E2

K. F. Carbone
2710 West 49th ½ Street
Austin, TX 78731

July 6, 2010

Board of Adjustment
City of Austin
P.O. Box 1088
Austin, TX 78767

Re: CASE #C15-2010-0039
Mr. Benjamin T. White's request for fence height variance at 4921 Bull Creek

Dear Chair and Members of the Board of Adjustment,

My property is adjacent to 4921 Bull Creek. I ask that you reject Mr. White's variance request to maintain his fence height in excess of 6-ft. because it fails to meet any of the findings of fact required by the Board of Adjustment:

- There are no special circumstances of the property that deprive the owner of privileges enjoyed by others in the area: the applicant's property is virtually identical to five contiguous properties and numerous other properties in the neighborhood.
- A 6-ft. fence satisfies all of the reasonable uses sought and listed by the applicant.
- There is nothing unique to the property to prevent compliance with the fence ordinance. Personal and financial claims listed by the applicant are not valid hardships. There is no hardship relating to the property that differs from other properties in the area.
- The applicant's fence negatively alters the character of the area adjacent to his property as it creates an unsightly stockade or compound effect that blocks light, air, drainage, and views.

Granting this variance will subvert the clear intent of the ordinance and will confer a special privilege not enjoyed by others similarly situated in the neighborhood. In addition, many of the statements made by the applicant are false. For example, the applicant states that the fence was constructed in accordance with building permits but, according to City of Austin records, the 8-ft. fence was built without a permit. It was only after a Code Complaint was filed that a permit was subsequently and fraudulently obtained. Mr. White later obtained a second permit through misrepresentations for a 7-ft. segment of fence adjoining a single property. Please see the attached document, *Refutation to Variance Application for 4921 Bull Creek*, for details.

In addition, the Allandale Neighborhood Association's Executive Committee opposes Mr. White's variance request. Minutes of the April 22, 2010 ANA meeting read: "Motion was made to support the residents at 2710 W. 49th ½ St. and their opposition to allow a variance for a 7- and 8-ft. fence at 4921 Bull Creek. Motion was made by George [Roman], seconded by Peggy [Maceo], motion carried unanimously."

Thank you for your consideration and for your service to Austin.

Sincerely,

K. F. Carbone

Encl: Refutation, supporting documents and photos

Mr. White has made numerous misleading and false claims in his application for variance. He fails to meet any of the required findings of fact for Reasonable Use, Hardship, or Area Character, as detailed below (Mr. White's claims appear in bold type, followed by documented refutations).

Re: Cover page of variance application

Pg. 2, item (i): [the fence was] "constructed... in accordance with Building Permit Nos. 2008-051644BP and 2009-029382 BP"

Neither permit is valid. Mr. White built his fence in May 2008 without a building permit, then obtained permits through fraudulent misrepresentation, inducing the City of Austin to issue permits in error.

The City subsequently determined that both permits were issued in error (see page 9, *Attachment A(1): McDonald Email* and page 10, *Attachment A(2): McDonald Chronology*).

The City subsequently determined that the fence does not meet Code (see pages 11–12, *Attachment B(1): Barba Intent to Suspend*).

Yet, after having met with Mr. White and his attorney, Michael Cihock, Mr. Barba changed his mind and made an administrative decision allowing Mr. White to retain the northern and eastern portions of his 8-ft. fence, but requiring that Mr. White lower the southern portion to an average height of 6-ft. (see page 13, *Attachment B(2): Barba Administrative Decision*). Mr. Barba has stated that he based his administrative decision on a drawing supplied to him by White & Cihock that illustrated access points to hazardous conditions in Mr. White's yard (see pages 14–15, *Attachment B(3): Barba Basis*).

In June 2010, Greg Guernsey overturned Mr. Barba's administrative decision by confirming and declaring that access points to Mr. White's yard and hazardous conditions in Mr. White's yard do not exist (see page 16, *Attachment C: Guernsey Email*).

The second permit for the southern fence portion has since expired, and, according to City of Austin assistant attorney Kathleen Buchanan, the City has filed suit against Mr. White to lower his fence height to the allowable 6-ft. average.

Pg. 2, item (ii): "The subject property and each of the affected properties are located in a S-F 1 district"

Lot size has no bearing on a fence variance request. However, four of the properties adjacent to the applicant's are actually SF-2, single family resident standard lots.

Re: Reasonable Use

Pg. 3, ¶1 of #1: "The City's interpretation of §25-2-899 (D) & (E) together nullify a property owner's ability to act under one of these sections by itself."

This statement is an obfuscation; (D) & (E) are essential components of code to be applied singly or in tandem (see page 17, *Attachment D: Fence Ordinance*). The intent of the ordinance is clear: fences are not to exceed 7-ft. with an average height of 6-ft. unless an allowed exception is met, which Mr. White has not demonstrated.

Pg. 3, ¶2 of #1: "One purpose of erecting a solid perimeter fence..."

The Fence Ordinance does not address the purpose(s) of a fence.

Pg. 3, ¶2 of #1: "the City requested the construction of a privacy fence around my property back in 2008 in order to shield the view of my boat that I keep in my yard. The fence was built, in part, as a response to the City's request."

Because Mr. White's recreational vehicles (including boats, trailers, and RVs) were parked in public view and not in his yard, he first received a code violation notice on March 28, 2008 (CV-2008-022662) stating, "The RV and boats are recreational vehicles and are required to be enclosed within a building or screened from public view." Code requires a fence height of 6-ft. (see page 18, *Attachment E: Accessory Uses Ordinance*) which satisfies Reasonable Use. Yet even after the illegal construction of his 8-ft. fence, Mr. White continues to park his recreational vehicles in public view and continues to receive code violation notices:

1. May 13, 2008
2. October 3, 2008
3. June 3, 2009
4. August 25, 2009
5. September 16, 2009
6. February 1, 2010
7. June 2, 2010

Pg. 3, ¶3 of #1: "Three of my four adjacent neighbors located along the Southern boundary of my property have consented to the construction of solid fencing along our adjacent property lines... All signatures and consents have previously been provided to the city."

This claim does not address zoning regulations and thus has no bearing on Reasonable Use.

Of these signatures that Mr. White provided to the City's Residential Permitting Department: the signature attributed to "Ernesto and Marin [sic] Blanco" is a forgery according to the Blanco's; two different signatures, both dated 6-5-08, are attributed to "Tony Gregg", one or both of which may be invalid (see pages 19–26, *Attachment F: Signatures 1–7*).

In addition, two letters in support of Mr. White's fence, allegedly submitted later by Mr. Gregg, are unsigned (see pages 27–28, *Attachment G: Gregg Letters*). Curiously omitted in these letters is the fact that Mr. Gregg paid for fencing all sides of his rental property by the same crew that Mr. White employed.

Pg. 3, ¶3 of #1: "This appears to conflict with the intent of the ordinance as it clearly states that fence along a property line may be constructed to a maximum height of 8' 'if each owner that adjoins a section of the fence that exceeds a height of 6' files a written consent to the construction of the fence.' "

Here, Mr. White mentions only one of three code requirements—consents (however bogus)—but neglects to state that he lacks one of two additional requirements necessary to satisfy the ordinance: change of grade or reasonable access by a child to hazards. The Fence Ordinance (page 17) dictates these requirements, not "one property owner" as Mr. White suggests.

Pg. 4, ¶4 of #1: "It is the documented intent of each of the lot owners of 2706, 2708 and 2712 W. 49 ½ St. to maintain their respective portions of fence at their present heights."

As previously mentioned, the signature provided to the City by Mr. White of "Ernesto and Marin [sic] Blanco" is a forgery. In fact, the owners of the 2708 property, Dr. and Mrs. Blanco, oppose a fence higher than 6-ft. (see page 21).

Pg. 4, ¶5 of #1: "I am requesting a variance to allow the portion of the fence adjacent to 2710 W. 49 ½ St. to remain at its present height of 7' " and "I should not be asked to construct a fence in a manner that shields my boat and personal items from public view and then be told that I cannot construct my fence in such a manner. This inconsistency puts me in a perpetual state of violation."

A 6-ft. fence allows for Reasonable Use, and privacy and security are both adequately achieved. My 6-ft. fence already existed between our properties. I denied Mr. White permission to build or retain a fence higher than 6-ft. adjacent to mine on 03/20/08 (before construction) and on 01/29/10 (after construction), which Mr. White blatantly disregarded. Nevertheless, Mr. White's "perpetual state of violation" has to do with the fact that he disregarded the allowable fence height stipulated by Code, he continues to park his recreational vehicles in public view instead of behind his fence, and he continues to receive code violation notices.

Re: Hardship

Pg. 4, ¶1 of #2(a): "The entire fence along the Southern boundary of my lot was permitted under 2 permits, both of which were approved by the City's field inspector, and constructed in accordance with the permits at the shared expense of myself and several adjacent neighbors. The variances requested are unique in that six of my seven directly adjacent neighbors consented to the construction of the fence as built and now I have been told that one entire side of my fence does not comply with code."

Mr. White obtained permits through fraudulent misrepresentation, inducing the City to issue permits in error. Mr. White, an employee of Durhman & Bassett Realty Group involved with property management and development, should be aware that the City of Austin has building ordinances. Yet Mr. White commenced building his 8-ft. fence on 05/11/08 without a permit. Since it was higher than 6-ft., Code Compliance was notified on 05/12/08 (CC-2008-036233). Mr. White subsequently received permit #1 on 07/02/08. This permit (2008-051644BP) was issued in error as stated in City records: the property does not meet the 2-ft. change in grade within 50-ft. of adjacent properties as Mr. White claimed, no plot plan was submitted, and adjacent property owner permissions were lacking.

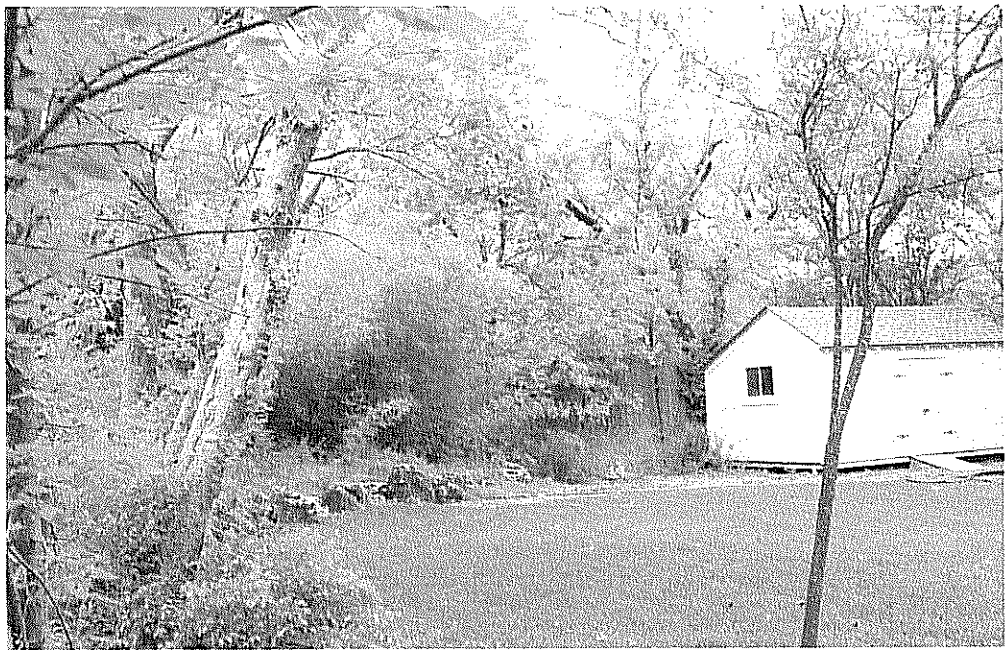
Nine months later, on 04/07/09, Mr. White obtained permit #2 for one remaining fence segment (7-ft. high, built on 06/03/09) adjacent to my property, again through fraudulent misrepresentations, inducing the City to issue the permit in error. This permit (2009-029382BP) was issued in error as stated in City records: the property does not meet the 2-ft. change in grade within 50-ft. of the adjacent property as Mr. White claimed, no plot plan was submitted, and my permission was lacking (in fact, permission had been explicitly denied). The second permit has since expired and, according to City of Austin assistant attorney Kathleen Buchanan, the City has filed suit against Mr. White to lower his fence height to the allowable 6-ft. average along the entire southern boundary of his property (spanning all four adjacent properties: 2706, 2708, 2710, and 2712 W. 49th ½ St.). The lawsuit is postponed pending the outcome of this variance request.

There are 7 properties adjacent to Mr. White's (see page 29, *Attachment H: Adjacent Properties*), 2 of which abut by only a few feet. Three of the property owners are absentee landlords who do not live in this neighborhood and whose rental properties are minimally maintained. Characterized by Mr. White as "several adjacent neighbors" and the "majority" of his neighbors who "shared in the expense" of his fence were in fact only 2: Nyer and Gregg.

1. *4918 Finley Drive:* Mr. Aaron "Adam" Nyer, a real estate agent with Choban & Associates, began marketing this property in 2007, quite some time before the King's purchased it. Claiming that the 8-ft. fence "provided much needed privacy" (see page 30, *Attachment I: Nyer Letter*), Mr. Nyer did not mention that, while White's house is more than 200-ft. away, the houses next door to Nyer's are much closer, yet are separated by a 4-ft. chain link fence. Mr. Nyer also neglected to mention that a few days after the 8-ft. fence was built, this residence was burgled (APD case #2008-5026210; stolen were: computer hardware, software, jewelry, precious metals, radios, TVs, VCRs, other). Irrespective of Mr. Nyer's financial contribution to Mr. White for the 8-ft. fence, it was built by and is owned by Mr. White. Mr. Nyer is not a party to Mr. White's variance request, nor is he a co-defendant in the City of Austin's lawsuit against Mr. White.

   The current owners of 4918 Finley, John and Elizabeth King, stated in their support of Mr. White's fence, "Mr. Adam Nyer agreed upon a[n] 8' fence to adequately shield the line-of-sight between their two homes" (see page 31, *Attachment J: King Letter*).

   The distance between these two houses exceeds 200-ft. The photo below illustrates the view from behind the 4918 Finley house looking toward 4921 Bull Creek. It shows dense trees, shrubbery, and a shed obliterating the view to all but a small portion of the fence, negating the claim that Mr. White and his 4918 Finley Drive neighbors could see into each other's houses more than 200 feet away *before* the fence was built.



   Nevertheless, the general practice of neighbors living a mere 15-ft. away from one another (which is the standard distance between next-door houses in Austin) is to use window coverings for privacy, not to erect 8-ft. stockades.

Mr. and Mrs. King's statement that they "are not in a financial position to alter or replace the fence" is entirely irrelevant. The 8-ft. fence was built by and is owned by Mr. White. The Kings did not pay Mr. White for any portion of the fence, they are not a party to Mr. White's variance request, nor are they co-defendants in the City's lawsuit against Mr. White.

2. *2712 West 49th ½ Street:* Mr. Tony Gregg, an absentee landlord, paid for fencing the entire perimeter of this rental property by the same crew that Mr. White employed. In addition, Mr. White submitted 2 different "permission" signatures to the City of Austin attributed to "Tony Gregg", both dated 6-5-08, one or both of which may be invalid (see pages 25–26).

   Two letters, allegedly submitted by Mr. Gregg in January and May 2010 in support of Mr. White's fence, are unsigned (see pages 27–28). They contain false and misleading statements, such as: [Mr. White] "got all the required permits and inspections"; [the fence] "is greatly beneficial to all of the neighbors"; "Ben had solicited prorata share contributions from myself and most of the other neighbors"; [White's fence] "replaced a 30 year old fence that was mostly rotten and falling down along side my yard." In fact, the fence that was removed was a perfectly intact 4-ft. chain link fence as illustrated by City Investigator Khalid Marshall's April 2008 photo (see page 32, *Attachment K: Gregg Chain Link Fence*). Portions of Mr. Gregg's "rotten" and "dilapidated" 6-ft. fencing were entirely on his own property, leaning up against the 4-ft. chain link fence between his lot and White's. Also spurious is Mr. Gregg's statement that he is "not in a financial position to invest any additional funds in fencing." If any portion of the fence paid for and owned by Mr. Gregg exceeds the height limitations stipulated by Code, he must be held liable to comply with Code, regardless of his financial difficulties. Nevertheless, Mr. Gregg is not a party to Mr. White's variance request, nor is he a co-defendant in the City of Austin's lawsuit against Mr. White for code violations (although perhaps he should be).

Of the remaining 5 properties adjacent to Mr. White's:

3. *4925 Bull Creek Road:* Mr. Deeb Ramzi, a real estate agent and manager of Deeb Properties, is the absentee landlord of this rental property. Mr. Ramzi falsely stated that "Mr. White took the initiative to replace a completely dilapidated fence between our two properties as well as between other neighbors" (see page 33, *Attachment L: Ramzi letter*). In fact, the entire fence that was replaced around White's yard was a perfectly intact 4-ft. chain link fence. The 8-ft. fence adjacent to Mr. Ramzi's property was built by, paid for, and is owned by Mr. White. Mr. Ramzi is not a party to Mr. White's variance request, nor is he a co-defendant in the City of Austin's lawsuit against Mr. White.

4. *2706 West 49th ½ Street:* Mr. Louis Hunt, of Landstone Homes, was the builder and absentee landlord of this rental property; he subsequently transferred ownership to his brother-in-law, Mr. Donald Coffey, the current absentee landlord. The 8-ft. fence adjacent to this property was built by, paid for, and is owned by Mr. White. Mr. Coffey is not a party to Mr. White's variance request, nor is he a co-defendant in the City's lawsuit against Mr. White.

5. *2708 West 49th ½ Street:* The owners, Dr. & Mrs. Blanco, did not give Mr. White permission to build his 8-ft. fence adjacent to their property; the signature attributed to "Ernesto and Marin [sic] Blanco" is a forgery according to the Blanco's (see pages 21–22). The 8-ft. fence adjacent to Blanco's property was built by, paid for, and is owned by Mr. White.

6. *2710 West 49th ½ Street:* I did not give Mr. White permission to build his 7-ft. fence adjacent to my property (see page 20); rather, I explicitly denied his request twice. The 7-ft. fence adjacent to my property was built by, paid for, and is owned by Mr. White.

7. *4920 Finley Drive:* Mrs. Joyce Bond did not give Mr. White permission to build his 8-ft. fence adjacent to her property; the signature attributed to "Joyce J. Bond" is a forgery according to Mrs. Bond (see pages 23–24). The 8-ft. fence adjacent to Bond's property was built by, paid for, and is owned by Mr. White.

Pg. 4, ¶1 of #2 (a): " I do not want to rebuild the entire fence, the cost of which was shared with my neighbors, and the majority of which was agreed to by my neighbors."

The fence does not have to be rebuilt entirely, merely lowered to an average height of 6-ft. The cost was *not* "shared with his neighbors", nor was the "majority" agreed to by his neighbors. Regardless, White's personal wishes are not a valid hardship.

Pg. 4, ¶2 of #2 (a): "regardless of the topography map provided by the city"

One may not disregard topography illustrating that the required 2-ft. change in grade within 50-ft. of all adjacent properties does *not* exist (see pages 9–10).

Pg. 4, ¶2 of #2 (a): "a 6' fence along the southern boundary of my property does not afford the privacy that a typical 6' fence should afford and certainly does not shield the view of my boat."

Mr. White violates the Accessory Uses Ordinance repeatedly, leaving his recreational vehicles in his driveway and on the street, even after his fence was built. Mr. White does not even shield his tallest boat behind the highest portion of his fence (see page 34, *Attachment M: Boat Photo*). Nevertheless, the ordinance was not written to allow fences to be as tall as the recreational vehicle a citizen happens to own. A 6-ft. fence adequately shields all of Mr. White's recreational vehicles as required by the Accessory Uses Ordinance.

Pg. 4, ¶2 of #2 (a): "A person of average height... can see directly into the rear windows of the house at 2710 W. 49 ½ St., and vice versa."

Seeing windows is not the same as seeing *into* windows (see page 35, *Attachment N: Window Photo*). Unless Mr. White uses binoculars to peep from his windows into my windows approximately 100 ft. away, visibility is virtually nil. Mr. White has a two-story house on his property; by his own distorted logic, he should be seeking a variance to construct a fence 15-ft. high. Nevertheless, once again, a personal reason does not constitute a valid hardship.

Pg. 4, ¶3 of #2 (a): "the section of fence along the boundary shared with 2710 W. 49 ½ St. is 7' in order to obstruct, or at least obscure my view of the non-permitted tower structure which the owners of that property have erected in their backyard."

There is no such tower. There is, however, a section of ornamental fence for growing tomatoes in the side yard, allowable under §25-2-899 (see page 17) and not requiring a building permit (see page 36, *Attachment O: Vantage Photo*, taken from the vantage point of Mr. White's property, illustrating that the structure is not visible from Mr. White's property).

Pg. 4, ¶3 of #2: "Pictures of this structure are enclosed with this application."

The structure is not visible from Mr. White's property: his photos were taken from the vantage point of 49th ½ Street, not from his own property around the block (see page 36).

Pg. 4, ¶3 of #2 to Pg. 5, lines 1 & 2: "My neighbor should not be enabled to construct unsightly, dangerous looking, un-permitted structures and then tell me that I should be forced to look at them. Such behavior creates a valid hardship."

This statement is baffling, given that no permit was required, I have never received a notice of code violation, nor have I ever told or forced Mr. White to look at anything. Nevertheless, Mr. White's conflicting aesthetic values or personal reasons do not constitute a valid hardship.

Pg. 5, ¶1 of #2 (b): "No other properties in the area other than mine share the view of the rear yard of the property at 2710 W. 49 ½."

This claim is patently false as there are actually two additional properties (2708 and 2712 West 49th ½ St.) that share a view of the rear yard of 2710 West 49th ½ St. Regardless, once again, White's personal reasons are not a valid hardship.

Mr. White has failed to demonstrate *any* Hardship reason to grant a variance for his 7- and 8-ft. fence.

Re: Area Character

Pg. 5, ¶1 of #3: "Several fences in the area are 7 feet and 8 feet in height."

This claim is false, as photos of numerous fences less than or equal to 6-ft. in height within the immediate vicinity show (see pages 37–44, *Attachment P: Fence Photos*).

The very photo that Mr. White supplied to support his false claim is of the fence at 2800 W. 50th St., which is actually less than 6 ft. high, not 7- or 8-ft. (see page 39, *Fence Photo 5*).

The Area Character is actually that of 4-ft. chain link and 6-ft. privacy fences.

Pg. 5, ¶1 of #3: "six of my seven adjacent neighbors have consented to the construction of the fence at its present height."

Of the 7 adjacent properties: 3 are absentee landlords, not "neighbors" (they do not live in this neighborhood) who may or may not have consented; 3 owners did *not* consent; and 1 owner purchased their property after the fence was constructed.

Pg. 5, ¶1 of #3: "The purpose of the regulation..."

This claim has no bearing on Area Character, and the ordinance does not state a purpose.

Pg. 5, ¶1 of #3: "... is to allow privacy, shield unsightly items from public view..."

A 6-ft. fence adequately provides privacy and shields Mr. White's recreational vehicles as required by the ordinance, yet he continues to park them in public view in his driveway or on the street.

Pg. 5, ¶1 of #3: "It is clear from the enclosed pictures that the fence is of quality construction"

Characterizing his fence as being "of quality construction" is inaccurate given that the bottom of the wooden fence rests directly on soil and blocks the natural flow of rainwater within the drainage easement between properties, and it is coming apart (see pages 45–46, *Fence Photos 22–24*).

Re: Parking [This entire section is N/A: the applicant does not request a parking variance]

Pg. 6, #3: "the fence has been permitted and constructed in its present form to protect against potential safety hazards and to conform to the objections of the ordinance."

The fence was built without a permit. Permits were subsequently issued in error. The applicant supplied the City with fraudulent data and forged permission signatures in order to obtain permits. The ordinance disallows a fence height exceeding 6-ft. on White's property, as there is no 2-ft. change in grade within 50-ft. of adjacent properties, there are no structures providing reasonable access by a child to the property, and no hazards exist on the property. The remedy to conform to the Fence Ordinance is to reduce the entire fence height to average 6-ft.

Pg. 6, #4: "The fence, as built, enhances the residential use of the property and all adjacent properties."

Mr. White's fence exceeding 6-ft. in height does *not* enhance the properties; rather, it establishes a compound or stockade effect that is inconsistent with the character of the Shoalmont section of Allandale, an inner-city neighborhood of homes built in the 1950s with 4-ft. chain-link fences between them; privacy fences subsequently built are 6-ft. high.

Re: Applicant Certificate

Pg. 6: Signed "Benjamin T. White"

It is unclear whether Mr. White's misrepresentations to the Board of Adjustment constitute perjury or fraud. However, his signature affirming that his statements to the Board "are true and correct", and his submission of forged signatures to the City of Austin, strongly suggest that Mr. White's actions warrant further scrutiny.

Attachment A(1): McDonald Email

From: McDonald, John
Sent: Tuesday, June 16, 2009 11:05 AM
To: Haught, Kathy; Barba, Leon
Subject: 4921 Bull Creek Road fence(s)
Importance: High

I have looked into the original permit for the eight foot fence around the perimter of the property and the permit for the 7' fence along the souther property line and have found errors in both. The following is what I was going to send to Marie Sandoval. **It would be extremely helpful to measure all fences located on the property to accurately know the height of each fence section.**

2008-051642 PR A permit was issued for an eight foot solid fence on July 2, 2008 for the perimeter of the property. The inspections of this fence were finalized on July 24, 2008. No plot plan exists in the attachments. I have checked the contours on the property in GIS and there is not a change in grade of two feet within 50 feet of any adjoining properties and this is one of the requirements that has to be met. The applicant turned in six signatures from adjacent property owners and there are seven adjoining properties. Two of the six signatures do not match the owner of record at the Travis County Appraisal District (current record).

2009-029373 PR A permit for a seven foot solid fence along the southern property line was approved on April 7, 2009 and the building permit is still active. Since three signatures are missing from the original application for properties that border the southern property line, this permit was issued in error as well.

Let me know if you have any questions or if you feel all fences should be measured before this email goes out?

JMM

Attachment A(2): McDonald Chronology

4921 Bull Creek Road Fence Chronology

July 2, 2008 A residential application for an 8' privacy fence was submitted and approved. The notes in AMANDA state that letters were obtained from the adjacent property owners and there was a 2' change in grade within 50' of the property. Notes in AMANDA also state some areas of the fence will be 6'.

July 24, 2008 The final inspection of the 8' privacy fence was performed.

April 7, 2009 A residential application for a 7' wood fence along the southern property line was submitted and approved. Notes in AMANDA state code section 25-2-899 (D) allows for this fence to be permitted.

June 9, 2009 I received an email from Marie Sandoval inquiring about the two fence permits that were issued at 4921 Bull Creek Road.

June 9, 2009 To June 19, 2009 During this time I spoke with the reviewer and found out the project was not in compliance with the following provisions:

1. The subject property does not have a change in grade of 2' within 50' of any portion of the property or adjacent property. **A variance from the Board of Adjustments will be required.**
2. The second application for the 7' wood fence will never meet the requirement of an average of 6' since 60% or more of the lot has an eight foot fence. **A variance from the Board of Adjustments will be required.**
3. Neither application has a plot plan showing the locations or sizes of the proposed fence, which is required.

June 23, 2009 Donald Klesel of Building Inspections went to the site and confirmed fence locations and height. This reaffirmed that the 7' wood fence was not compliant as issued due to the amount of 8' fence located on the perimeter of the property.

July 14, 2009 Leon Barba, Kathy Haught, Donald Klesel and Darren Cain met with the property owner and his attorney and told them there were problems with both permits. At this time we had to confer with the Law Department on one issue and get back with the property owner. "(D) Except as otherwise provided in this section, a solid fence constructed along a property line may not exceed an average height of six feet or a maximum height of seven feet." The Law Department stated that there are two separate and distinct height requirements in the problem sentence and that both would apply. No stand alone seven feet fences are allowed because they must have portion under seven that make an overall average of six feet.

Dan McNabb put a hold on the 7' wood fence inspection after the site visit.

July 20, 2009 I called the property owner to tell him about the compliance issues with both permits and he referred me to his attorney for any further communication on the matter.

Attachment B(1): Barba Intent to Suspend

City of Austin
Founded by Congress, Republic of Texas, 1839
Watershed Protection & Development Review Department
One Texas Center, 505 Barton Springs Road
P.O. Box 1088, Austin, Texas 78767

August 25, 2009 Certified: 7005 1820 0003 7584 9270

Benjamin T. White
4921 Bull Creek Rd.
Austin, TX 78731-5026

RE: **Notice of Intent to Suspend Permit Nos. 2008-051644 BP and 2009-029382 BP for fences located at 4921 Bull Creek Rd.**

In accordance with City Code Section 25-1-417 (*Notice of Intent to Suspend or Revoke*), this letter constitutes a Notice of Intent to Suspend Permit No. 2008-051644 BP issued on July 2, 2008 and Permit No. 2009-029382 BP issued on April 7, 2009.

In order to avoid suspension of the two referenced permits, as authorized by Section 25-1-411 (*Suspension of a Permit or License*), you are required to correct the following code violations on or before September 4, 2009.

Code Violations	Corrective Action Required
Section 25-2-899	Permit No. 2008-051644 BP was issued in error. The existing 8 foot fence is not in compliance with Section 25-2-899(E). *A solid fence along a property line may be constructed to a maximum height of eight feet if each owner of property that adjoins a section of the fence that exceeds a height of six feet files a written consent to the construction of the fence with the building official, and:* *(1) there is a change in grade of at least two feet within 50 feet of the boundary between adjoining properties; or* *(2) a structure, including a telephone junction box, exists that is reasonably likely to enable a child to climb over a six foot fence and gain access to a hazardous situation, including a swimming pool.* Redesign your project or request a variance from the Board of Adjustment.

Attachment B(1): Barba Intent to Suspend (continued)

Code Violations	Corrective Action Required
Section 25-2-899	Permit No. 2009-029382 BP was issued in error. The existing 7 foot fence is not in compliance with Section 25-2-899 (D). *Except as otherwise provided in this section, a solid fence constructed along a property line may not exceed an average height of six feet or a maximum height of seven feet.* Redesign your project or request a variance from the Board of Adjustment.

Please do not hesitate to contact me if you have questions regarding the action required under this Notice.

Sincerely,

Leon Barba, P.E., Building Official
Planning and Development Review Department

cc: Greg Guernsey, Director, PDR
Don Birkner, Assistant Director, PDR
Brent Lloyd, Assistant City Attorney, Law Department
Dan McNabb, Building Inspection Division Manager, PDR
Michael J. Cihock – McLean & Howard, LLP

Attachment B(2): Barba Administrative Decision

City of Austin
Founded by Congress, Republic of Texas, 1839
Planning and Development Review Department
P.O. Box 1088, Austin, Texas 78767

December 3, 2009 Certified Mail: 7009 1680 0000 8642 1796

Benjamin T. White
4921 Bull Creek Road
Austin, TX 78732

Re: Building Permit Nos. 2008- 051644 BP and 2009-029382 BP

Dear Mr. Cihock:

Thank you for the information you provided at our November 16, 2009 meeting.

Following is our decision on the referenced permits:

- The requirements of the City Code for the issuance of Permit No. 2008-051644 BP have been met. The 8 ft. fence is in compliance with Chapter 25-2-899 Fences as Accessory Uses, specifically Section (E) and Section (E) (2).
- The fence permitted under Permit No. 2009- 029382 BP is not in compliance with Section 25-2-899 (D). Without the adjacent property owner's approval, the fence along the property line along the south side of Mr. Ben White's property may not exceed an average height of six feet or a maximum height of seven feet. The property line is determined from the beginning of the lot (most westerly corner of the lot) to the end of the lot (most southerly corner).

However, this also means that the section of 8 ft fence on the south property line that was approved under the previous permit cannot be over 7 ft.

You have two options available:

1. Request a variance from the Board of Adjustment at the earliest available meeting or
2. Rebuild the fence in order to achieve an average height of six feet with a maximum height of seven ft.

Please provide a written response of your decision no later than December 11, 2009. If you choose option 2, please provide a time frame for completing the work.

Sincerely,

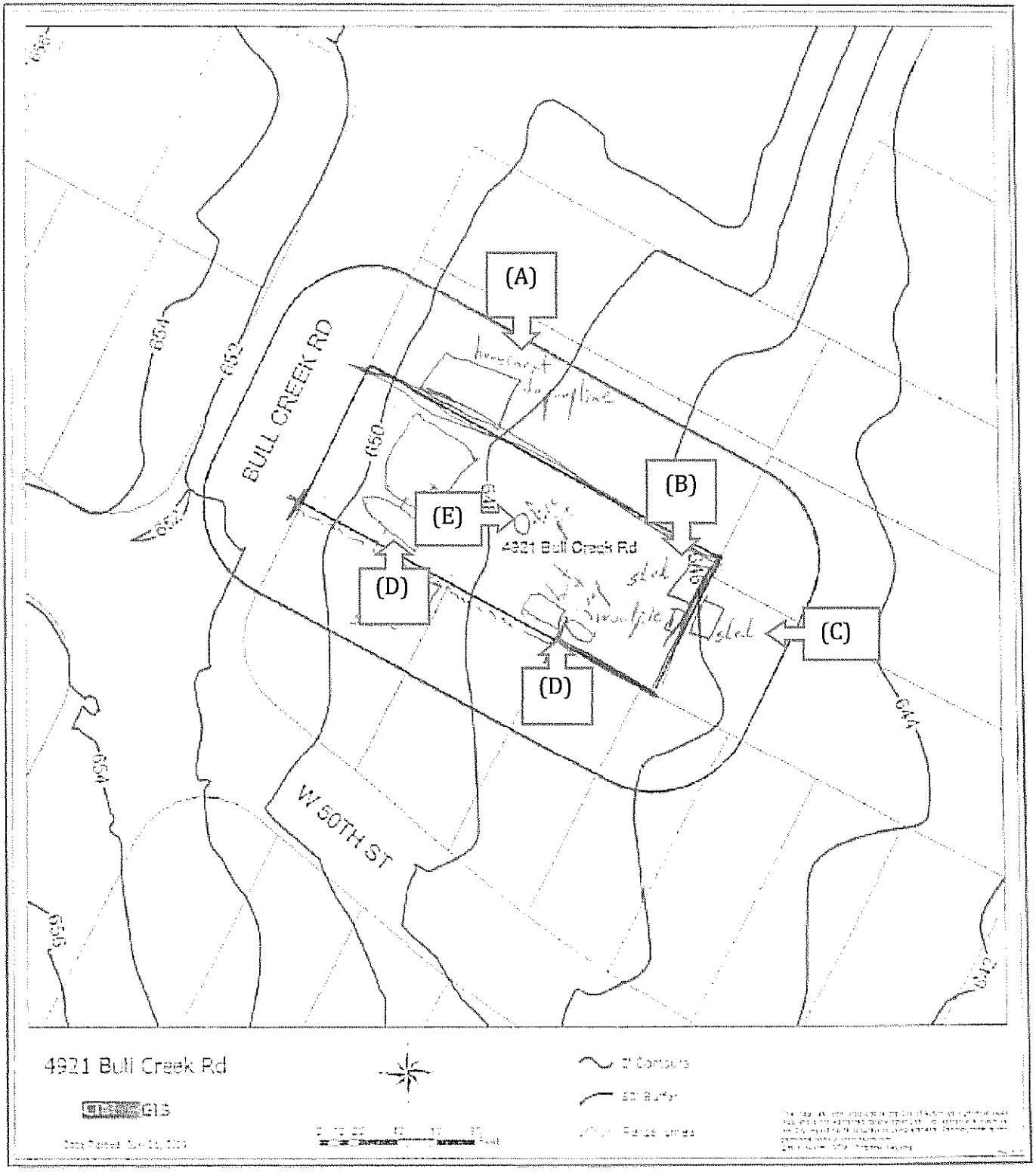
Leon Barba, P.E., Building Official

CC: Greg Guernsey, Director, PDR
Don Birkner, Assistant Director, PDR
Brent Lloyd, Assistant City Attorney, Law Department
Dan McNabb, Building Inspection Division Manager, PDR
Michael Cihock – McLean & Howard, LLP

The City of Austin is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request.

Attachment B(3): Barba Basis

Mr. Barba stated that he based his administrative decision on a drawing supplied to him by Cihock & White that illustrated easy *access points* to *hazardous conditions* in Mr. White's yard:



Attachment B(3): Barba Basis

The explanation of this drawing according to Mr. White & Mr. Cihock via Mr. Barba was as follows:

(A) The sketched "house next to prop line" indicates that the 4925 Bull Creek Road house abuts the property line adjacent to Mr. White's property [this is false].

(B) The sketched shed in Mr. White's yard is full of chemicals [White later denied this].

(C) The sketched shed at 4918 Finley abuts the property line adjacent to Mr. White's property [this is false].

(D) The sketched boats and jeep in Mr. White's yard are hazardous [this is false].

(E) The circular stone planter in Mr. White's yard was presented as a hazardous fire pit when it contained a single piece of wood as illustrated by a photo supplied by Mr. White to the City of Austin in November 2009:

Oddly, the "hazardous fire pit" turned back into a (presumably benign) planter as illustrated by this June 2010 photo:

Attachment C: Guernsey Email

RE: No Response from Director Greg Guernsey and Ongoing Incompetence of City Staff & Fw: Improper Notice of Public Hearing, BOA Case # C15-2010-0039

Monday, June 14, 2010 5:00 PM

From: "Guernsey, Greg" <greg.guernsey@ci.austin.tx.us>
To: "David Orshalick" <dorshalick@yahoo.com>
Cc: "Ott, Marc" <Marc.Ott@ci.austin.tx.us>, "Kata F. Carbone" <kata@mail.utexas.edu>, crsolns@texas.net, trumanfenton@gmail.com, "Walker, Susan" <susan.walker@ci.austin.tx.us>, "Corpus, Grace" <Grace.Corpus@ci.austin.tx.us>, "Morrison, Laura" <Laura.Morrison@ci.austin.tx.us>, "Edwards, Sue" <Sue.Edwards@ci.austin.tx.us>, "Sandoval, Marie" <Marie.Sandoval@ci.austin.tx.us>, "Birkner, Donald" <Donald.Birkner@ci.austin.tx.us>, "Haught, Kathy" <Kathy.Haught@ci.austin.tx.us>, "McDonald, John" <John.Mcdonald@ci.austin.tx.us>, "Barba, Leon" <Leon.Barba@ci.austin.tx.us>

Hello David:

I visited Ben White's property last week and had the opportunity to look at improvements and vehicles in his back yard. I also was able to look at the location of the adjoining structures/sheds on the adjacent properties. Based on this information I have decided that the permit for the eight (8) foot fence should not have been issued, because the structures to the north and east are not located close enough to the property line to enable a child to climb over a six foot fence to gain access to the property, and the improvements (fire pit, horseshoe pit, shed) and vehicles (jeep and boats) on Mr. White's property do not create a hazardous situation. This interpretation would also apply to the south property line, although a shed is located in close proximity to Mr. White's property line.

The actions taken by Ms. Susan Walker modifying the Board of Adjustment (BOA) notice for the April meeting and the interpretation of the variance request filed by Mr. White was incorrect and in error. Ms. Walker was mistaken on how this Code section should be applied to this BOA variance application. I will be working with my Staff in the near future to make sure this mistake does not happen again. As I stated previously, Staff does not make a recommendation regarding BOA variance requests. I understand that a new sign was not posted and a revised notice was not sent out for tonight's BOA meeting, because Ms. Walker got this case confused with another case that is on the agenda tonight that should have been posted for the July meeting.

I have contacted legal counsel for Mr. Ben White and informed him via voicemail message of my decision and expect that he will modify his pending BOA application prior to the July meeting. If you have any questions, please contact me via e-mail or at 974-2387.

Greg

Attachment D: Fence Ordinance

§ 25-2-899 FENCES AS ACCESSORY USES.

(A) Except as otherwise provided in this chapter, a fence:

(1) is permitted as an accessory use in any zoning district; and

(2) must comply with the requirements of this section.

(B) In this section:

(1) an ornamental fence is a fence with an open design that has a ratio of solid material to open space of not more than one to four; and

(2) a solid fence is a fence other than an ornamental fence.

(C) The height restrictions of this section do not apply to an ornamental fence.

(D) Except as otherwise provided in this section, a solid fence constructed along a property line may not exceed an average height of six feet or a maximum height of seven feet.

(E) A solid fence along a property line may be constructed to a maximum height of eight feet if each owner of property that adjoins a section of the fence that exceeds a height of six feet files a written consent to the construction of the fence with the building official, and:

(1) there is a change in grade of at least two feet within 50 feet of the boundary between adjoining properties; or

(2) a structure, including a telephone junction box, exists that is reasonably likely to enable a child to climb over a six foot fence and gain access to a hazardous situation, including a swimming pool.

(F) A solid fence may be constructed to a maximum of eight feet in height if the fence is located on or within the building setback lines.

Attachment E: Accessory Uses Ordinance

§ 25-2-893 ACCESSORY USES FOR A PRINCIPAL RESIDENTIAL USE.

(A) For a principal residential use, this section prescribes the requirements for an accessory use.

(B) This subsection provides for vehicle storage as an accessory use.

(1) Not more than one motor vehicle for each licensed driver residing on the premises may be stored on the premises.

(2) Notwithstanding the limitation of Subsection (B)(1), a private garage for the storage of not more than four motor vehicles is permitted.

(3) Except for an antique vehicle or recreational vehicle, a motor vehicle with a capacity of one ton or greater is prohibited.

(4) Not more than one commercial vehicle may be stored on the premises.

(5) Except as provided in Subsection (B)(6), an inoperable motor vehicle may not be stored on an adjacent public right-of-way. A motor vehicle is inoperable if, for more than 72 hours, the vehicle:

(a) does not have license plates or has license plates that have been expired for more than 90 days;

(b) does not have a motor vehicle safety inspection sticker or has a motor vehicle inspection safety sticker that has been expired for more than 90 days; or

(c) cannot be started or legally operated in a public right-of-way.

(6) The prohibition of Subsection (B)(5) does not apply to:

(a) an antique or recreational vehicle stored at an owner's residence; or

(b) a vehicle under repair for less than 60 days, if not more than one other vehicle is also under repair.

(7) Up to two vehicles that are either antique or recreational vehicles may be stored on the premises, if the storage area is not a health hazard and is either in an enclosed building or screened from public view with a solid wood or masonry fence at least six feet high.

Attachment F: Signatures 1–7

F1. Letter from K. F. Carbone.

F2. Letter from Mrs. Blanco.

F3. Forged Blanco signature supplied by Mr. White to the City of Austin's Residential Permitting Department.

F4. Letter from Mrs. Bond.

F5. Forged Bond signature supplied by Mr. White to the City of Austin's Residential Permitting Department.

F6. Questionable Gregg signature #1 supplied by Mr. White to the City of Austin's Residential Permitting Department.

F7. Questionable Gregg signature #2 supplied by Mr. White to the City of Austin's Residential Permitting Department.

F1. Letter from K. F. Carbone:

To: Whom it May Concern
Re: Board of Adjustment variance application for 4921 Bull Creek Road
(CASE # C15-2010-0039/ROW# 10419656/TP-0227000116)
Date: April 12, 2010

My property is adjacent to 4921 Bull Creek Road.

I did not give permission to Mr. Benjamin T. White to build or maintain a fence higher than 6-ft. adjacent to my property, nor did I sign any form granting permission to do so.

I disapprove of Mr. Benjamin T. White's repeated violations of the City of Austin's Code of Ordinance. He built his 7-ft. to 8-ft. fence before applying for a building permit and he subsequently supplied the City of Austin with false information, including some forged "permission" signatures, in order to obtain a fence permit. Despite being informed of the true facts in this case, the City of Austin has failed to correct their errors or to enforce Mr. White's compliance with Code.

I oppose Mr. White's request for a variance before the Board of Adjustment to maintain any portion of his fence height in excess of 6-ft. because it is not in keeping with the character of the Shoalmont Section of Allandale, which is a long-established, inner-city neighborhood.

Kathleen F. Carbone
2710 West 49th ½ Street
Austin, TX 78731

F2. Letter from Mrs. Blanco:

To: Whom it May Concern
Re: Board of Adjustment variance application for 4921 Bull Creek Road
(CASE # C15-2010-0039/ROW# 10419656/TP-0227000116)
Date: April 12, 2010

We own the property at 2708 West 49th ½ Street adjacent to 4921 Bull Creek Road.

We did not give permission to Mr. Benjamin T. White to build or maintain a fence higher than 6-ft. adjacent to our property, nor did we sign any form granting permission to do so. The signature, purportedly supplying our approval on a letter submitted by Mr. White to the City of Austin Residential Permitting Department, is a forgery.

We disapprove of any violations of the City of Austin's Code of Ordinance by Mr. White. We have been informed that he built his 7 ft. to 8-ft. fence before applying for a building permit and he subsequently supplied the City of Austin with false information in order to obtain two fence permits.

We oppose Mr. White's request for a variance before the Board of Adjustment to maintain any portion of his fence height in excess of 6-ft. because it is not in keeping with the character of the Shoalmont Section of Allandale, which is a long-established, inner-city neighborhood.

Maria-Teresa Blanco

Ernesto and/or Maria Blanco
205 Tower Drive
San Antonio, TX 78232-3623
(owners of 2708 West 49th ½ Street, Austin, TX 78731)

F3. Forged Blanco signature supplied by Mr. White to the City of Austin's Residential Permitting Department:

6-2-08

City of Austin
Residential Permitting Department

Re: 4921 Bull Creek Rd-Fence Permit

The undersigned neighboring properties of 4921 Bull Creek Rd approve the fence, built on 5-25-08, that is 8ft tall. This letter is meant for the City of Austin to grant Ben White permit for the 8ft tall fence.

Name/Current Owner:	**Signature:**
Donald Coffee 2706 W 49th St Austin, TX 78731	
Deeb Ramzi 4925 Bull Creek Dr. Austin, TX	
Tony Gregg 2712 49 ½ St. Austin, TX	
Ernesto and Marin Blanco 2708 49 ½ St. Austin, TX	10/13
Bond, J J 4920 Finley Dr Austin, TX 78731-5639	
Nyer, Aaron 4918 Finley Dr Austin, TX 78731-5639	

F4. Letter from Mrs. Bond:

To: Whom it May Concern
Re: Board of Adjustment variance application for 4921 Bull Creek Road
(CASE # C15-2010-0039/ROW# 10419656/TP-0227000116)
Date: April 12, 2010

I own the property at 4920 Finley Drive adjacent to 4921 Bull Creek Road.

I did not give permission to Mr. Benjamin T. White to build or maintain a fence higher than 6-ft. adjacent to my property, nor did I sign any form granting permission to do so. The signature "Joyce J. Bond" dated 6-2-08, purportedly supplying my approval on the form submitted by Mr. White to the City of Austin Residential Permitting Department, is a forgery.

I disapprove of any violations of the City of Austin's Code of Ordinance by Mr. White. I have been informed that he built his 7 ft. to 8-ft. fence before applying for a building permit and he subsequently supplied and the City of Austin with false information in order to obtain two fence permits.

I oppose Mr. White's request for a variance before the Board of Adjustment to maintain any portion of his fence height in excess of 6-ft. because it is not in keeping with the character of the Shoalmont Section of Allandale, which is a long-established, inner-city neighborhood.

Joyce Bond

Joyce Bond
4920 Finley Drive
Austin, TX 78731

F5. Forged Bond signature submitted by Mr. White to the City of Austin's Residential Permitting Department:

6-2-08

City of Austin
Residential Permitting Department

Re: 4921 Bull Creek Rd-Fence Permit

The undersigned neighboring properties of 4921 Bull Creek Rd approve the fence, built on 5-25-08, that is 8ft tall. This letter is meant for the City of Austin to grant Ben White permit for the 8ft tall fence.

Name/Current Owner:	Signature:
Nash, Lorin 2706 W 49th St Austin, TX 78731-5547	
Deeb Ramzi 4925 Bull Creek Dr. Austin, TX	
Tony Gregg 2712 49 ½ St. Austin, TX	
Wade Williams 2708 49 ½ St. Austin, TX	
Blomquist, Gilbert Victor 4922 Finley Dr Austin, TX 78731-5639	
Bond, J J 4920 Finley Dr Austin, TX 78731-5639	Jerry J Bond
Nyer, Aaron 4918 Finley Dr Austin, TX 78731-5639	

F6. Questionable Gregg signature #1 (hand-dated 6-5-08) submitted by Mr. White to the City of Austin's Residential Permitting Department:

6-2-08

City of Austin
Residential Permitting Department

Re: 4921 Bull Creek Rd-Fence Permit

The undersigned neighboring properties of 4921 Bull Creek Rd approve the fence, built on 5-25-08, that is 8ft tall. This letter is meant for the City of Austin to grant Ben White permit for the 8ft tall fence.

Name/Current Owner:	**Signature:**
Nash, Lorin 2706 W 49th St Austin, TX 78731-5547	
Deeb Ramzi 4925 Bull Creek Dr. Austin, TX	
Tony Gregg 2712 49 ½ St. Austin, TX	Tony Gregg 6-5-08
Wade Williams 2708 49 ½ St. Austin, TX	
Blomquist, Gilbert Victor 4922 Finley Dr Austin, TX 78731-5639	
Bond, J J 4920 Finley Dr Austin, TX 78731-5639	
Nyer, Aaron 4918 Finley Dr Austin, TX 78731-5639	

F7. Questionable Gregg signature #2 (hand-dated 6-5-08) submitted by Mr. White to the City of Austin's Residential Permitting Department:

6-2-08

City of Austin
Residential Permitting Department

Re: 4921 Bull Creek Rd-Fence Permit

The undersigned neighboring properties of 4921 Bull Creek Rd approve the fence, built on 5-25-08, that is 8ft tall. This letter is meant for the City of Austin to grant Ben White permit for the 8ft tall fence.

Name/Current Owner:	**Signature:**
Nash, Lorin 2706 W 49th St Austin, TX 78731-5547	
Deeb Ramzi 4925 Bull Creek Dr. Austin, TX	
Tony Gregg 2712 49 ½ St. Austin, TX	Tony Gregg 6-5-08
Wade Williams 2708 49 ½ St. Austin, TX	
Blomquist, Gilbert Victor 4922 Finley Dr Austin, TX 78731-5639	
Bond, J J 4920 Finley Dr Austin, TX 78731-5639	
Nyer, Aaron 4918 Finley Dr Austin, TX 78731-5639	

Attachment G: Gregg Letters

G1. Unsigned letter #1 from Mr. Gregg:

January 13, 2010

Mr. Leon Barba, P.E.
Building Official
Planning and Development Review Dept
PO Box 1088
City of Austin
Austin, Texas 78767

Dear Mr. Barba:

I recently became aware of the issue concerning the shared wooden fence that my neighbor, Ben White installed. Last year Mr. White took the initiative to replace a completely dilapidated fence between our two properties as well as between other neighbors. I understand that he got all the required permits and inspections. I paid a prorata share of the cost for my property. The fence greatly enhanced my property and I think it is an excellent addition to the neighborhood as a whole. I have a small backyard and having a high fence next to Mr. White's two story house gives my house added privacy as well as better security.

I am strongly in favor of the fence as it is now and am not in a financial position to invest any additional funds in fencing. I hope you will allow the fence to stand as it is as it is greatly beneficial to all of the neighbors.

Good fences make good neighbors.

Yours,

Tony T. Gregg, P.E.
Owner of 2712 W 49.5 St

Attachment G: Gregg Letters (continued)

G2. Unsigned letter #2 from Mr. Gregg:

Walker, Susan

From: Tony Gregg [ttgregg@gmail.com]
Sent: Friday, May 21, 2010 10:45 AM
To: Barba, Leon; Walker, Susan
Subject: 2710 W 49 1/2 St Fence issue

Dear Mr. Barba and Ms. Walker,

I recently sent in a form supporting the variance for the fence that Ben While built along side my yard at 2712 W 49 1/2 St and also behind 2710 W. 49 1/2 St. I understand that the hearing has been postponed until June.

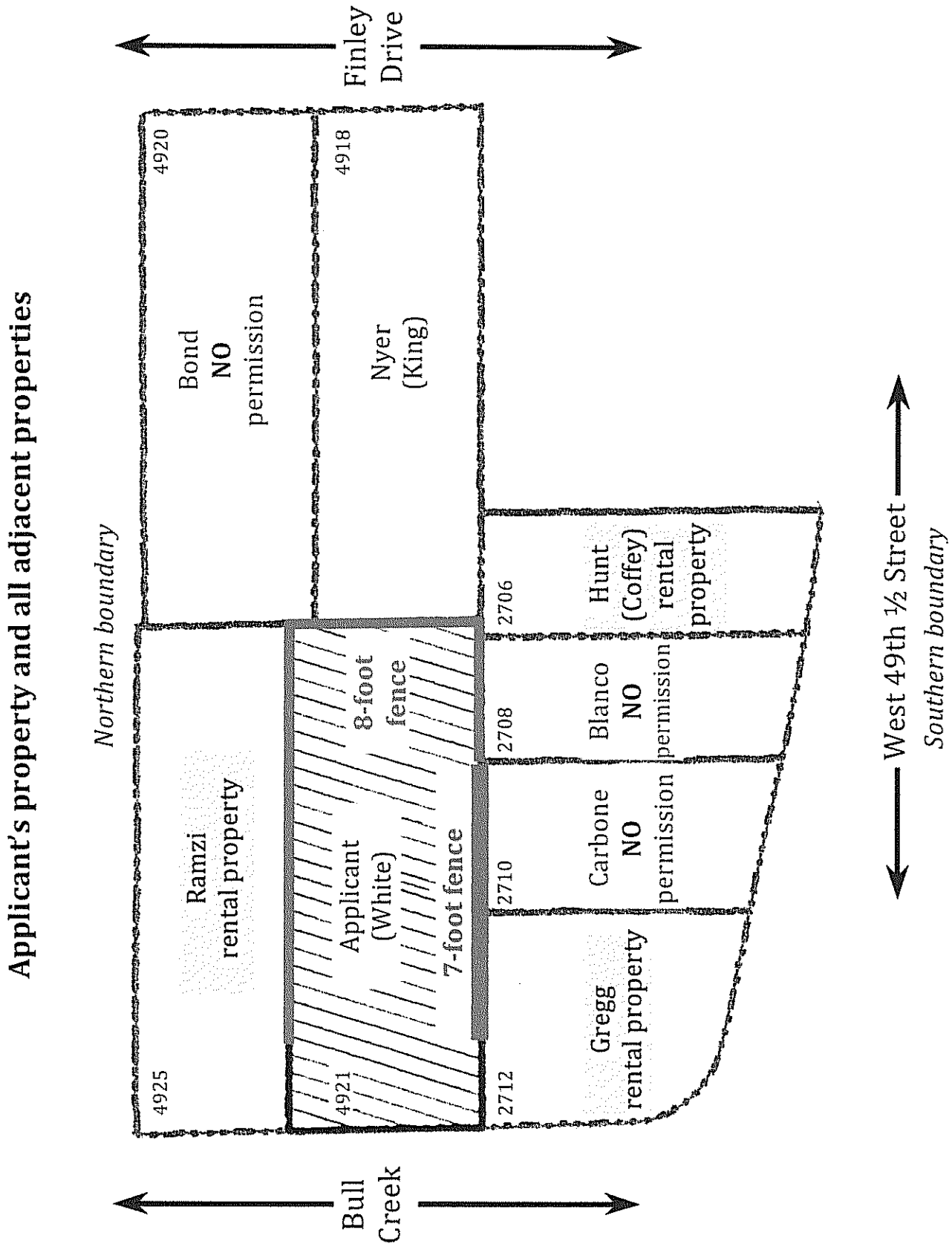
Ben had solicited prorata share contributions from myself and most of the other neighbors for this fence which replaced a 30 year old fence that was mostly rotten and falling down along side my yard. The height of 7 feet has enabled the small back yard of my property to have more privacy since Ben's house is two stories and can look into the yard. It would be a real hardship to have to reconstruct the fence. I hope that you will support the variance at the hearing.

If you need any other information from me, please contact me by email or at 512 547-8216.

Yours,

Tony Gregg

Attachment H: Adjacent Properties



Attachment I: Nyer Letter

Letter from Mr. Nyer:

June 23, 2010

Re: 4918 Finley Dr. - Fence Installation

To Whom It May Concern:

Please let this letter serve as confirmation that as the prior home owner of 4918 Finley Dr., Austin, TX 78731 I entered into an agreement with my neighbor, Ben White, to have a fence installed between our two properties. We mutually agreed to install an 8' fence in an effort to shield the line of site between our two homes. We split the cost of the fence that divided our properties.

This fence was an added asset to the home and provided much needed privacy.

Sincerely,

Aaron (Adam) Nyer

Attachment J: King Letter

Letter from Mr. & Mrs. King:

June 24, 2010

Mr. Leon Barba, P.E.
Building Official
Planning and Development Review Dept
PO Box 1088
City of Austin
Austin, Texas 78767

Dear Mr. Barba:

We recently became aware of the issue concerning the shared wooden fence that my neighbor, Mr. Ben White, installed at 4921 Bull Creek Rd. We are writing in support of Mr. White's variance request to allow the fence to stand as-is.

Mr. White and the former owner of 4918 Finley, Mr. Adam Nyer, agreed upon a 8' fence to adequately shield the line-of-sight between their two homes, and split the cost of installing it. When we were considering buying 4918 Finley in September 2009, we liked the privacy afforded by the fence and considered the fence an asset to the home at 4918 Finley.

Additionally, we had no means of knowing about this dispute when we bought the house given that the fence was, in fact, permitted at the time of our home search in September 2009. Denying the variance and revoking the original permit at this time would effectively blind-side us into being partially financially responsible for changes to the fence.

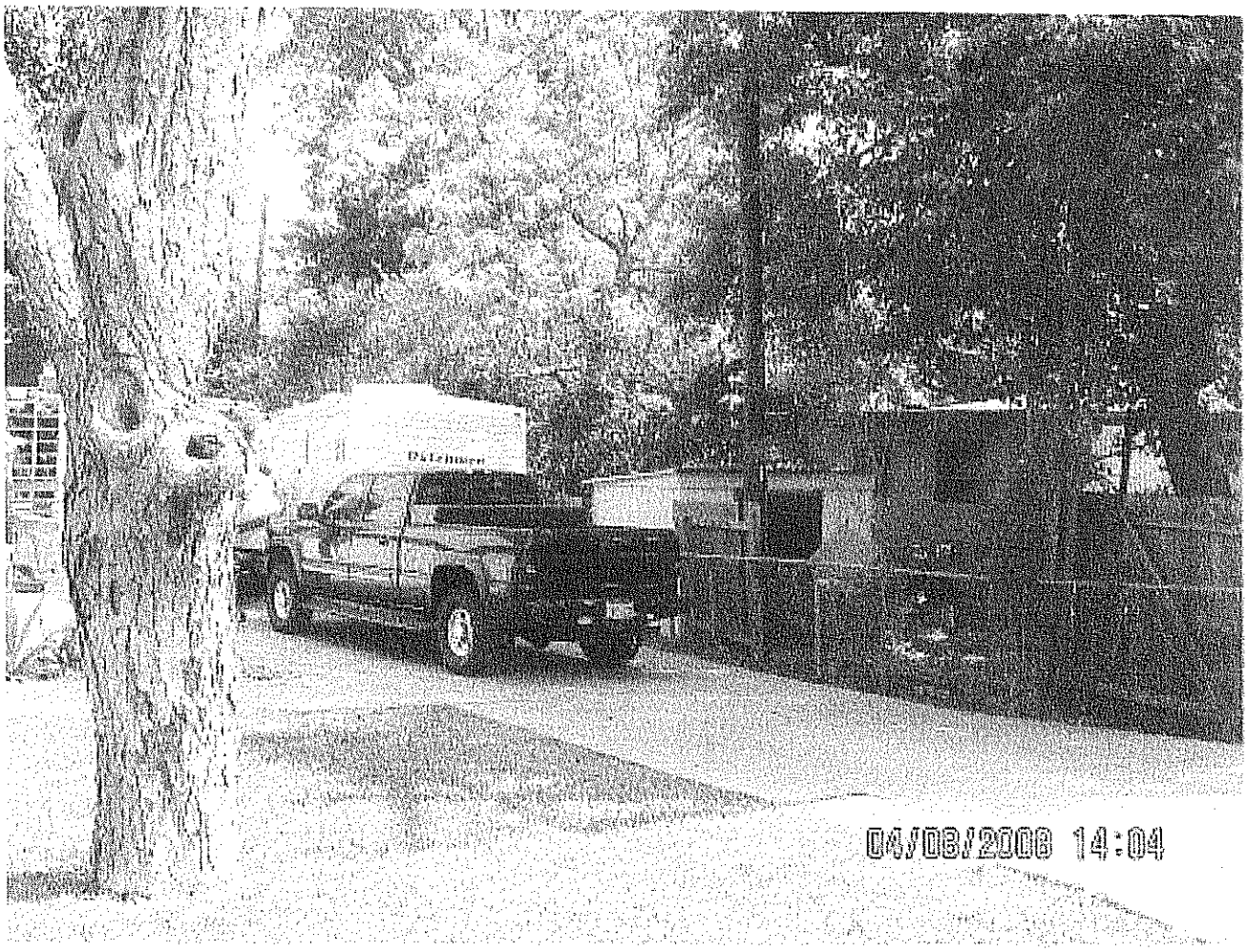
We are strongly in favor of the fence as it currently stands, and are not in a financial position to alter or replace the fence. We hope you will allow the fence to stand as it is greatly beneficial to us.

Regards,

John M. King, Elizabeth K. King

John M. King & Elizabeth K. King
Owners of 4918 Finley Dr.

Attachment K: Gregg Chain Link Fence



4921 Bull Creek Road
Case CV – 2008 022662

April 8, 2008
Investigator Khalid Marshall

Attachment L: Ramzi Letter

Letter from Mr. Ramzi:

010 14:43 From:
.. 22. 2010 10:41AM Durhman & Bassett Realty Group To:512 833 6448 P.2
No. 5709 P. 2

June 22, 2010

Planning and Development Review Dept
PO Box 1088
City of Austin
Austin, Texas 78767

To whom it may concern:

I recently became aware of the issue concerning the shared wooden fence that my neighbor, Ben White installed last year. Mr. White took the initiative to replace a completely dilapidated fence between our two properties as well as between other neighbors.

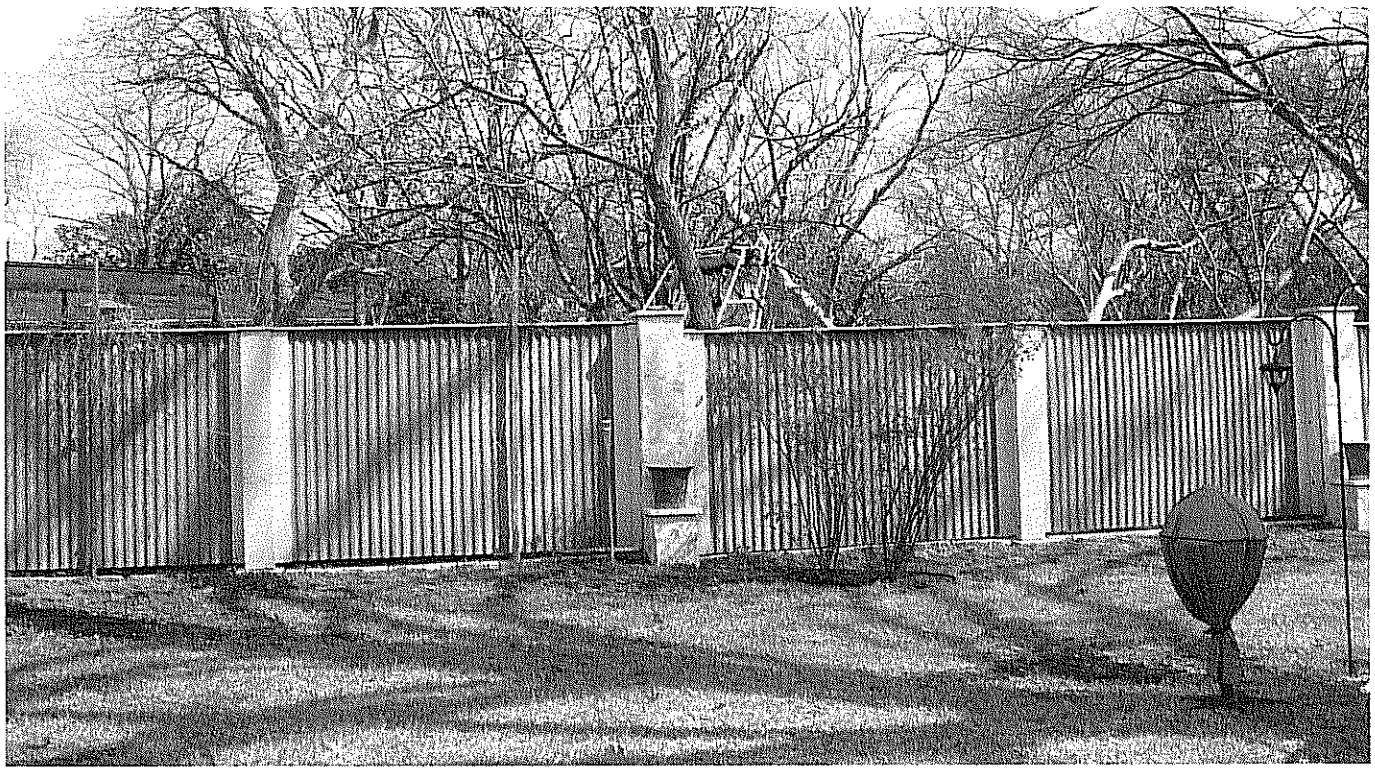
I am in favor of keeping this fence as is. I hope you will allow the fence to stand as it is as it is greatly beneficial to all of the neighbors.

Sincerely,

Deed Ramzi
Owner of 4925 Bull Creek Rd

Attachment M: Boat Photo

Photo taken prior to Mr. White's illegal construction of a 7-ft. fence from 2710 W. 49 ½ St. illustrating that he parks his tallest boat directly behind my 6-ft. fence:



Attachment N: Window Photo

Photo taken (prior to Mr. White's illegal construction of a 7-ft. fence) from the yard 2710 W. 49 ½ St. looking toward 4921 Bull Creek, contradicting Mr. White's claim that, "a person of average height, standing flat-footed in the yard can see directly into the rear windows" [of either house]:

Attachment O: Vantage Photo

Section of ornamental fence at 2710 W. 49th ½ St., as viewed from the property line adjacent to applicant's property 4921 Bull Creek Rd.

Attachment P: Fence Photos

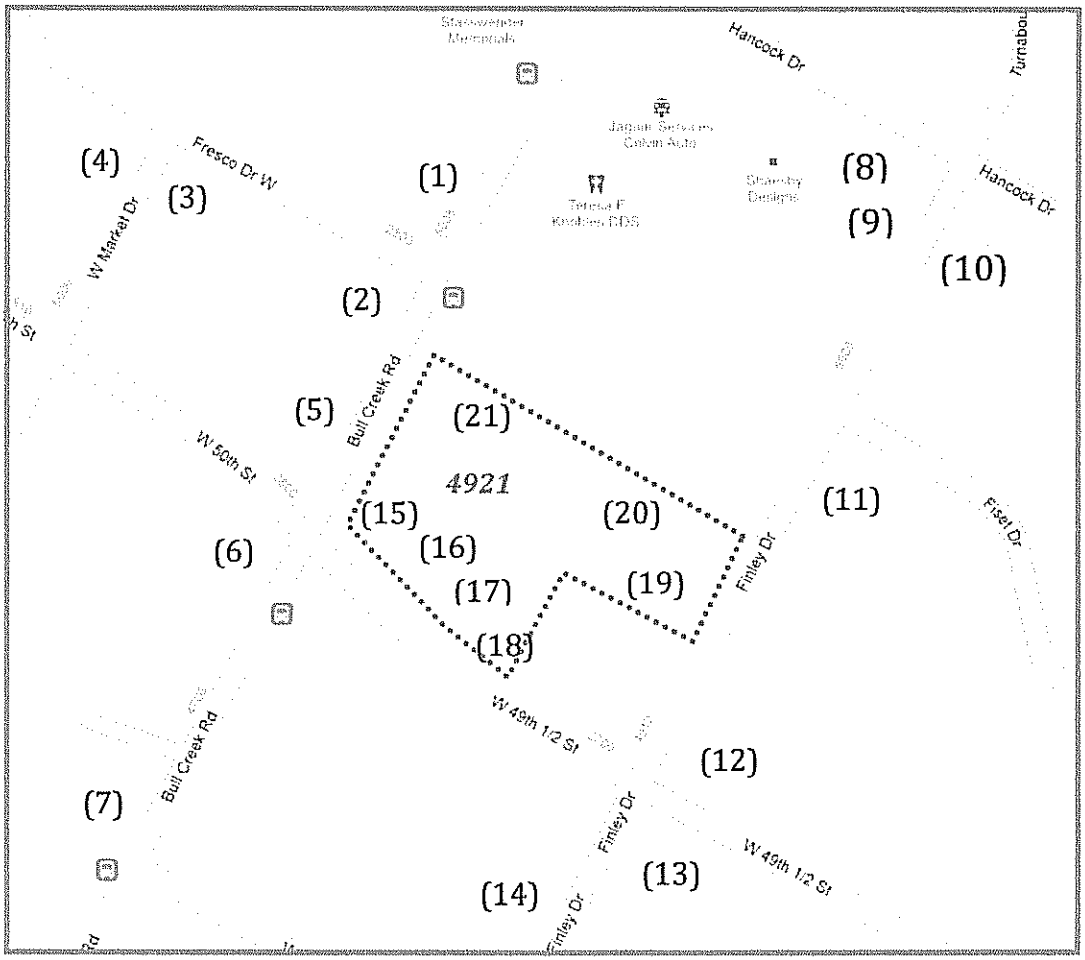
A small sample of fences near 4921 Bull Creek that are less than or equal to 6-ft. in height, confirming to Austin's Fence Code height requirements:

Outer Perimeter (properties nearby)

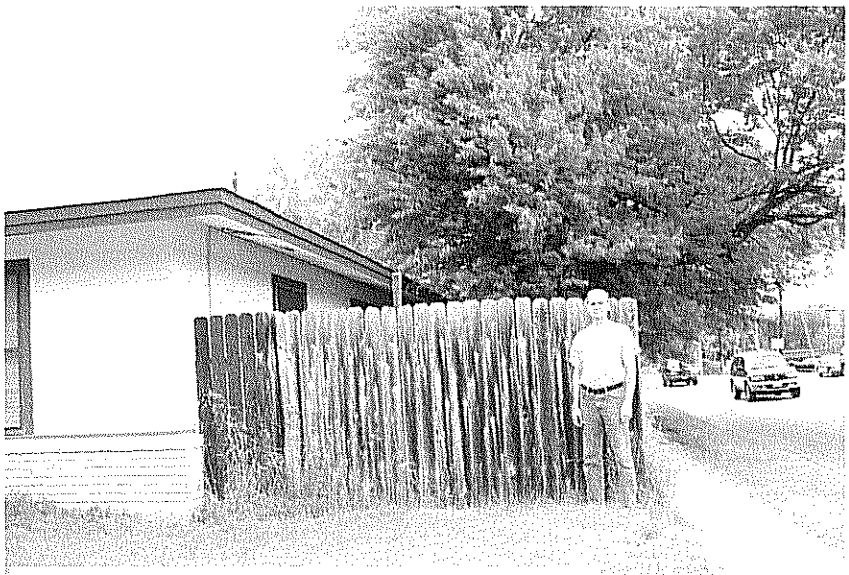
(1) 2800 W. Fresco Dr. (@ Bull Creek)
(2) 2801 W. Fresco Dr. (@ Bull Creek)
(3) 2807 W. Fresco Dr. (@ Market)
(4) 2809 W. Fresco Dr. (@ Market)
(5) 2800 W. 50th St. (@ Bull Creek)
(6) 2801 W. 50th St. (@ Bull Creek)
(7) 2801 Winston (@ Bull Creek)
(8) 5012–5010 Finley Dr. (@ Hancock)
(9) 5008 Finley Dr.
(10) 2609 Hancock Dr. (@ Finley)
(11) 2617 Fiset Dr. (@ Finley)
(12) 2622 W. 49 ½ St. (@ Finley)
(13) 4907 Finley Dr. (@ W. 49 ½)
(14) 4904 Finley Dr.

Inner Perimeter (properties adjacent to 4921 Bull Creek)

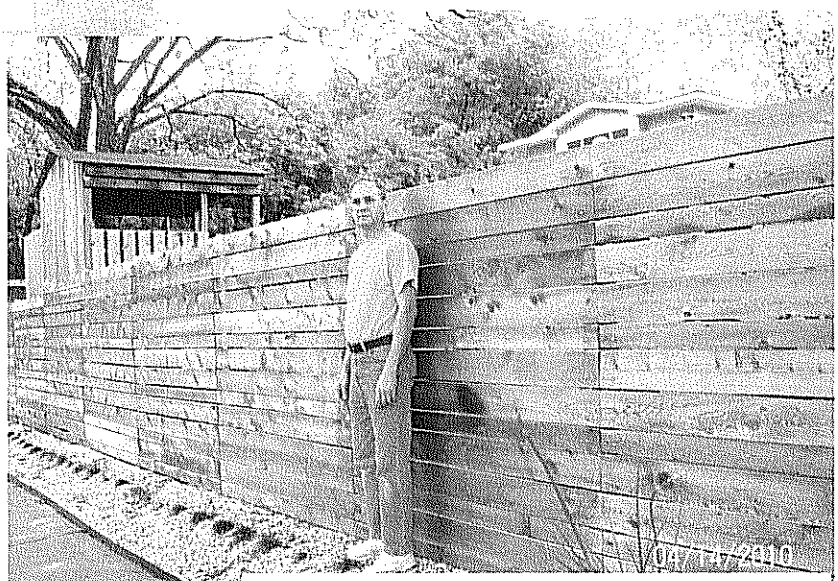
(15) 2712 W. 49 ½ St.: Rental property
(16) 2710 W. 49 ½ St.: No permission
(17) 2708 W. 49 ½ St.: No permission
(18) 2706 W. 49 ½ St.: Rental property
(19) 4918 Finley Dr.: New owners
(20) 4920 Finley Dr.: No permission
(21) 4925 Bull Creek: Rental property



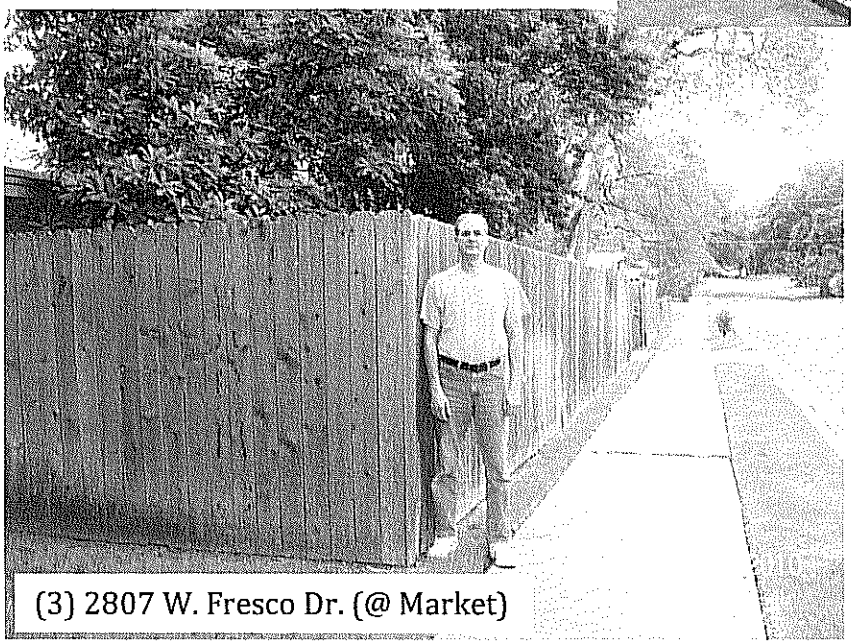
The person standing in each photo is 6-ft. tall.



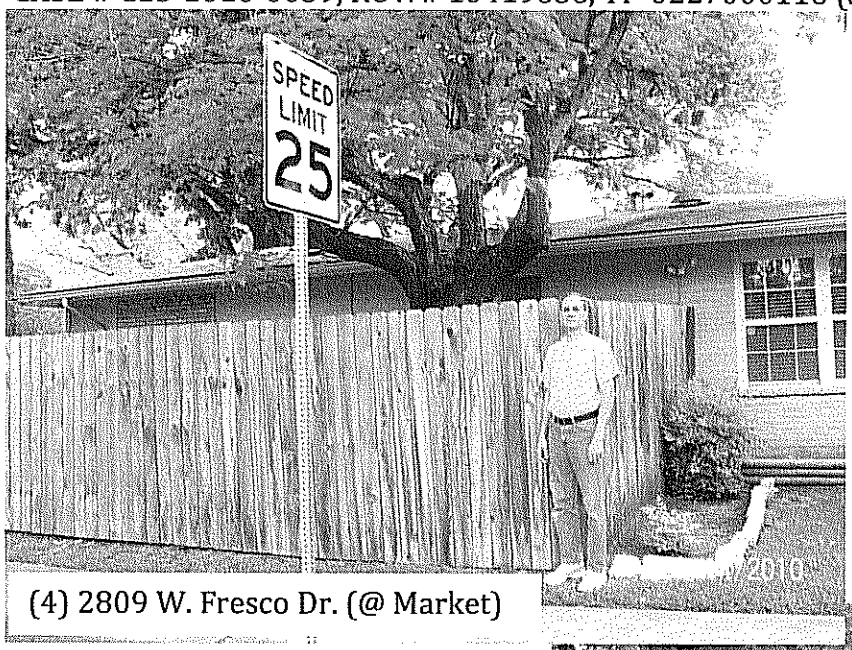
(1) 2800 W. Fresco Dr. (@ Bull Creek)



(2) 2801 W. Fresco Dr. (@ Bull Creek)

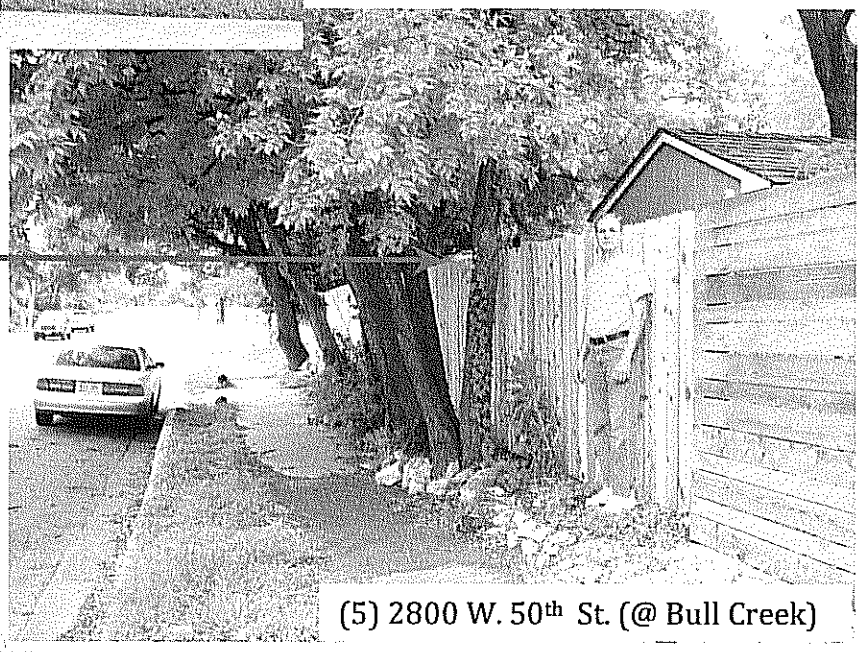


(3) 2807 W. Fresco Dr. (@ Market)

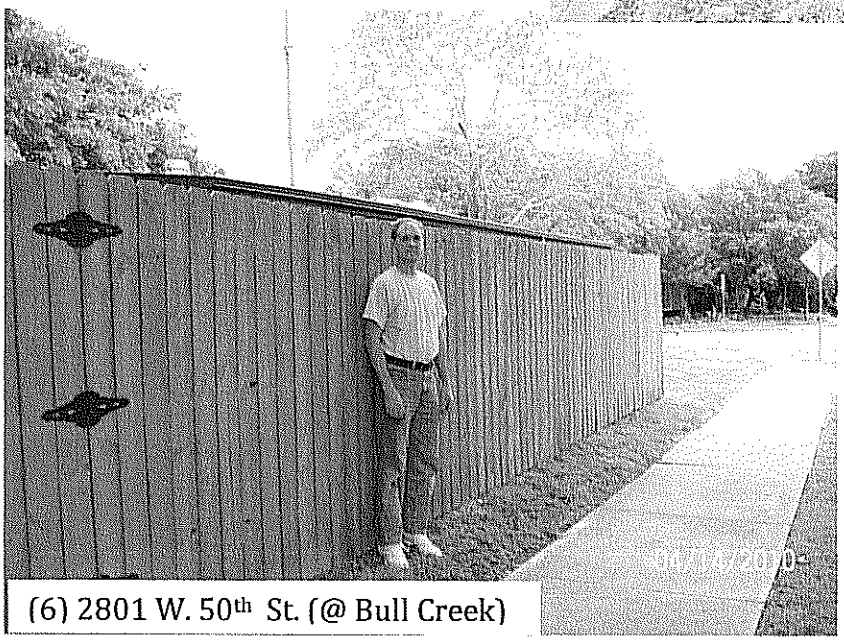


(4) 2809 W. Fresco Dr. (@ Market)

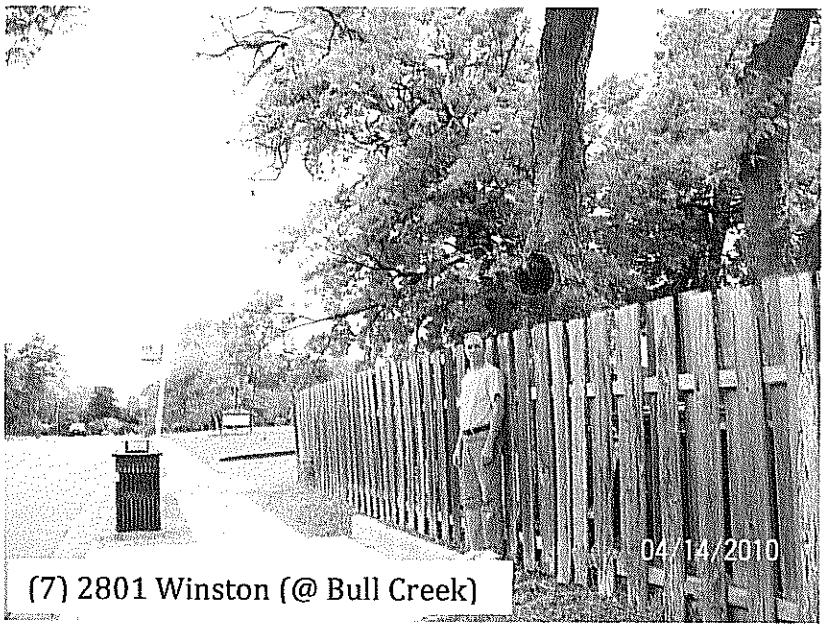
This is the fence that Mr. White uses in his fraudulent claim that "several fences in the area are 7 feet and 8 feet in height". It is less than 6-ft. high.



(5) 2800 W. 50th St. (@ Bull Creek)

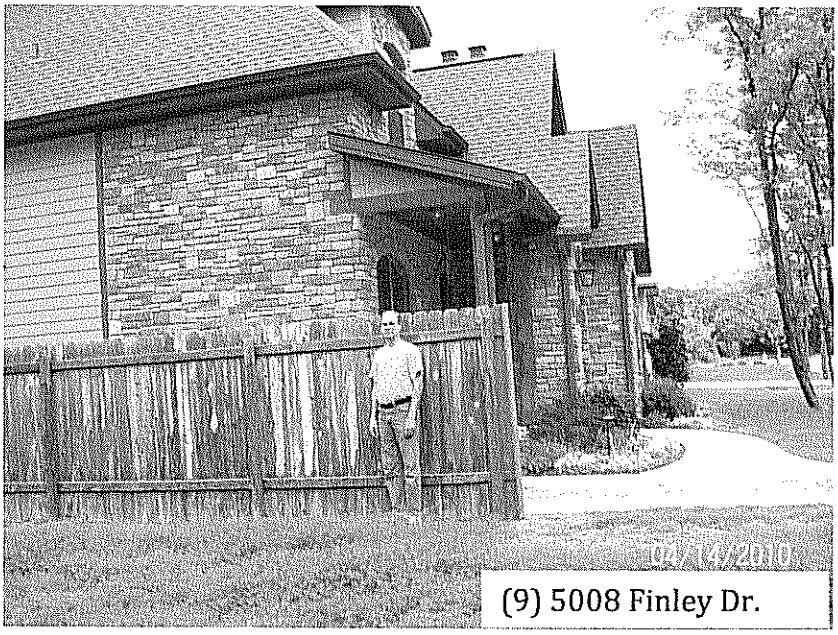


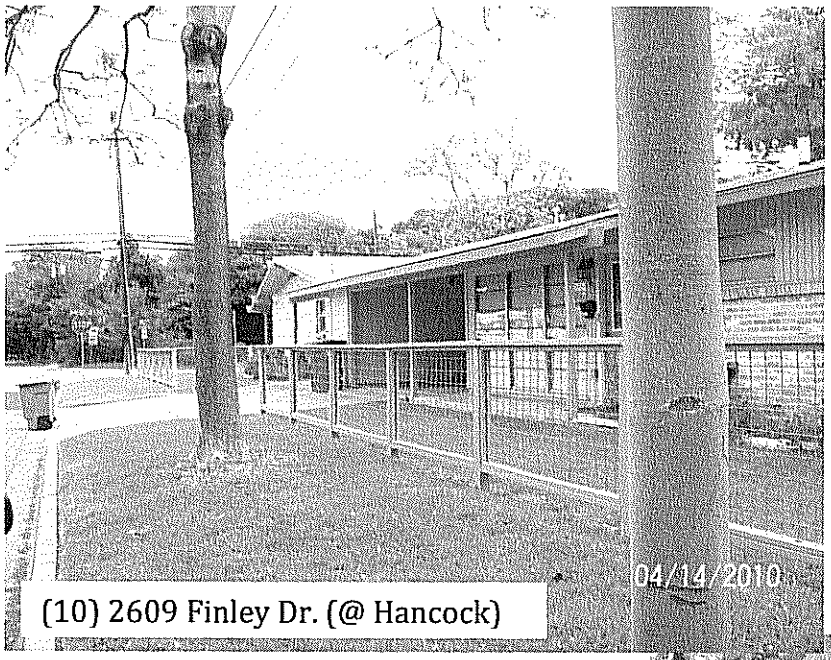
(6) 2801 W. 50th St. (@ Bull Creek)



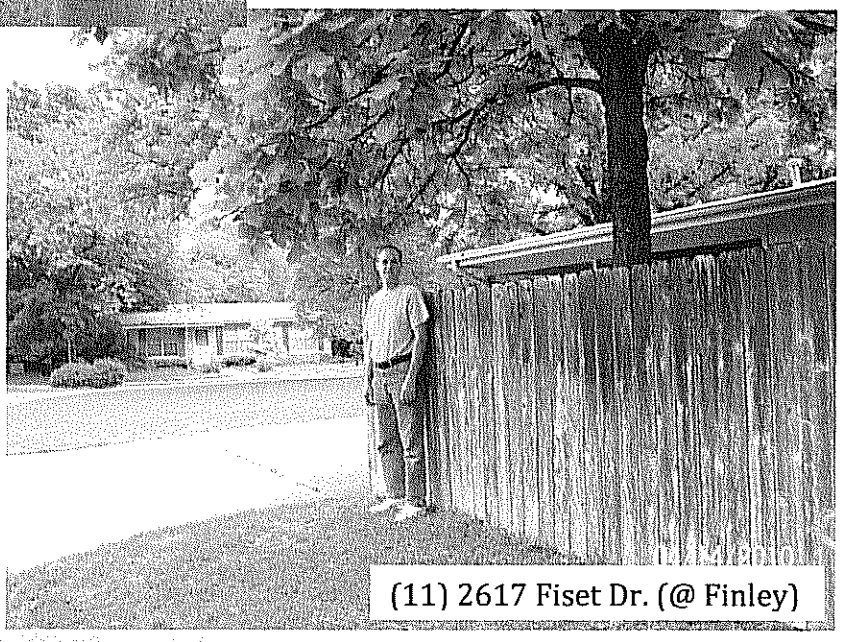
(7) 2801 Winston (@ Bull Creek)

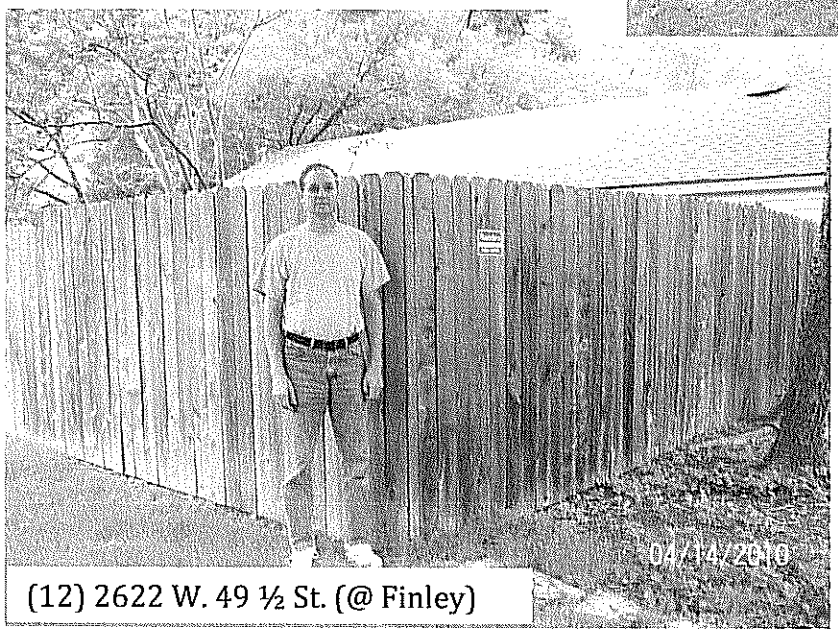
(8) 5012–5010 Finley Dr. (@ Hancock)


(9) 5008 Finley Dr.

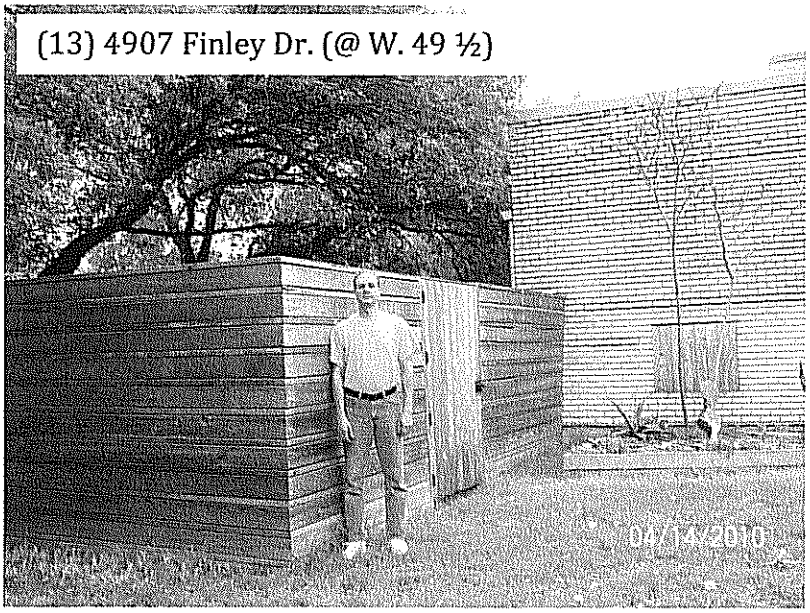


(10) 2609 Finley Dr. (@ Hancock)

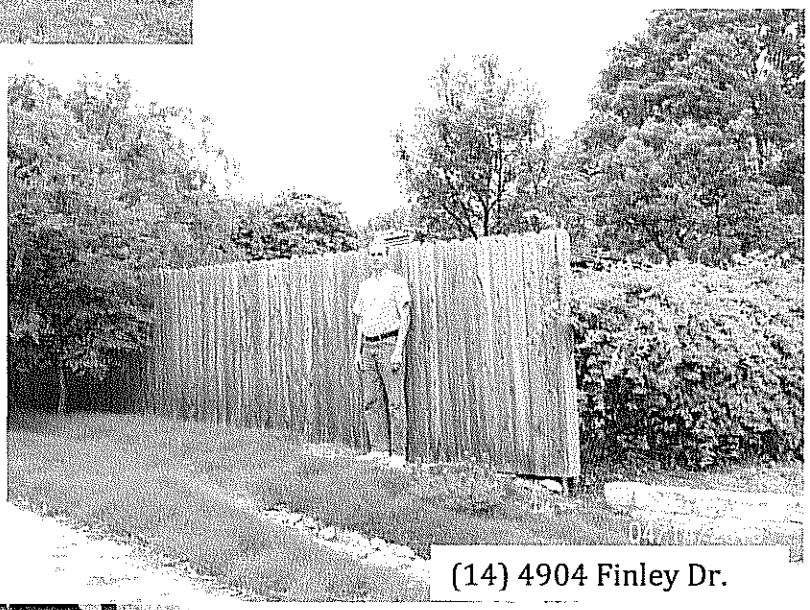

(11) 2617 Fiset Dr. (@ Finley)



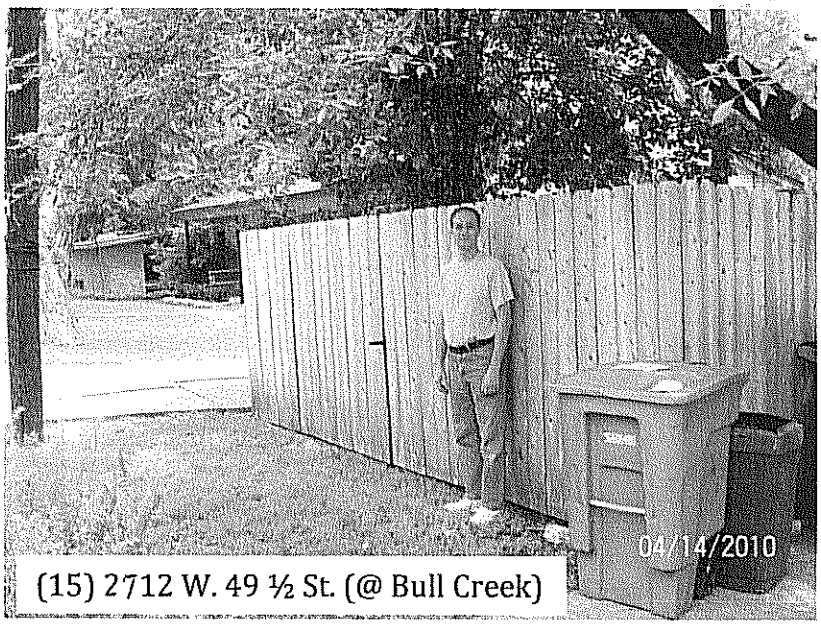
(12) 2622 W. 49 ½ St. (@ Finley)



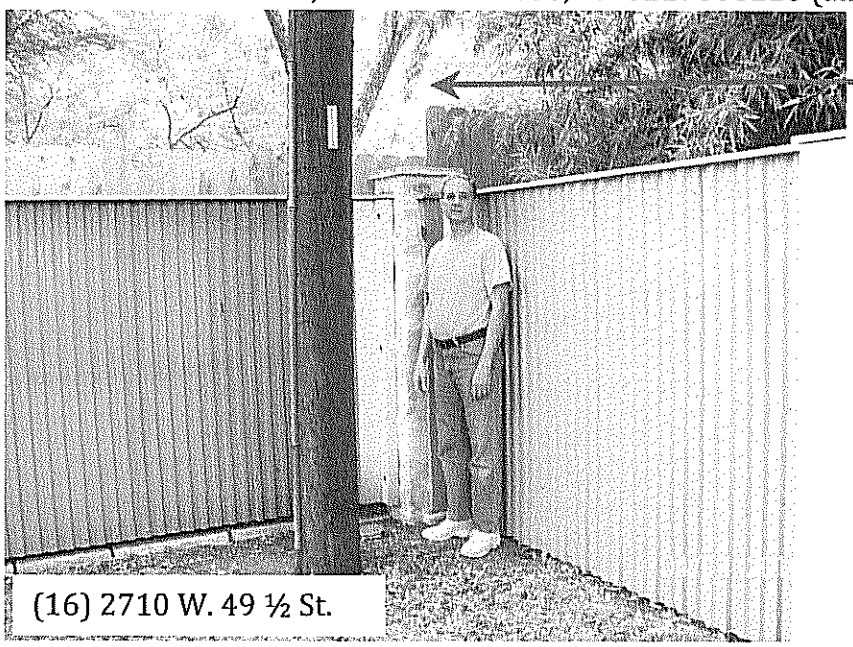
(13) 4907 Finley Dr. (@ W. 49 ½)



(14) 4904 Finley Dr.



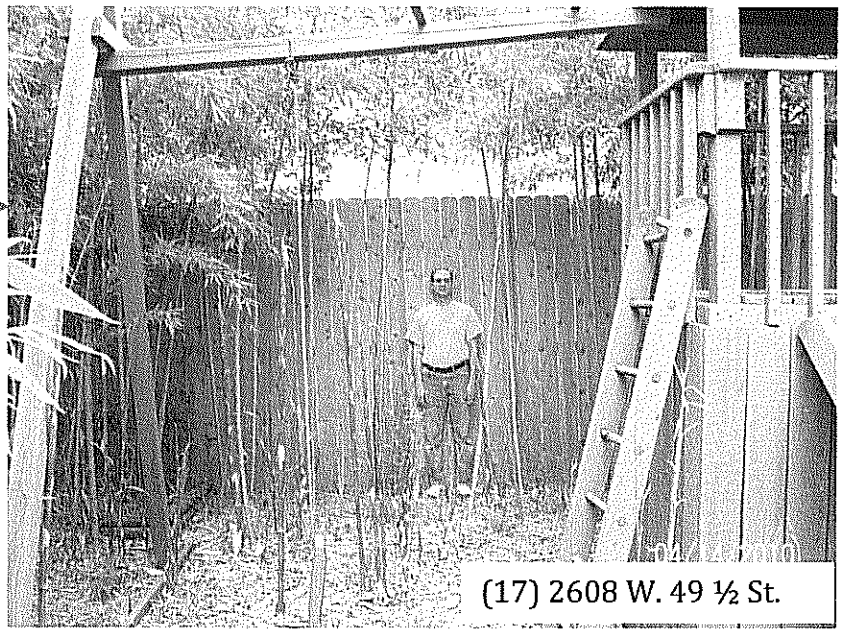
(15) 2712 W. 49 ½ St. (@ Bull Creek)



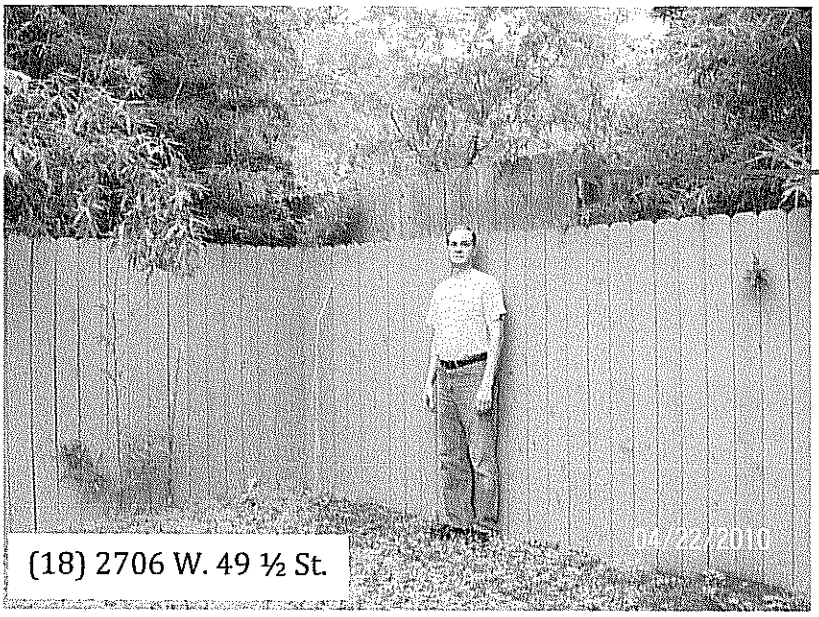
(16) 2710 W. 49 ½ St.

Mr. White's 7-ft. fence behind the 6-ft. fence at 2710 W. 49 ½ St, and his 8-ft. fence behind 2708 W. 49 ½ St.

Mr. White's 8-ft. fence at 2708 W. 49 ½ St.

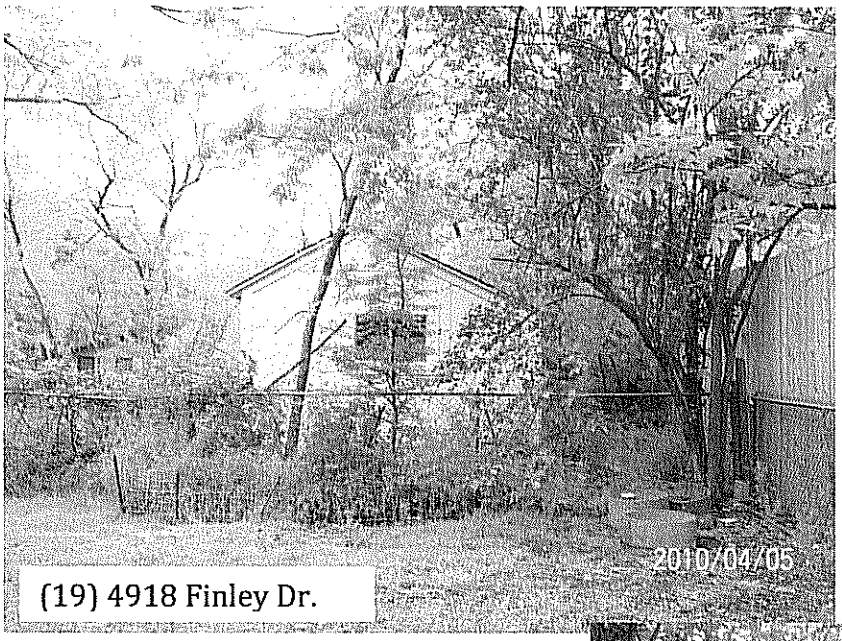


(17) 2608 W. 49 ½ St.



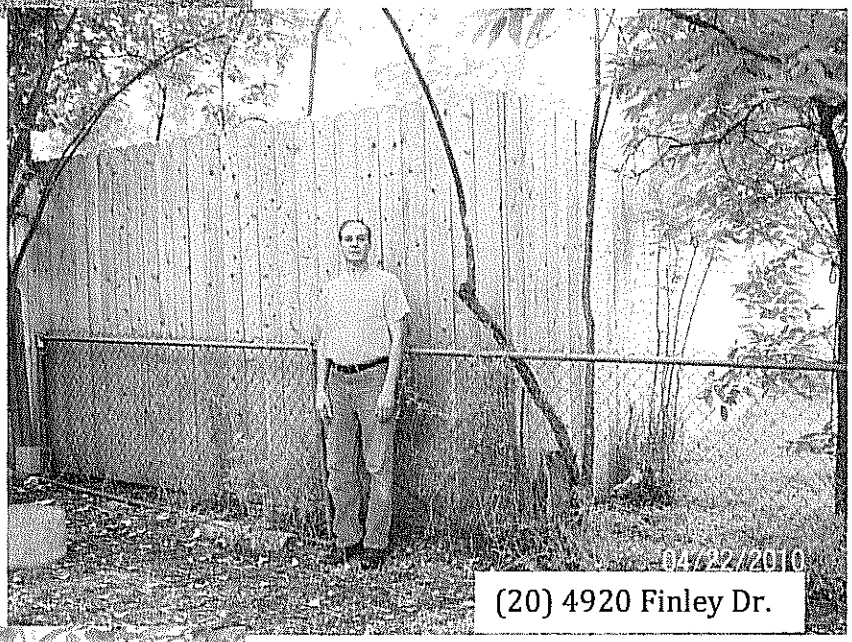
(18) 2706 W. 49 ½ St.

Mr. White's 8-ft. fence behind the 6-ft. fence at 2706 W. 49 ½ St.

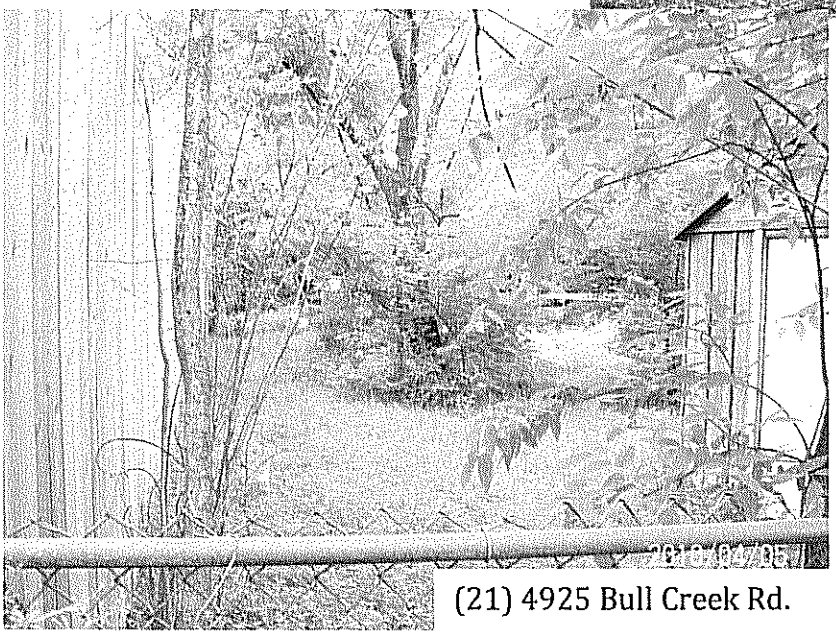


(19) 4918 Finley Dr.

Mr. White's 8-ft. fence behind 3 adjacent properties with 4-ft. chain link fences.



(20) 4920 Finley Dr.

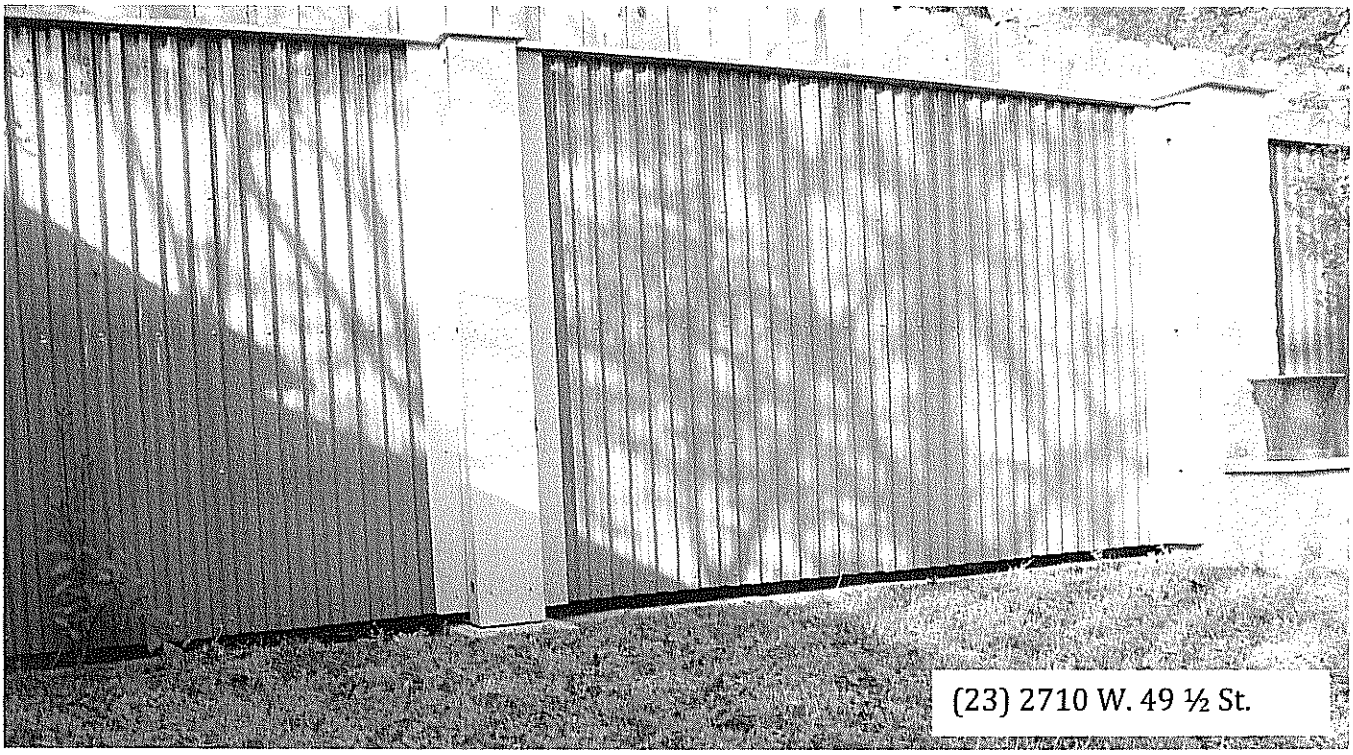


(21) 4925 Bull Creek Rd.

Before construction of 7-ft. fence: drainage gap is clearly visible beneath the existing 6-ft. fence at 2710 W. 49 ½ St.

(22) 2710 W. 49 ½ St.

After construction of 7-ft. fence: drainage gap is blocked between the existing 6-ft. fence at 2710 W. 49 ½ St. and the new 7-ft. fence at 4921 Bull Creek.



(23) 2710 W. 49 ½ St.

Contrary to Mr. White's claim that his fence at 4921 Bull Creek is of "quality construction", it is coming apart as shown behind the 6-ft. fence at 2706 W. 49 ½ St.

(24) 2706 W. 49 ½ St.