 11025 Pulaski Highway

Location Description: Southeast saide Pulaski Highway, 2,475 feet southwest centerline

Stevens Road.

VIOLATION INFORMATION:

Case No.: 07-8314

Defendants: Larry Kersey

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following person(s) regarding the hearing date:

> Pat Golden 11035 Pulaski Hwy Baltimore MD 21162

In addition, please find attached a duplicate copy of the following pertinent documents relative to the violation case, for review by the Zoning Commissioner's Office:

Complaint Intake Form State Tax Assessment printout Correction Notice/Code Violation Notice Photographs Amended Final Order

Other: correspondences

After the public hearing is held, please send a copy of the Zoning Commissioner's order to Lisa Henson in Room 213 in order that the appropriate action may be taken relative to the violation case.

RSW/

c: Derek Propalis

E ENFORCEMENT REPC T 3-08/6 04	- 9
DATE: 6 26,0 INTAKE BY: 503 CASE #: 07-8314 INSPEC:	9948
COMPLAINT 11025 PULASKI HWY	
ZIP CODE: 2  102 DIST:_	11
COMPLAINANT Pat Golden PHONE #: (H) (W) 335-	8151
ADDRESS: 11035 Pulaski Hwy zip code: 211	62
PROBLEM: UNtagged & unlicensed Johieles bline	
Stored along Pulaski Huy; zunk yard behind Jehrel IS THIS A RENTAL UNIT? YES NO	<u></u>
IF YES, IS THIS SECTION 8? YES NO WINFORMATION: KUNDLY JAMES A QUILLE TOMAN TOMAN	<del></del>
TAX ACCOUNT #: 1600011759 ZONING: BR-AS	
INSPECTION:	· · · · · · · · · · · · · · · · · · ·
REINSPECTION:	· · ·
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REINSPECTION:	
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REINSPECTION:	
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STANDARD ASSESSMENT INQUIRY (1)

DATE: 06/26/2007

TIME: 09:31:37

OCC. HISTORIC GROUP CLASS

 $\mathsf{DEL}$ LOAD DATE

04/18/07

16 00 011759

PROPERTY NO.

11

DIST

1-0 06-00

NO

KERSEY LARRY

DESC-1.. IMPSPULASKI HIGHWAY

KERSEY JAMES THOMAS

DESC-2.. STONEWALL INN

11025 PULASKI HWY

PREMISE. 11025 PULASKI

HWY

00000-0000

WHITE MARSH

MD 21162-1813 FORMER OWNER: SUMMA RAE A TRUSTEE

FCV				PHASEI	) IN	
	PRIOR	PROPOSED		CURR	CURR	PRIOR
LAND:	247,200	437,000		FCV	ASSESS	ASSESS
IMPV:	123,000	79,600	TOTAL	419,000	419,000	370,200
TOTL:	370,200	516,600	PREF	0	0	. 0
PREF:	0	. 0	CURT	0	0	0
CURT:	. 0	0	EXEMPT.		0	0

DATE:

09/03

09/06

TAXABLE BASIS

FM DATE

ASSESS:

419,000

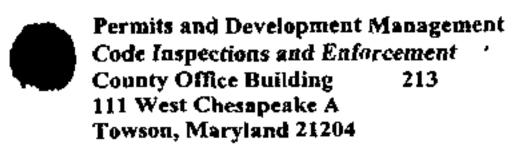
11/15/06

ASSESS:

370,200

ASSESS:

ENTER-INQUIRY2 PA1-PRINT PF4-MENU PF5-QUIT PF7-CROSS REF





Code Enforcement ,
Building I jon
Electrical , ction
Plumbing Inspection

Signs/ Fences

410-887-3351 410-887-3953 410-887-3960 410-887-3620 410-887-3896

### CODE INSPECTIONS AND ENFORCEMENT CORRECTION NOTICE

67-83/4 1600011759 DATE ISSUED 6129107
NAME(S): / DISI RONDI
James Konsoni
MAILING ADDRESS  (1035 Filanki Hul)
CITY STATE ZIP CODE
VIOLATION ADDRESS
CITY STATE ZIP CODE
BALTIMORE MARYLAND  DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:
RESIDENTIAL ZONE CLASSIFICATION  NON-RESIDENTIAL CLASSIFICATION
□ DR1 □ DR2 □ DR3.5       □ DR5.5 □ DR10.5 □ DR16       □ BL (230) □ BR (236) □ BM (233)         □ RC2(1A01) □ RC4(1A03) □ RC20 & 50 (1A05) □ RC6(1A07)       □ MR (240) ML (253) □ MH (256)
□ RC3(1A02) □ RC5(1A04) □ RCC (1A06) □ RC7 (1A08)
OTHER: DALTIMORE COUNTY ZONING REGULATIONS (B.C.Z.R.)
AUTHORITY TO ENFORCE ZONING REGULATIONS: 32-3-102; 32-3-602; 32-3-603; 32-4-114
101; 102.1: Definitions; general use   □ 415A: License/ remove untagged recreation vehicle □ 1B01.1: DR Zones-use regulations □ 415A: Improperly parked recreation vehicle
□ 428: License/ Remove all untagged/ inoperative or □ 415A: One recreational vehicle per property
damaged/ disabled motor vehicle(s)
□ 431: Remove commercial vehicle(s) □ 1B02.1; 270; 421.1: Illegal kennel. Limit 3 dogs □ 101; 102.1: Remove contractors equip. storage yard □ 102.5: Residential site line violation /obstruction
☐ 101; 102.1; ZCPM: Cease service garage activities ☐ 408B: Illegal rooming/ boarding house ☐ 402: Illegal conversion of dwelling ☐ BCC: 32-3-102; 500.9 BCZR; ZCPM:
□ 101; 102.1; ZCPM: Illegal home occupation Violation of commercial site plan and/or zoning order
BALTIMORE COUNTY CODE (B.C.C)
□ 13-7-112: Cease all nuisance activity □ 35-2-301: Obtain building/ fence/ sign permit □ 13-7-115: County to abate nuisance & lien costs □ 18-2-601: Remove all obstruction(s) at street, alley, road □ 13-7-310: Remove all trash & debris from property □ 13-7-310(2): Remove bird seed / other food for rats □ 13-7-312: Remove accumulations of debris, materials, etc □ 32-3-102: Violation of development plan/ site plan □ 13-7-201(2): Cease stagnant pool water □ IBC 115; BCBC 115: Remove/ Repair unsafe structure board and secure all openings to premise □ 13-3-106: Remove animal feces daily □ 13-7-401; 13-7-402; 13-7-403: Cut & remove all tail □ 13-4-201(b)(d): Store garbage in containers w/tight lids □ grass and weeds to three (3) inches in height
OWNER OCCUPIED HOUSING (B.C.C)
□ 35-5-302(a)(1): Unsanitary conditions. □ 35-5-302(a)(2): Store all garbage in trash cans □ 35-5-302(a)(3): Cease
INVESTMENT PROPERTY (B.C.C)
□ 35-2-404(a)(1)(i): Remove hazardous or unsafe condition □ 35-2-404(a)(1)(ii): Repair roof or horizontal members □ 35-2-404(a)(1)(ii): Repair ext. valls / vertical members □ 35-2-404(a)(1)(ii): Repair exterior chimney □ 35-2-404(a)(1)(vi): Repair ext. plaster or masonry □ 35-2-404(a)(1)(vi): Waterproof walls/ roof /foundations □ 35-2-404(a)(1)(vii): Repair exterior construction (see below) □ 35-2-404(a)(1)(2): Remove trash, rubbish, & debris □ 35-2-404(a)(1)(3): Repair / remove defective exterior sign(s) □ 35-2-404(a)(4)(i)(ii): Board & secure. Material to match buflding color. of structure
Service activity (repair, towns, storage)
petition paperwork for a non-conforming
□ NOTICE POSTED AND MAILED
POTENTIAL FINE: \$200   \$500   \$1000 per day, per violation and to be placed as a lien upon your tax bill.
COMPLIANCE DATE: 8,5,07 INSPECTOR NAME: PRINT NAME (Rev 9/05)
ACENCV

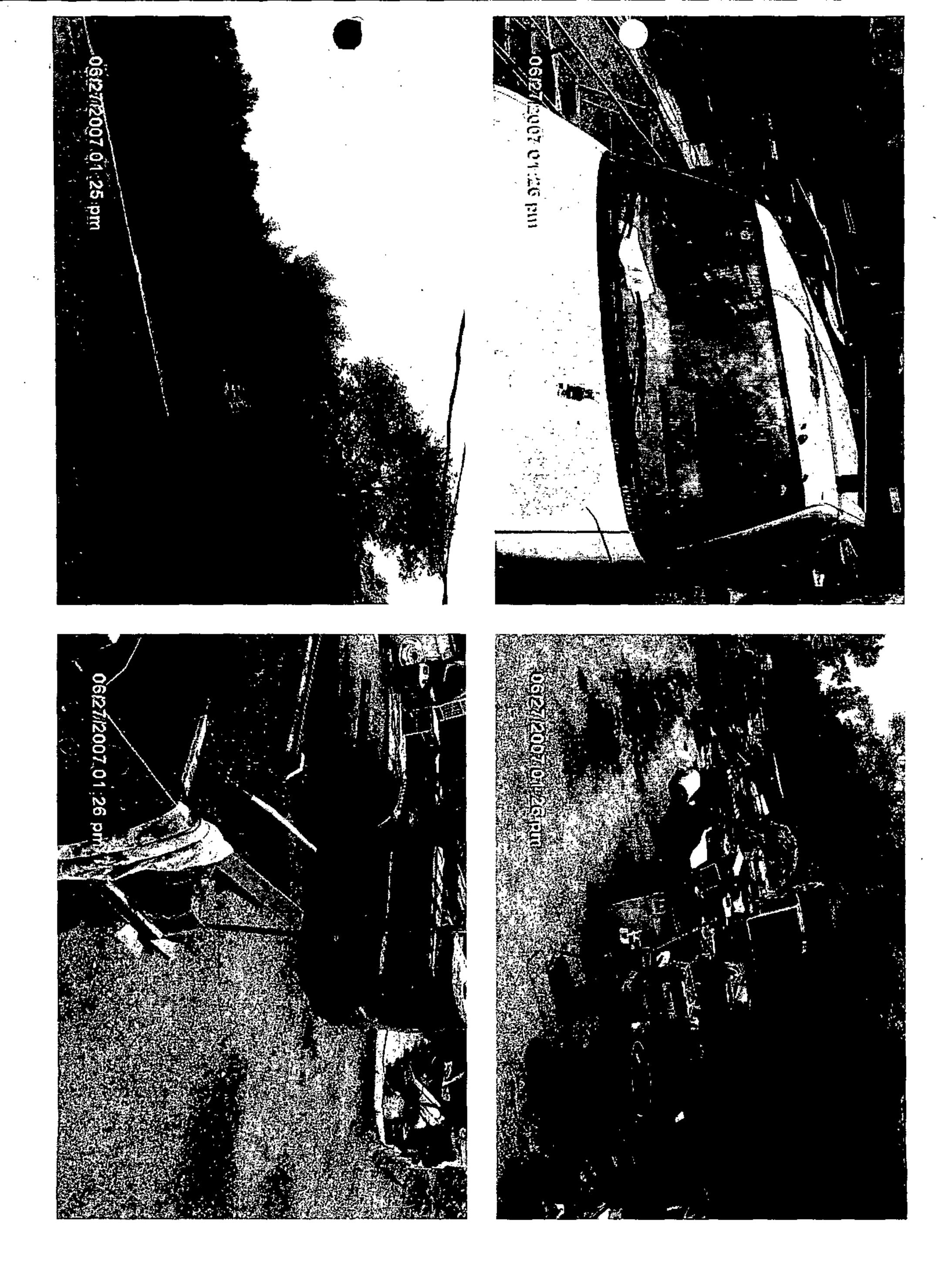
**AGENCY** 

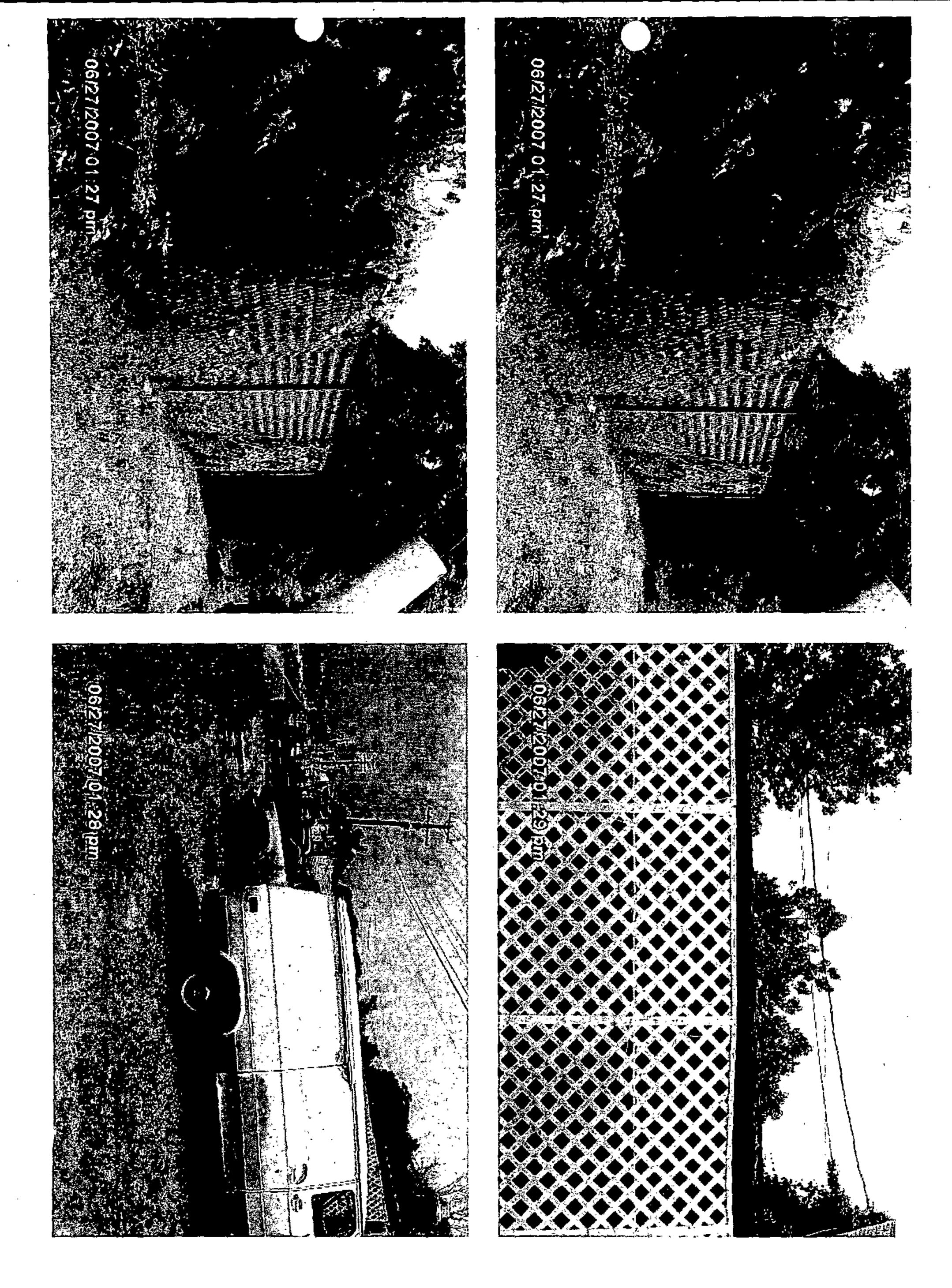
### PHOTOGRAPHIC RECORD

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Date of Photographs:	[0]	27/07	-	
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citation/case number on the d	iate set out above.			( )

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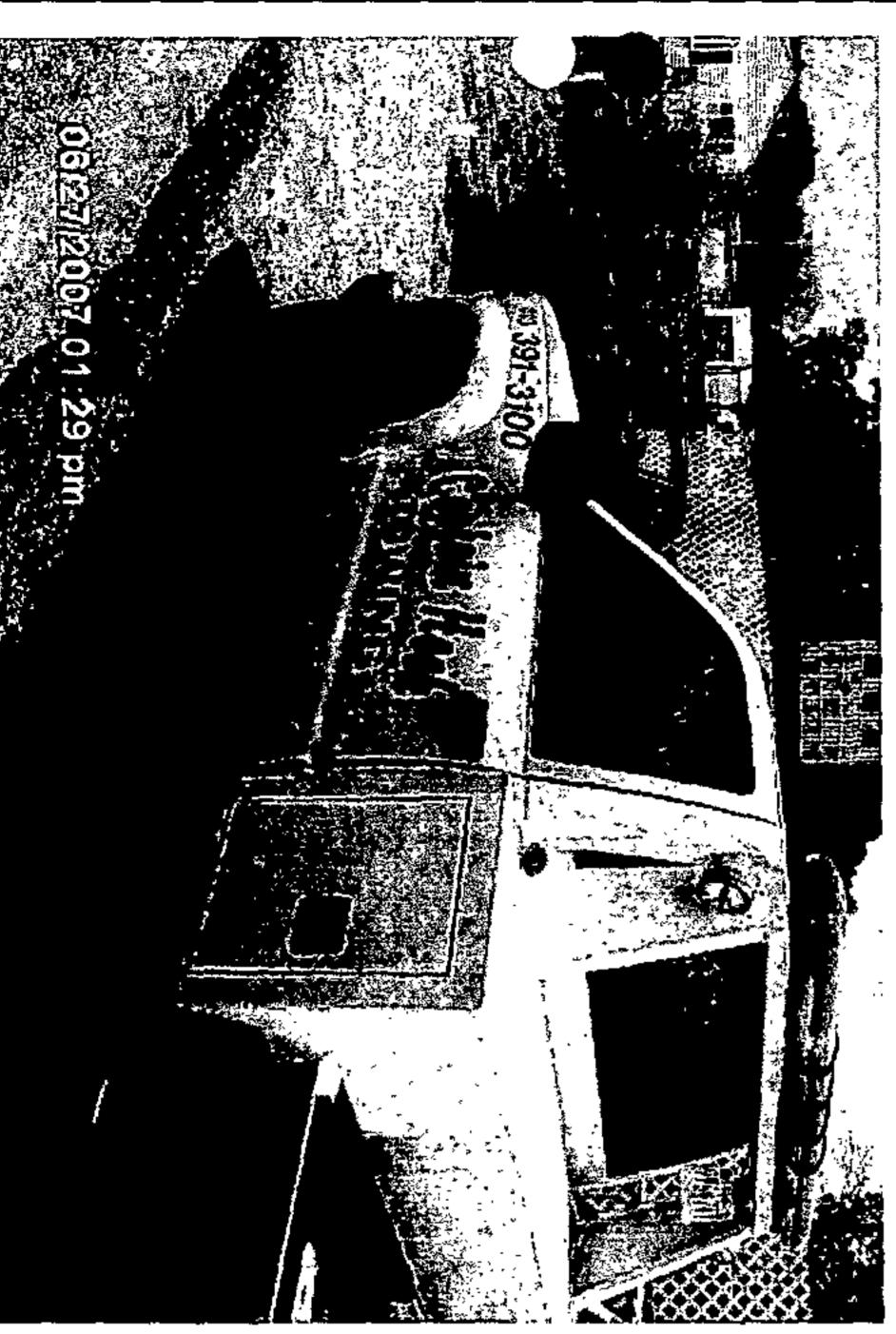




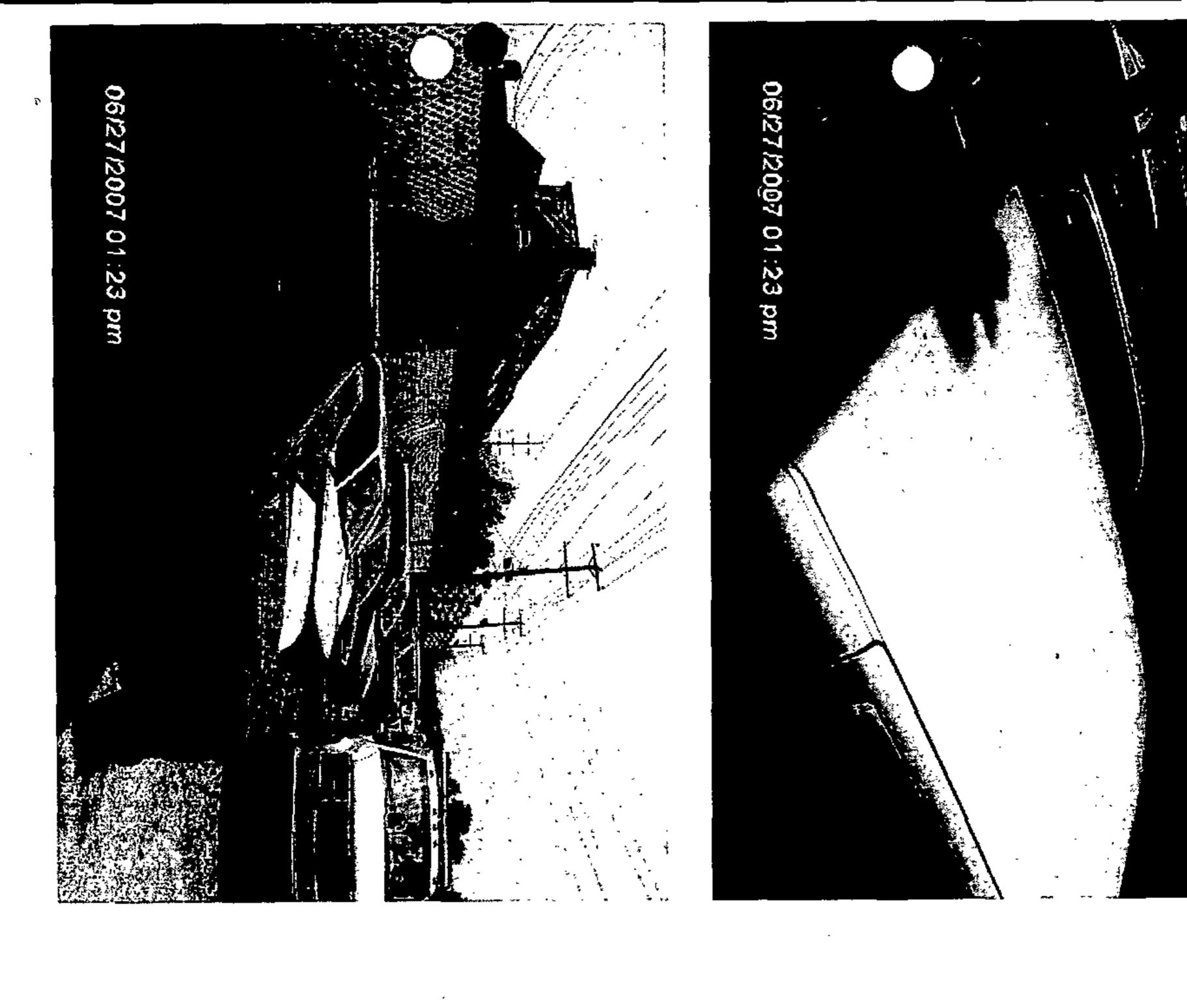










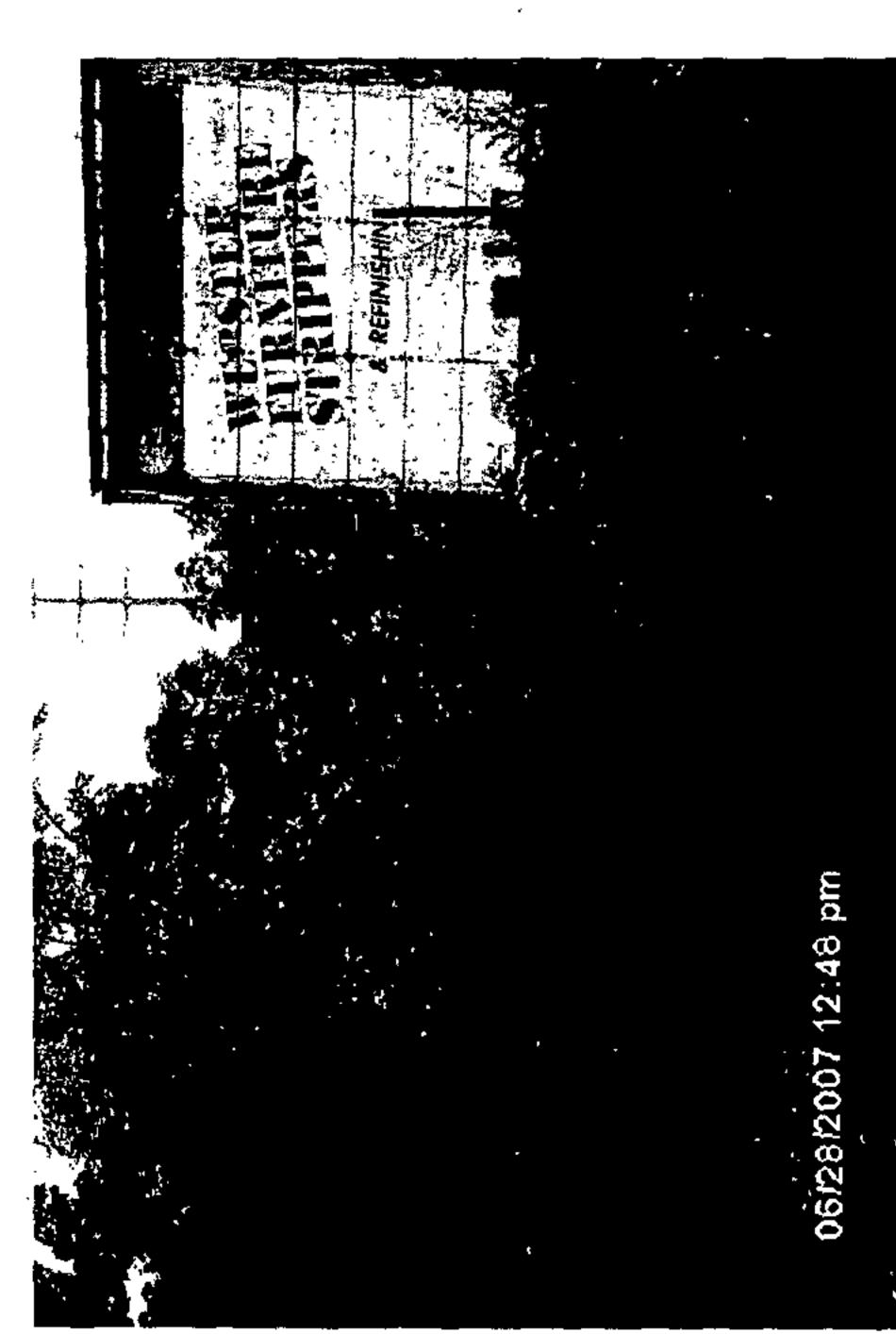


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Date of Photographs: _		6/28	107		
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fairly and accurately dep citation/case number on	ict the condition the date set out	of the property above.	that is the subjec	t of the above-referen	ced
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			Enfe	rcement Officer	

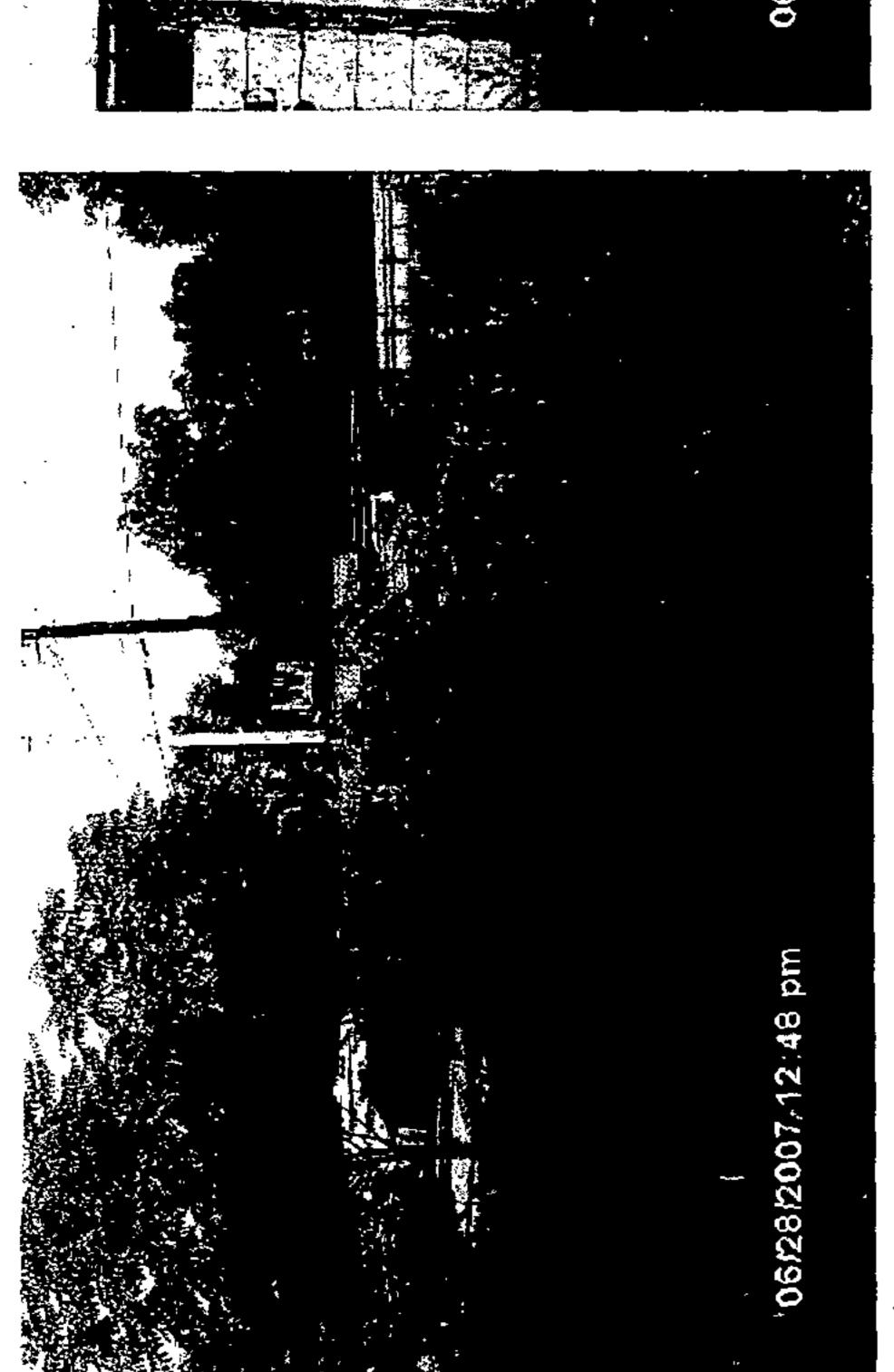
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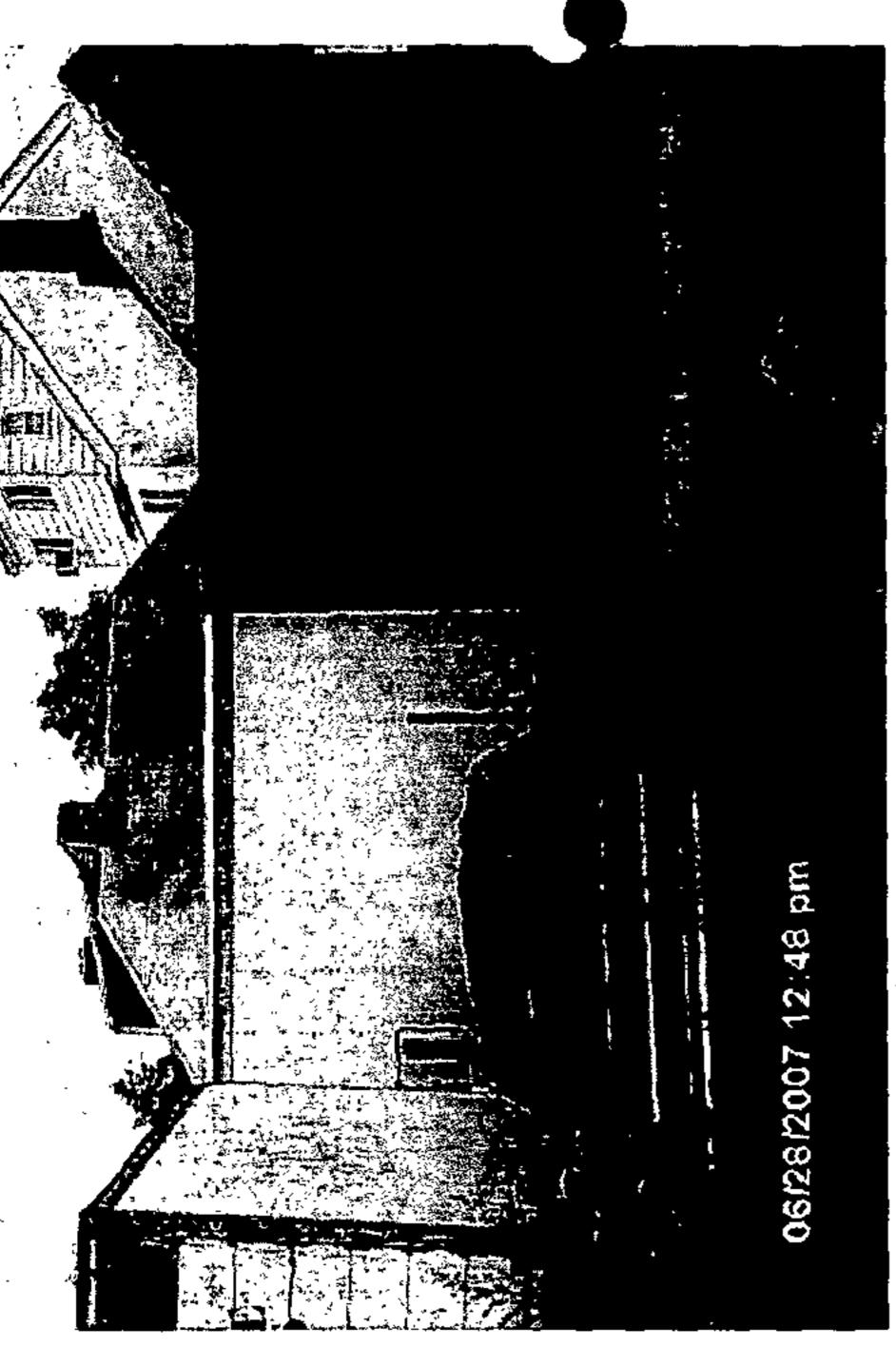


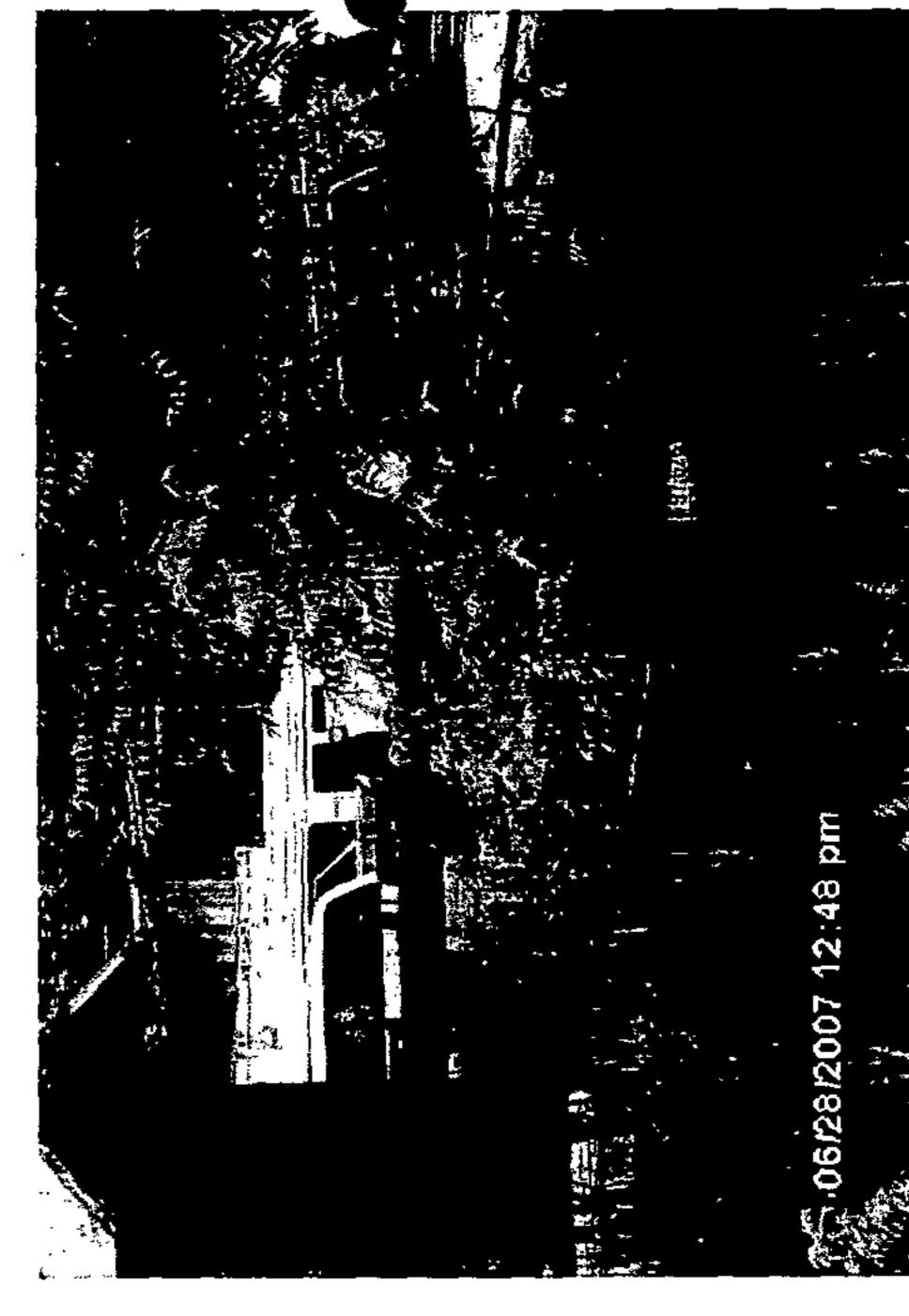


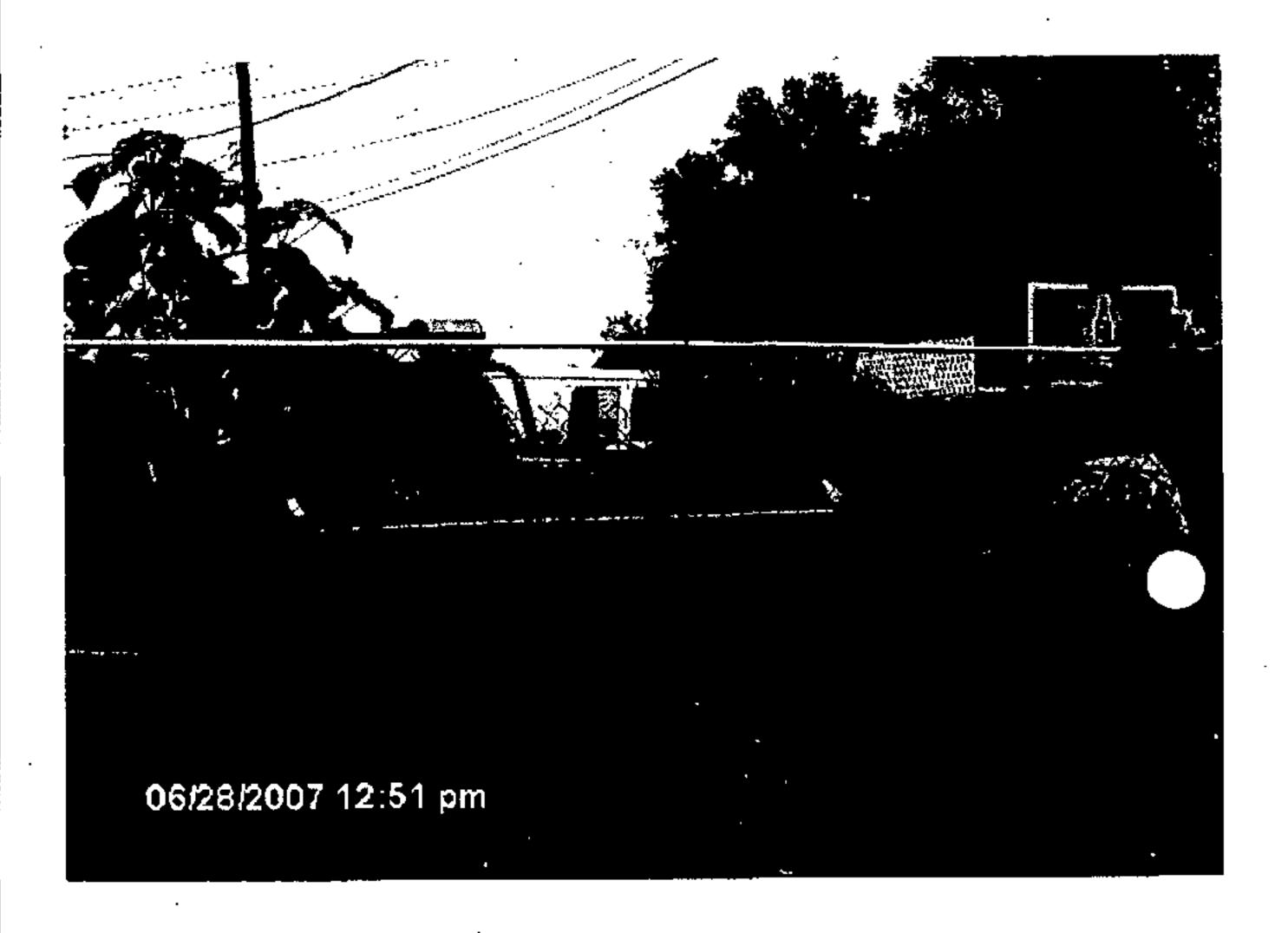


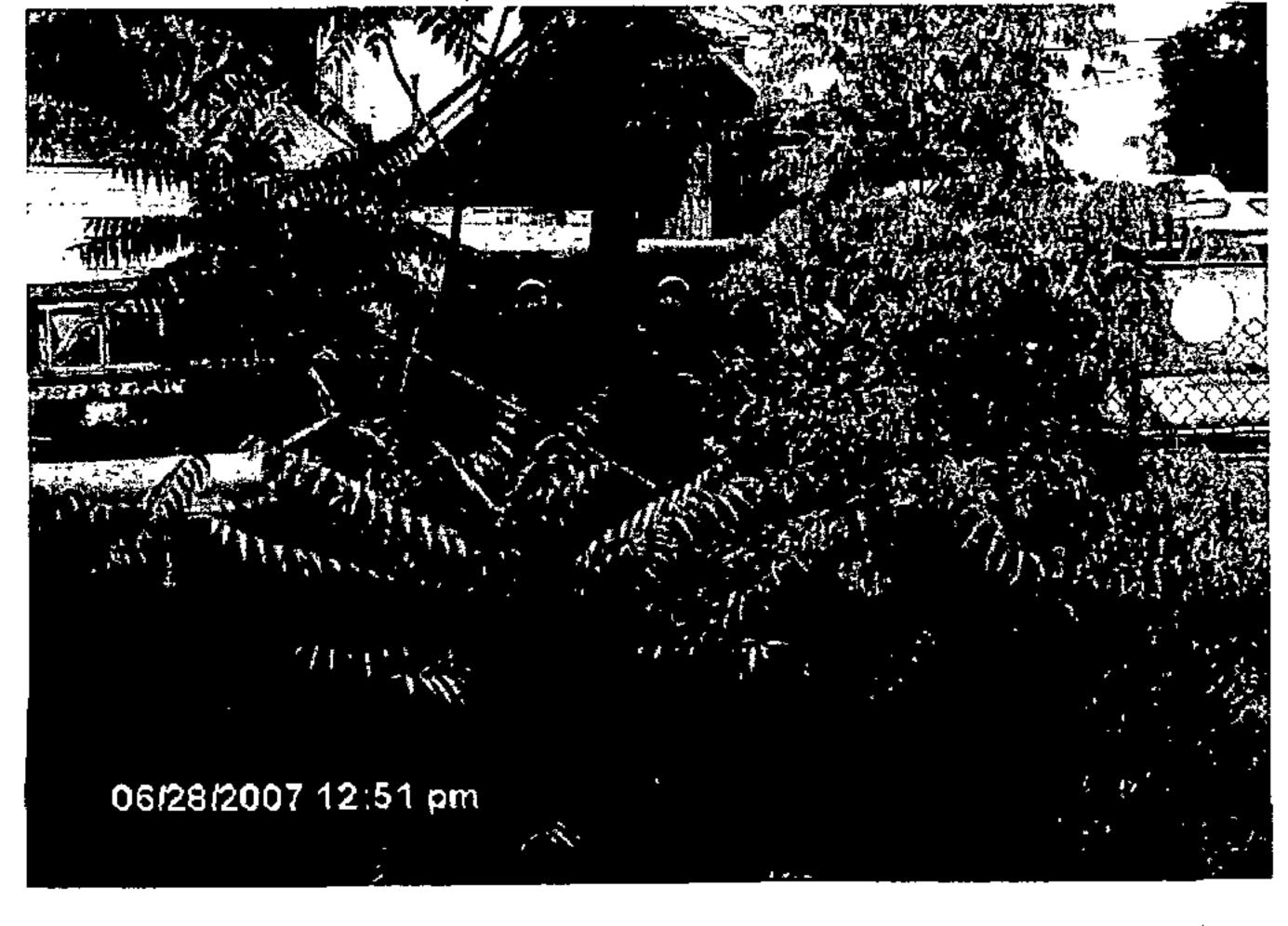










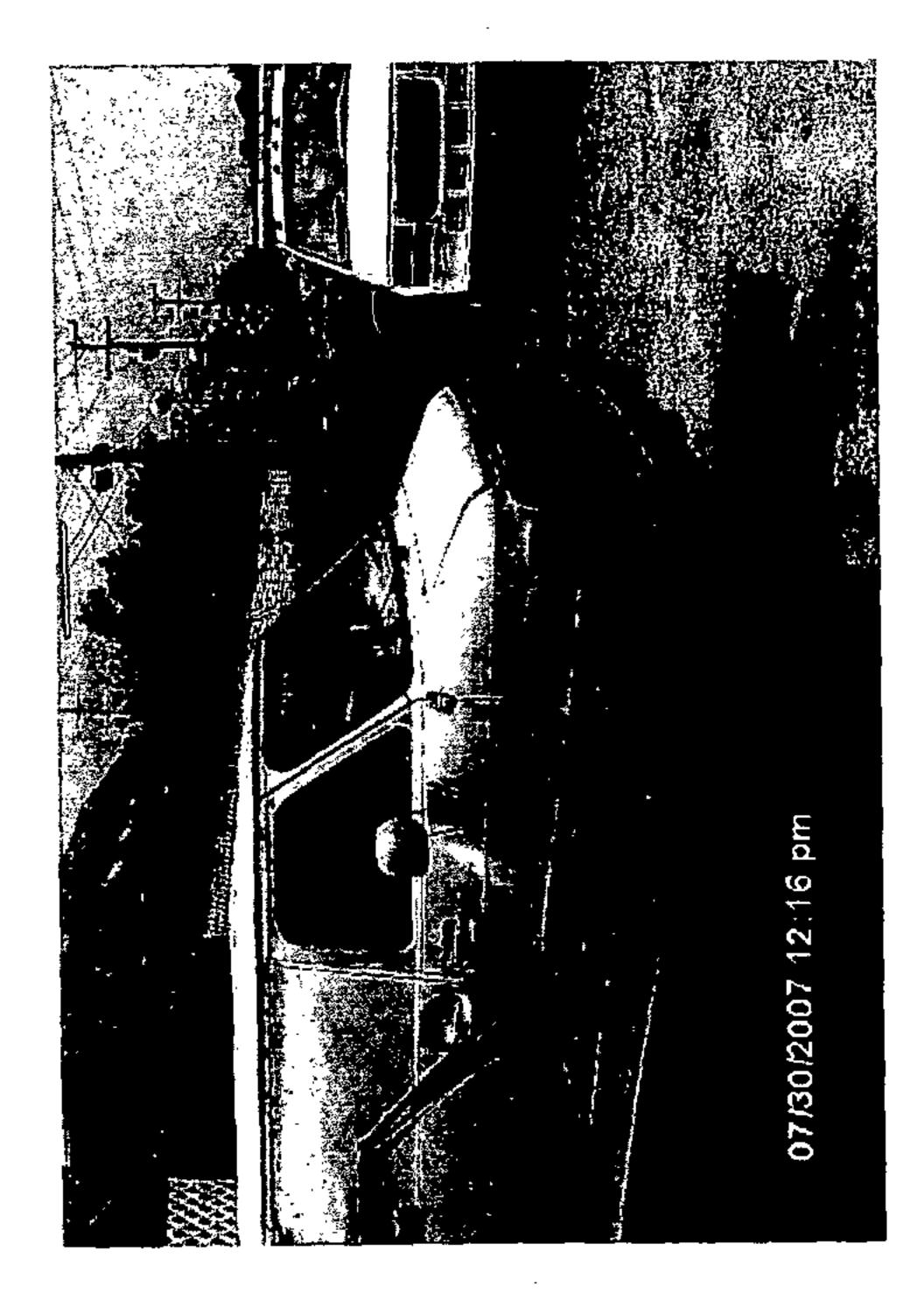


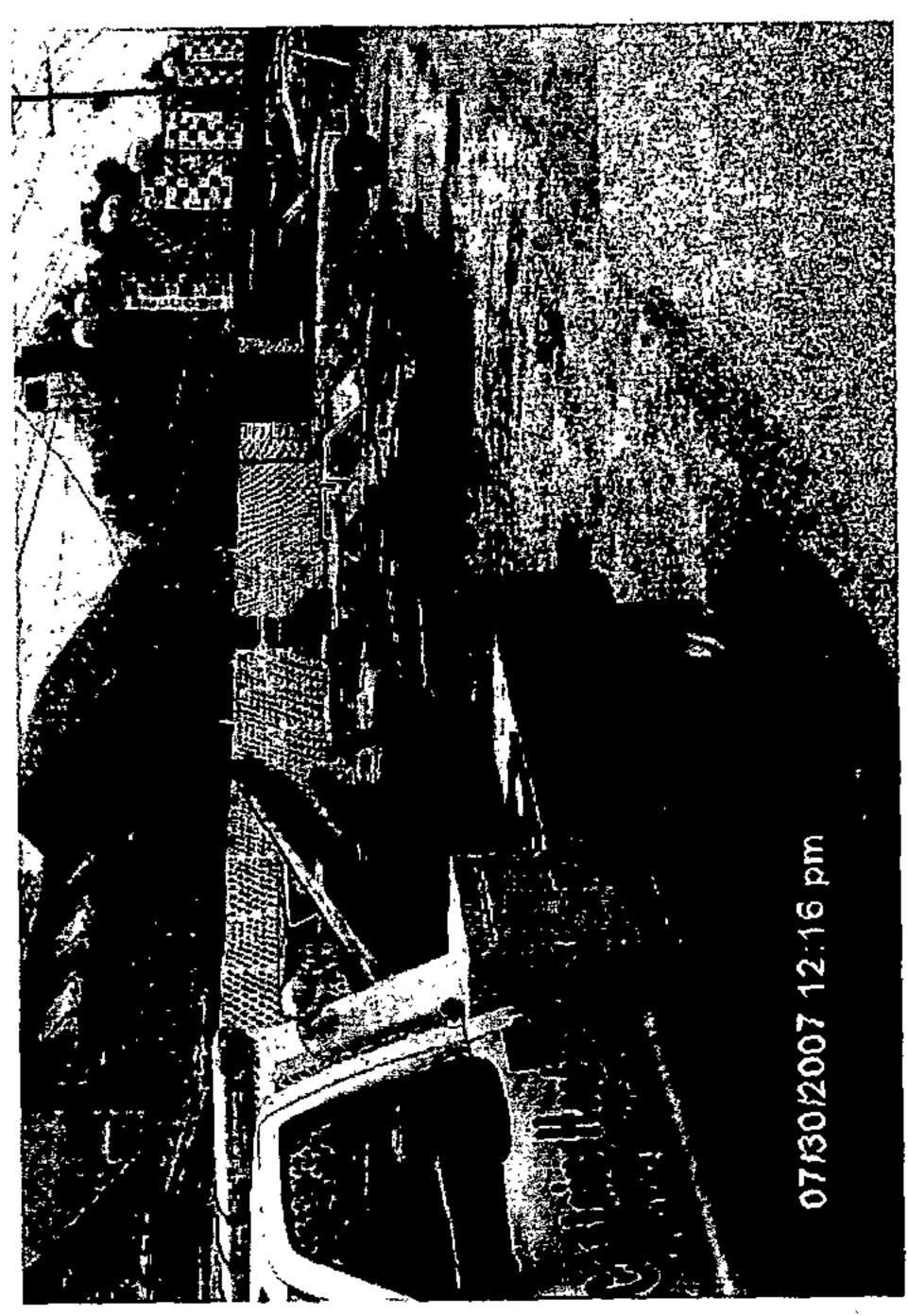


I HEREBY CERTIFY that I took the \_\_\_\_\_\_ photographs set out above, and that these photographs fairly and accurately depict the condition of the property that is the subject of the above-referenced citation/case number on the date set out above.

Enforcement Officer

Citation/Case No.: 07-8314 1/025 1/025 Date of Photographs: 9/30/07





I HEREBY CERTIFY that I took the

\_ photographs set out above, and that these photographs

(number of photos)

fairly and accurately depict the condition of the property that is the subject of the above-referenced

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citation/case number on the date set out above.

Enforcement Officer

Citation/Case No.: <u>07-83/4</u> 1/025 Polapki

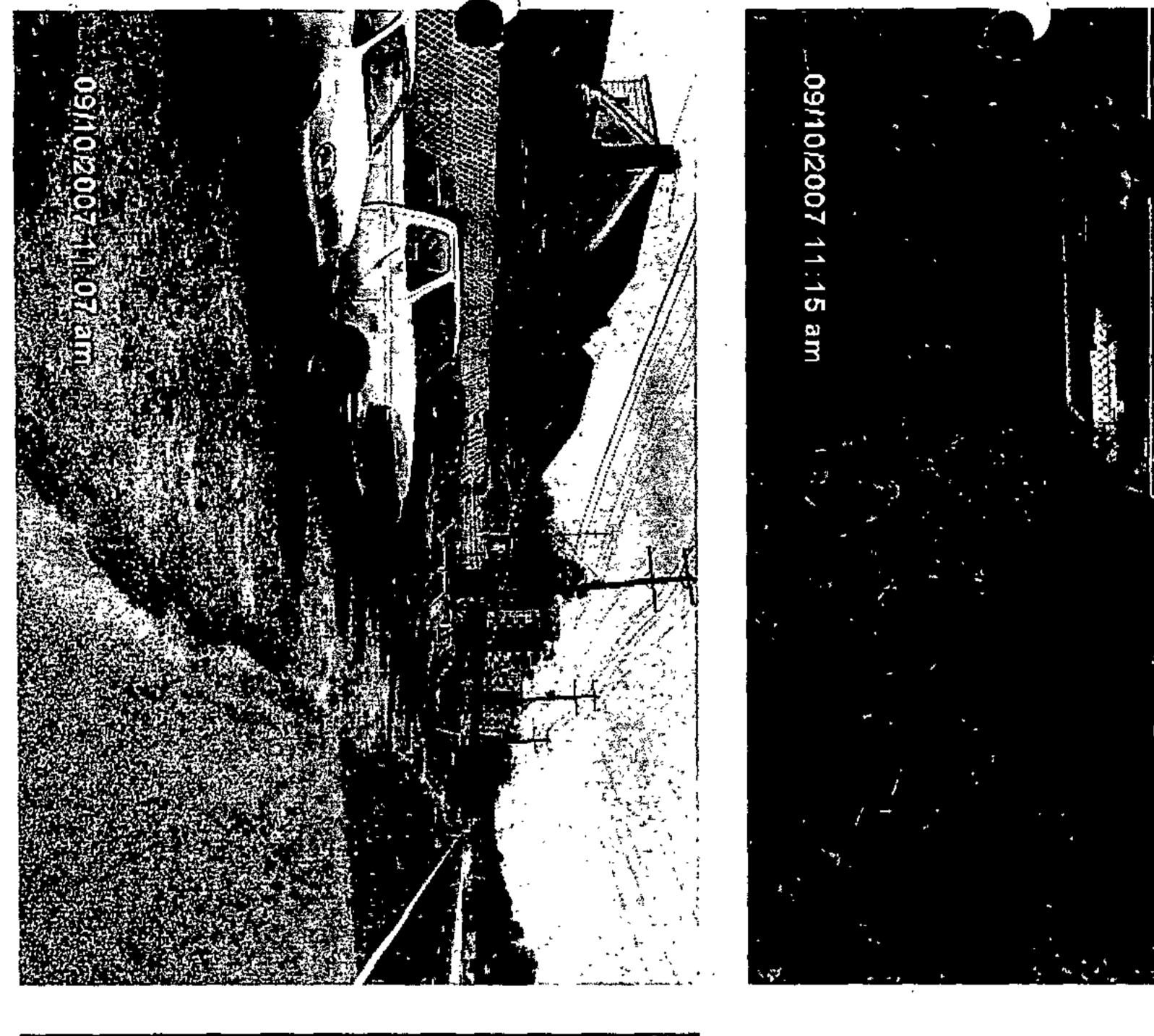
Date of Photographs: <u>9/0/07</u>

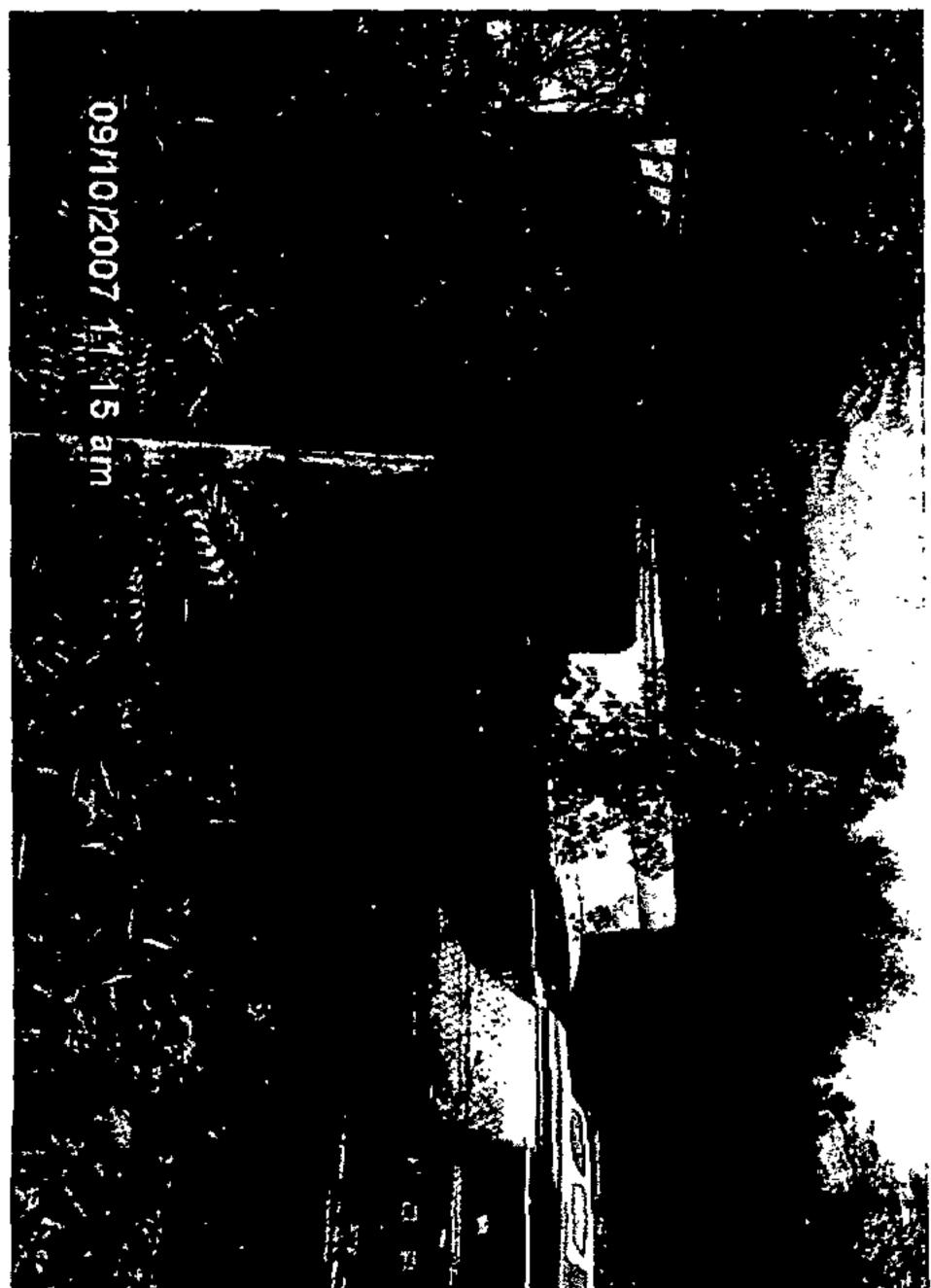


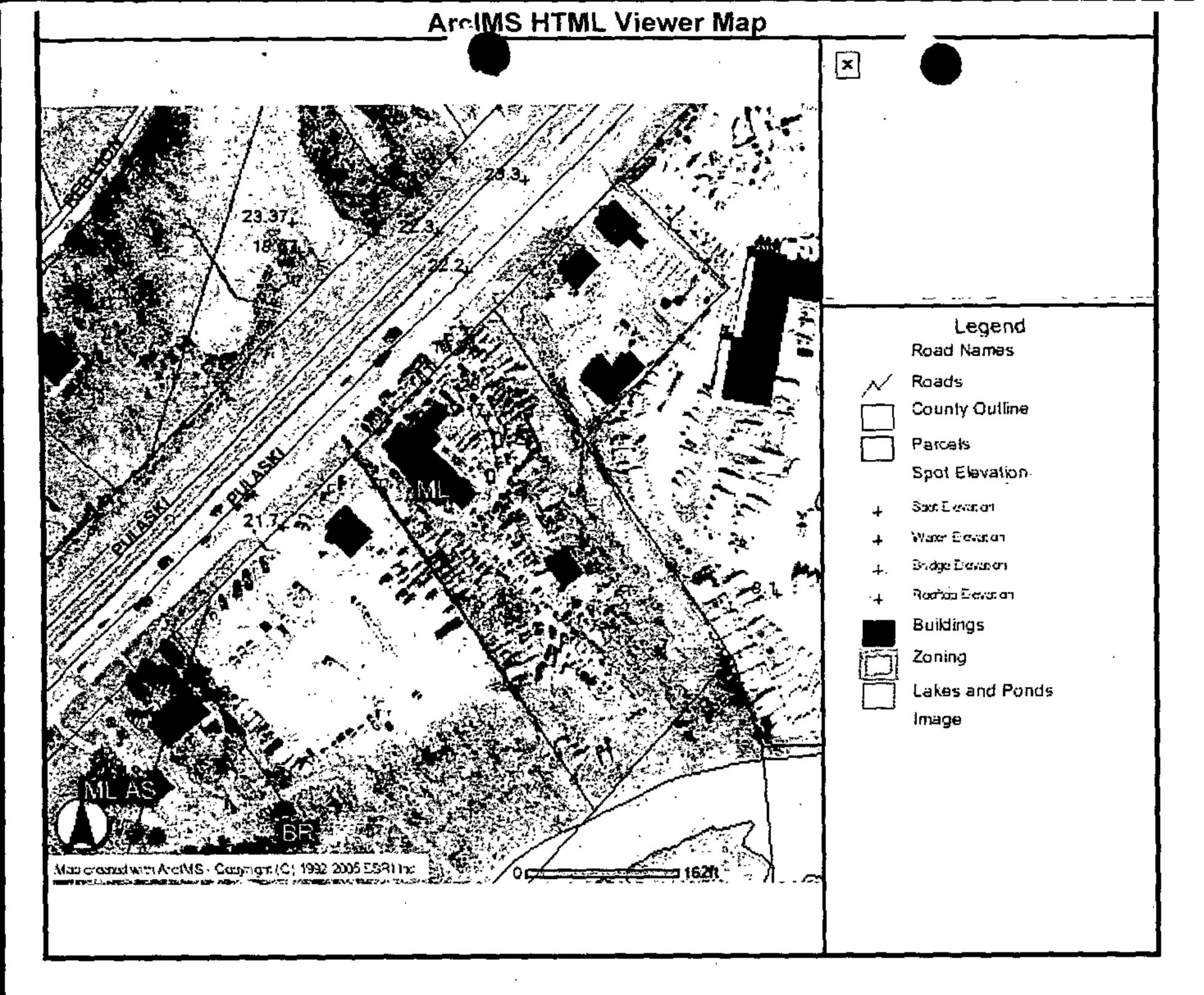
I HEREBY CERTIFY that I took the \_\_\_\_\_ photographs set out above, and that these photographs fairly and accurately depict the condition of the property that is the subject of the above-referenced

citation/case number on the date set out above.

Enforcement Officer







Ml vehicle sales N.O.

vehicle repair No.

car rental OK.

trock rental OK.

trock repair OK

Department of Permits and Development Management

111 West Chesapeake Avenue Towson, Maryland 21204

Baltimore County, Maryland

In the Matter of

Larry Kersey James Thomas Kersey

Respondent



11025 Pulaski Highway

# FINDINGS OF FACT AND CONCLUSION OF LAW AMENDED FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on November 29, 2005, for a hearing on a citation for violations under the Baltimore County Zoning Regulations §102.1, 236, 408, 428 and Baltimore County Code §11-2-211; 13-4-104; 13-7-112, 115, 123, 310, 312 for failure to cease open dump and junk yard operations, failure to remove vehicles from right of way, failure to cease the outside storage of unlicensed vehicles, failure to cease the sale of used cars on property zoned BR-AS located at 11025 Pulaski Hwy, 21162

On June 7, 2005, pursuant to §3-6-205, Baltimore County Code, a code enforcement citation was issued by Sophia Jennings, Code Enforcement Officer. The citation was legally served on the Respondent.

The citation proposed a civil penalty of \$166,400.00 (one hundred sixty-six thousand four hundred dollars) to be assessed. A code enforcement hearing date was scheduled for July 27, 2005.

A hearing was held on July 27, 2005 wherein the owner agreed to remove vehicles from the premises. The property is zoned BR-AS. Service garage activities are allowed in BR zones as a matter of right. Service garage is defined as " A garage other than a residential garage; where motor driven vehicles are stored, equipped for operation, repaired or kept for remuneration, hire or sale". Used car sales are allowed by special exception. It appears that motor vehicle storage is allowed on subject property. Junkyard and open dump conditions are not allowed. Photographs taken by Ms. Jennings show open dump conditions and scattered automobile parts stored on the premises therefore in violation of Baltimore County Zoning Regulations § 102.1 and 236 and 408.

Kersey, Larry Kersey, James Thomas Page 2

The photographs show some storage of contractor's equipment; which also needs a special exception to allow such storage. The property was not cited for contractor equipment storage use. The property also contains an area of overgrown vegetation that was not cited in instant citation.

There was no evidence submitted of used car sales therefore the violation pertaining to used car sales is dismissed. According to Baltimore County Zoning Regulations, the Respondent is allowed to store vehicles on the property. Damaged and disabled vehicles must be stored within the screened lot. Vehicles may not be stored in the County right-of-way.

IT IS ORDERED by the Code Enforcement Hearing Officer, this 30<sup>th</sup> day of November 2005 that a civil penalty be imposed in the amount of \$2,500.00 (two thousand five hundred dollars).

IT IS FURTHER ORDERED that the civil penalty in the amount of \$2,500.00 (two thousand five hundred dollars) shall be suspended on condition the Respondent maintains the property free from accumulations of junk and debris and removes all junk and debris on or before January 3, 2006.

If the Respondent fails to correct the violations, then the civil penalty imposed shall be \$2,500.00 (two thousand five hundred dollars).

IT IS FURTHER ORDERED that the inspector inspect the property to determine whether the violations have been corrected.

Signed:

Raymond S. Wisnom, Jr.

Code Enforcement Hearing Officer

The violator is advised that pursuant to §3-6-301(a), Baltimore County Code, an appeal to the Baltimore County Board of Appeals may be taken within fifteen (15) days after the date of a final Order. §3-6-302(a)(b)(c)(d) requires the filing of a petition setting forth the grounds for penalty must be posted with the Director.

MVON

# LEASE AGREEMENT OPTION TO PURCHASE

THIS AGREEMENT, is made this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_, 2002, by and between, CARMEN A. SUMMA and RAE A. SUMMA, Trustee for Carmen A. Summa Trust, hereinafter called "Landlord"); and LARRY KERSEY, (hereinafter called "Tenant").

- 1. DEMISE. Landlord leases to Tenant and Tenant leases from Landlord all that property known as 11025 Pulaski Highway, White Marsh, MD 21162, to be used as an auto service and towing business.
- 2. TERM. This Lease shall be for a term commencing on August 25 2002, and shall terminate one (1) year from the date of commencement.
- 3. BASE RENT. Tenant covenants and agrees to pay unto Landlord a rental for the leased premises in the amount of One Thousand Dollars (\$1,000.00) per month, the first year's rent payable in advance on the execution hereof and Landlord acknowledges receipt this date of the first year's rent as hereinafter provided.
- 4. OPTION TO PURCHASE. Tenant at any time during the term of this lease, shall have the option to purchase the premises from landlord upon thirty (30) days written notice to landlord subject to the following terms and conditions:
- A. The purchase price for the premises shall be Two Hundred Thousand Dollars (\$200,000.00).
- B. Settlement for the purchase and sale of the premises shall be held within thirty (30) days after exercise of the option by tenant.
- C. The unexpired rent, if any, shall be applied to the purchase price of the premises.
- D. At settlement, landlord shall execute and deliver to tenant at tenant's expense a deed containing coveyance of special warranty and further assurances, which shall convey good and merchantable title to the premises, subject only to the restrictions, covenants and encumbrances existing as of the date hereof, free and clear of all liens and encumbrances. Landlord agrees to take back a purchase money mortgage from Tenant for One Hundred Sixty Thousand Dollars (\$160,000.00) amortized over twenty (20) years and due in five (5) years, payable monthly, with interest on the unpaid balance of eight

Pet 2

and one-half per cent (8-1/2%) per annum. Transfer tax and documentary stamps shall be equally divided between the parties. Real estate taxes and all other charges payable on an annual basis shall be adjusted to the date of settlement.

- 5. INSURANCE. Tenant will provide public liability insurance insuring the interest of Tenant and Landlord in the amount of \$500,000 for bodily injury, single limit, and property damage of \$25,000 each occurrence and \$25,000 aggregate limit. Tenant acknowledges that it is Tenant's responsibility to obtain any additional public liability and property damage insurance to cover injury, damage or loss of property income on, within or connected with the leased premises and to obtain casualty insurance on its goods and the leasehold improvements.
- 6. FIRE OR OTHER DAMAGE. Tenant agrees to and does hereby release Landlord from any and all liability for or arising out of any loss or damage to property of Tenant which Tenant has placed in the premises and which results from or is caused by fire occurring after the date hereof; whether or not, in either case, any such fire is caused by the negligent act or omission of Tenant, or any of its employees, guests, agents or customers.
- 7. TERMINATION BY FIRE CONDEMNATION. In the event of any fire or other casualty which damages the premises or leased premises, or condemnation by any competent authority of the premises, leased premises, or common areas, Landlord may elect to terminate this Lease at any time after such event and rent shall abate as of the date of termination.
- 8. LAWFUL USE AND OCCUPANCY. In the use and occupancy of the leased premises Tenant shall comply with all laws and ordinances and all applicable government or agency requirements, and if required at any time by law, regulation of the Board of Fire Underwriters. Tenant shall be responsible for obtaining and/or complying with all zoning laws and regulations and the costs thereof.
- 9. UTILITIES. Tenant shall be responsible for the costs of all utilities such as telephone, heat, gas and electricity, water and sewage.

### 10. TENANT COVENANTS.

A. Tenant shall not assign, sublet or share the leased premises without the prior written consent of Landlord.

- B. Tenant shall comply with all laws and ordinances of the County of Baltimore and State of Maryland and all applicable governmental agency requirements and further shall comply with any requirements, rules, regulations or recommendations of the Board of Fire Underwriters.
  - C. Tenant shall install a fire extinguisher in the demised premises.
- D. Tenant agrees to indemnify and save harmless Landlord from and against any and all liability for injury to or death of any person or persons or damage to property in any way arising out of or connected with the condition, use or occupancy of Tenant's space, or in any way arising out of the activities of Tenant, Tenant's agents, employees, licensees or invitees in the premises.
- E. Tenant agrees to leave the demised premises in a safe, clean, orderly and undamaged condition and in as good a condition as when the tenancy commenced, excepting therefrom ordinary wear and tear, at such time as the tenancy hereunder terminates.
- F. Tenant agrees to be responsible for all interior repairs and renovations to the demised premises.
- G. Tenant shall not without the written consent of the Landlord make any improvements or alterations of the demised premises.
- H. Tenant shall be responsible for payment of heat, electricity and air conditioning and Tenant will promptly pay all such bills when received.
- I. Tenant may not erect any sign on the demised premises unless said sign is first approved by Landlord.
- 11. REAL ESTATE TAXES. Landlord shall be responsible for payment of all real estate taxes.
- 12. REPAIRS. Tenant shall be responsible for maintenance and repairs to the premises. The Landlord shall not be responsible for the payment of any repairs which are not authorized or ordered by the Landlord.
- 13. DELINQUENCY. In the event any payment hereunder is not paid within 5 days after due date, there shall be a five percent (5%) late charge paid from Tenant to Landlord. In the event that any default continues for more than fifteen (15) days, then the Landlord may terminate the Lease. If this Lease is terminated, Landlord or its agents or

servants may immediately or at any time thereafter re-enter the leased premises and remove Tenant, its agents and any or all of its property by any suitable action at law, by taking possession of the leased premises, or by otherwise barring or prohibiting Tenant access to or possession of the leased premises. Tenant waives any right to the service of any notice of Landlord's intention to re-enter provided for by any present or future law. Tenant waives any right to reinstate lease after termination by Landlord. The parties waive any right to a trial by jury. In the event that the Tenant is in default of any of the terms and conditions of this Agreement, Tenant shall reimburse and pay all costs and attorney's fees or administrative expenses incurred by the Landlord in its attempt to enforce the provisions of this Agreement or collect any rents due. All payments required under this Lease shall be considered due as additional rent.

- 14. QUIET POSSESSION. Landlord hereby warrants that upon the payment of the rent herein provided and upon Tenant's performance of all of the covenants, agreements and provisions hereof on Tenant's part to be kept and performed, Tenant shall have the peaceful and quiet use and possession of the leased premises without hindrance or interference on the part of the Landlord.
- the same terms and conditions as the original lease. In the event that either party wishes to terminate this lease, they must provide ninety (90) days written notice to opposing party.
  - 16. ENTIRE AGREEMENT. The parties agree that this is the whole agreement of the parties and that there are no terms, promises, conditions, obligations, representations or warranties, oral or written, intended to be made or relied upon other than as expressly contained herein.
  - 17. BINDING ON SUCCESSORS. This Lease shall be binding upon and inure to the benefit of the heirs, personal representatives and successors of the parties, the assigns of the Landlord and the permitted assigns of the Tenant.

WITNESS the signatures of the parties the day and year first above written.

WITNESS:	
<u> </u>	CARMEN A. SUMMA
	Lac A. Summa
	RAE A. SUMMA, Trustee for
	Carmen A. Summa Trust
	LANDLORD
	LARRY KERSEY
	TENANT

gab020807

Carmen Summa
1/21-LORRAINE Ct.
CAPE GORAL, FL 33904

# Metropolitan Regional Information Systems, Inc.

Page: 1

Date: 12/04/01

Tax ID#: 04111600011759

\*\* PUBLIC RECORD \*\*

856-866-0343 County: BC Tax ID#: 04111600011759 PROPERTY ADDRESS: 11025 PULASKI HWY, ,, MD Company: SUMMA, RAE A TRUSTEE Abs Owner: Y Phone #: () OWNER: , MAIL ADDRESS: 8904 NORMANDY DR, , MOUNT LAUREL, NJ 8054 - 5996 LEGAL DESCRIPTION: IMPSPULASKI HIGHWAY 11025 PULASKI HWY STONEWALL INN Mag/Dist #: 11 Block/Square: Tax Map: Lot: - Legal Unit #: Grid: 19 Map: 73 Elec Dist: 11 Addl Parcel Flag/#: / Section: Blk:Suffix: Subdiv Ph: Suffix: ' Sub-Parcel: Parcel: 403 Map Suffix: City Tax: Tax Levy Yr: 2001 **TOTAL TAX BILL: \$6,524** State/County Tax: \$3,389 Tax Rate: 1.20 Front Foot Fee: Spec Tax Assmt: \$3,136 Refuse: Mult. Class: Exempt Class: 000 Tax Class: Homestd/Exempt Status: **ASSESSMENT** Total Tax Value Land-Use Taxable Assessment Land Year Assessed Improvement State: \$ 2000 \$282,633 \$186,800 \$118,200 Municipal: \$ \$108,580 \$154,240 \$117,210 Previous City: \$ \$108,530 \$153,980 \$117,120 Early Deed Type: Deed Folio: 499 DEED Deed Liber: 11226 Grantee\_\_\_ Transfer Date Grantor Price SUMMA RAE A TRUSTEE SUMMA CARMEN A 21-SEP-1995 \$0 Normanda & Dro SUMMA CARMEN A 15-NOV-1973 PINZUTI AMELIA \$70,000 AUTO SERVICE PROPERTY DESCRIPTION Irregular Lot: Zoning: BR<del>CS1</del> AS Census Trct/Blck: Year Built: 0 Milawal-Acreage: 2.18 Square Feet: 94,961 Land Use: Commercial Property Card: Plat Liber/Folio: / Property Class: C Prop Use: COMMERCIAL Building Use: BAR/TAVERN Frontage: 2 STRUCTURE DESCRIPTION Section 5 Section 4 Section 2 Section 1 Section 3 Construction Story Area Foundation: Ext Wall: Roofing: Year Remodeled. Units: 0 Stories: Style: Living Area: 3,821 Base Sq Ft: Total Building Area: Garage Type: Bsmt Type: Rooms: Fireplaces: Bedrooms: Garage Sq Ft: Bsmt Tot Sq Ft: Fireplace Type: Gar-Constr: Full Baths: Bsmt Fin Sq Ft: Attic Type: Garage Spaces Half Baths: Bsmt Unfin Sq Ft: Attic Sq Ft: Director of P.D. M.
West Cheapeak An
Town M. 21207 Air Cond: Baths: Gas: Heat: Sewer: Water: PUBLIC Underground: Electric: Carmen A. Summa Rae A SUMMA Truster



Mart Cape Carul Fc.
Cape Carul Fc.
33904.

October 19, 2004

Baltimore County, Maryland

11025 Pulaski Highway, Baltimore, Maryland 21162

[Property Address]

#### 1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$160,000.00 (this amount is called "principal"), plus interest, to the order of the Lender. The Lender is Carmen A. Summa and Rae Summa, I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by Transfer and who is entitled to receive payments under this Note is called the "Note Holder."

#### 2. INTEREST

Interest will be charged on unpaid principal until the full amount of principal has been paid. I will pay interest at a yearly rate of 8.5%.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 6 (B) of this Note. 082-20-4113. 55.46 CARRIEUS #

PAYMENTS

(A) Time and Place of Payments

I will pay principal and interest by making payments every month.

I will make my monthly payments on the 1st day of each month beginning on Novemeber 1, 2004 I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this note. My monthly payments will be applied to interest before principal. If, on November 1, 2024 I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "maturity date."

I will make my full payment at 4807 A. Albridge Way, Mt. Laurel, NJ 08054 or at a different place if required by the Note Holder.

(B) Amount of Monthly payments

My monthly payment will be in the amount of U.S. \$1,388.52.

#### 4. BORROWER'S RIGHT TO PREPAY

I have the right to make payments of principal at any time before they are due. A payment of principal only is known as a "prepayment." When I make a prepayment, I will tell the Note Holder in writing that I am doing so.

I may make a full prepayment or partial prepayments without paying any prepayment charge. The Note Holder will use all of my prepayments to reduce the amount of principal that I owe under this Note. If I make a partial prepayment, there will be no changes in the due date or in the amount of my monthly payment unless the Note Holder agrees in writing to those changes.

## 5. LOAN CHARGES

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (i) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (ii) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the principal I owe under this Note or by making a direct payment to me. If a refund reduces principal, the reduction will be treated as a partial prepayment.

# 6. BORROWER'S FAILURE TO PAY AS REQUIRED

## (A) Late Charge for Overdue Payments

If the Note Holder has not received the full amount of any monthly payment by the end of 15 calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5\_% of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment. In the event the Mortgage payment is Thirty (30) days late, foreclosure proceedings will commence and buyer will be responsible for all foreclosure costs. In the event of commencement of Foreclosure Procedures. a;; rents are to be placed in an Escrow Account.

### (B) Default

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

## (C) Notice of Default

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of principal which has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is delivered or mailed to me.

## (D) No Waiver By Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

# (E) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorney's fees.

MULTISTATE FIXED RATE NOTE - Single Family - FNMA/FHLMC UNIFORM INSTRUMENT

NOTE.IRFCU Rev. 11/98

Page 1 of 2

Prepared by: The Fountainhead Title Group

Initials:



This Deed, MADE THIS 19th day of October in the year Two Thousand Four by and between Carmen A. Summa and Rae Summa, parties of the first part, and Larry Kersey and James Thomas Kersey parties of the second part.

Witnesseth, That in consideration of the sum of Two Hundred Thousand Dollars and NO Cents (\$200,000.00), the receipt of which is hereby acknowledged, the said parties of the first part do grant and convey to the said party of the second part, as joint tenants, their personal representatives, heirs and assigns, in fee simple, that parcel of ground situate in Baltimore County, Maryland and described as follows, that is to say:

BEGINNING FOR THE SAME AT A POINT AT THE END OF THE FIFTH OR SOUTH 27-1/4 DEGREES EAST 907-1/2 FOOT LINE OF A PARCEL OF LAND WHICH BY DEED DATED OCTOBER 7, 1927, AND RECORDED AMONG THE LAND RECORDS OF BALTIMORE COUNTY IN LIBER C.W.C. NO. 650, FOLIO 31 WAS CONVEYED BY MANO SWARTZ AND WIFE TO ANGELO PINZUTI AND WIFE AND RUNNING THENCE AND BINDING REVERSELY ON A PART OF SAID FIFTH LINE, AS THE COURSES ARE REFERRED TO THE BALTIMORE COUNTY GRID MERIDIAN, NORTH 34 DEGREES 29 MINUTES 30 SECONDS WEST 464.53 FEET TO THE SOUTHEAST SIDE OF THE PULASKI HIGHWAY THENCE BINDING ON THE SOUTHEAST SIDE OF SAID HIGHWAY SOUTH 45 DEGREES 24 MINUTES 30 SECONDS WEST 200 FEET, THENCE LEAVING SAID HIGHWAY AND RUNNING FOR A LINE OF DIVISION SOUTH 34 DEGREES 29 MINUTES 30 SECONDS EAST 497.92 FEET TO INTERSECT THE FOURTH LINE OF A PARCEL OF LAND WHICH BY DEED DATED APRIL 3, 1956 AND RECORDED AMONG THE LAND RECORDS OF BALTIMORE COUNTY IN LIBER G.L.B. NO. 2903 FOLIO 32 WAS CONVEYED BY ANGELO PINZUTI AND WIFE TO NOTTINGHAM FARMS, INC. AND THENCE RUNNING WITH AND BINDING ON A PART OF SAID FOURTH LINE NORTH 36 DEGREES 20 MINUTES 10 SECONDS EAST 208.46 FEET TO THE PLACE OF BEGINNING CONTAINING 2.18; ACRES OF LAND MORE OR LESS.

BEING the same parcel of ground which by deed dated October 19, 2004 and recorded or intended to be recorded among the Land Records of Baltimore County, Maryland in immediately prior hereto was granted and conveyed by Trust U/A Carmen A. Summa dated December 27, 1994, Rae A. Summa, Trustee unto Carmen A. Summa and Rae Summa the Grantors herein.

This is to certify the within instrument was prepared under the supervision of an Attorney duly admitted to practice before the Court of Appeals of the State of Maryland.

Edward J. Brush, Esquire

TOGETHER with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the said described lot of ground and premises to the said party of the second part as joint tenants, their personal representatives, heirs and assigns, in fee simple.

And the said parties of the first part hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property hereby granted; and that they will execute such further assurances of the same as may be requisite.

Red 4

WITNESS the hands and seals of said Grantor(s) and Grantee(s).

lest:	
	CARMEN A. SUMMA
	RAE SUMMA (SEAL
	LARRY KERSEY (SEAL
<u> </u>	James Thomas Kersey

#### STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I Hereby Certify, That on this 19th day of October in the year Two Thousand Four, before me, the subscriber, a Notary Public of the State of Maryland, County of Harford personally appeared Carmen A. Summa and Rae Summa and Larry Kersey and James Thomas Kersey known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged the foregoing Deed to be their act, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and official seal

Doris J. Hall-Scheeler

My Commission Expires: August 1, 2006

DORIS J. HALL-SCHEELER

Notary Public

State of Maryland

Harford County

My commission exp. August 1, 2006

My commission exp. August 1, 2006

File Number: 12700WM

AFTER RECORDATION PLEASE RETURN TO:

11025 PULASKI HIGHWAY

WHITE MARSH MARYLAND 21162

Form B1

# AFFIDAVIT AS TO TOTAL PAYMENT NON-RESIDENT – SOLE OWNER OR HUSBAND & WIFE OR NON-RESIDENT ENTITY

THE undersigned certify under the penalties of perjury, that the following is true to the best of my/our knowledge, information and belief, in accordance with Section 10-912(b)(2) of the Tax-General Article of the Annotated Code of Maryland, (the "Withholding Law"):

- 1. That I am/we are the transferor(s), (or agent of the transferor(s) if so indicated), of that real property described in the accompanying deed.
- 2. The amount of total payment for the purpose of the Withholding Law is \$ 183275.00

DATED this 19 day of Och.	20 <u>0</u> √.
WITNESS:	TRANSFEROR(S)
<u></u>	& Camen A Dunma
·	V la Seemma

# AFFIDAVIT AS TO TOTAL PAYMENT INCLUDING ALLOCATION FOR COLLECTION AS TO NON-RESIDENT(S)

[Note: This form presumes equal ownership by/among co-owners; if the co-owners/transferors hold varying percentage interests in the property, lines 4 and 5 would have to be changed to track the established percentages of co-ownership.]

THE undersigned certify under the penalties of perjury, that the following is true to the best of ny/our knowledge, information and belief, in accordance with Section 10-912(b)(2) of the Tax-Beneral Article of the Annotated Code of Maryland, (the "Withholding Law"):				
<ol> <li>That I am/we are the transferor(s), [or agent of the transferor(s) if so indicated], of that real property described in the accompanying deed.</li> </ol>				
2. The amount of total payment for the purpose of the Withholding Law is \$\frac{103}{03} \frac{3}{05} \frac{1}{05}.				
3. 2 (number of non-resident transferors) of the transferors is/are not a resident(s) of Maryland and is/are subject to collection of withholding on such transferor's allocated share of the total payment.				
COMPLETE IF EQUAL % OF OWNERSHIP				
4. There are 2 (total number of transferors) transferors, and the total payment divided by (total number of transferors) is \$9/37.50 Illocated for each transferor.				
5. The portion of the total payment subject to collection is (number of non-resident transferors) times \$91637.50 amount of total payment allocated for each transferor) which equals \$153275, as the amount of total payment to which collection of withholding applies.				
COMPLETE IF DIFFERENT % OWNERSHIP 6.				
wof  ransferors  ownership  Total payment  subject to collection				
X =				
X ===				
Total Payment to which collection of withholding applies \$				
ATED this 19 day of OC+, 2004				
TRANSFEROR(S)				
Lamen Dumma				

WITNESS	TRANSFEROR(S)
	Lamen A Dumma
<del></del>	Lac. Summa

# State of Maryland Land Instrument Intake Sheet Baltimore City County: Baltimore County

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office only.

(Type or Print in Black Ink Only - All Copies Must Be Legible) ([] Check Box if Addendum Intake Form is Attached.) Type(s) IMP FD SURE \$ 20.00 Mortgage Other Deed of Instruments Other 29.00 RECORDING FEE 2 Deed of Trust Lease 1000.00 TR TAX STATE Unimproved Sale Multiple Account Not an Arms-Conveyance Type X Improved Sale 8,765.56 HON-RESIDENT Arms-Length[3] Length Sale[9] Arms-Length[2] Check Box Arm-Length[1] 9,745.56 TOTAL Tax Exemptions Recordation Rcpt # 72523 Rest BAB6 (if applicable) State Transfer Blk # 2036 County Transfer Cite or Explain Authority Finance Office Use Const Consideration Amount Transfer and Recordation Tax Consideration Purchase Price/Consideration 200,000.00 Transfer Tax Consideration Consideration Any New Mortgage 160,000.00 )% Balance of Existing Mortgage and Tax Other: Less/Exemption Amount -Calculations Total Transfer Tax Recordation Tax Consideration Other: X(I) per \$500 = TOTAL DUE Full Cash Value Amount of Fees Doc. 1 Doc. 2 Agent: Recording Charge 20.00 75.00 Surcharge 20.00 Tax Bill. 20.00 State Recording Tax 1000.00 State Transfer Tax C.B. Credu: 1000.00 County Transfer Tax 3000.00 A.G. Tax/Other: Other Other Property Tax ID No.(1) Grantor Liber/Folio Parcel No. 6 District Map Var. LOG Description of 16 00 011759 11226 499 [](5) 11 Block(3b)Sect/AR(3d) Subdivision Name Plat Ref. **Property** Lot (3a) SqFt/Acreage(4) **SDAT** Requires Metes and Bounds Location/Address of Property Being Conveyed (2) Submission of all applicable information. 11025 Pulaski Highway, White Marsh, MD 21162 Other Property Identifiers (if applicable) A maximum of 40 Water Meter Account No. characters will be Fee Simple [ 2 or Ground Rent [ ] Amount: \$ Residential [X or Non-Residential [] indexed in accordance Partial Conveyance? [] Yes [1 No with the priority cited in Description/Amt. of SqFt/Acreage Transferred: Real Property Article Section 3-10(g)(3)(i). If Partial Conveyance, List Improvements Conveyed: Doc. 2 - Grantor(s) Name(s) Doc. 1 - Grantor(s) Name(s) Transferred Carmen A. Summa Larry Kersey From Rae Summa James Thomas Kersey Doc. 1 - Owner(s) of Record, if Different form Grantor(s) Doc. 2 - Owner(s) of Record, if Different form Grantor(s) Doc. 1 · Grantee(s) Name(s) Doc. 2 \* Grantee(s) Name(s) Larry Kersey CARMEN A. SUMMA **Transferred** James Thomas Kersey RAE A. SUMMA To New Owner's (Grantee) Mailing Address 11025 PULASKI HIGHWAY Other Names Doc. 1 - Additional Name(s) to be Indexed (Optional) Doc. 2 - Additional Name(s) to be Indexed (Optional) To Be Indexed Instrument Submitted By or Contact Person 10 Return to Contact Person Contact/Mail Name: CLUADIA FILE: 12700WM Information Firm: Hold for Pickup The Fountainhead Title Group Address: 7939 Honeygo Boulevard X Return Address Provided Suite 124, Baltimore, MD 2123 (410) 931-3500 11 IMPORTANT: BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER X No Will the property being conveyed be the grantee's principal residence? X No Does transfer include personal property? If yes, identity: Assessment Information Baltimor: County, Maryland Yes X No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required) Assessment Use Only - Do Not Write Below This Line 00"\$ X7 033 033 5K Jerminal Verification Agricultural Verification Whole I Part IstransProcess Ventication 00,000,4\$ Transfer Number: Date Received: Deed Reference: Assigned Property No: 6941101 Year Map
Grid RECORDATIONATION NOT DECLINED. 19 Geo 19 SEXAT MOITAUROUS TAXES Zoning Parcel president Sections und Filter etc. Co.
Ex St. A. Thurst Pr. C. W.Y. WINHYLINE Buildings ..... Use 11/12/500<del>0</del> OF IN Town Cd. HXX HOWX N REMARKS TO ART 12:168 VIE/S004 10:08:24 JAUT3£ IIKE 22.300 此例 UUL W Distribution White - Clerk's Office Initial: Canary - SSDAT

Goldenrod - Preparer

AOC-CC-300 (6/95)

