

FILED**IN THE CHANCERY COURT OF HANCOCK COUNTY, MISSISSIPPI**

MAY 28 2024

BALLENTINE PROPERTIES, LLC

TIFFANY LEE COWMAN

CHANCERY CLERK

BY BJ**PETITIONER**

D.C.

VERSUS**CAUSE NO. 24 CM -300-CB****THE CITY OF BAY ST. LOUIS, ET AL****DEFENDANTS****COMPLAINT TO VACATE AND ALTER PLAT OF REAL PROPERTY PURSUANT
TO MISSISSIPPI CODE ANNOTATED §19-27-31 (1972)**

COMES NOW Ballentine Properties, LLC, by and through its Manager who files this its Complaint to Vacate and Alter Plat of Real Property Pursuant to Mississippi Code Annotated §19-27-31 (1972) and in support of its petition would respectfully show unto the court the following facts and matters, to wit:

I

The Petitioner, Ballentine Properties, LLC, (hereinafter Ballentine) is a Mississippi Limited Liability Corporation in good standing. Ballentine is the owner of real property located in the City of Bay St. Louis, Hancock County, Mississippi, being more particularly described in Paragraphs III and IV.

II

Pursuant to Miss. Code Ann. §19-27-31, Ballentine hereby names as Defendants the following persons and entities who may be adversely affected or directly interested in this cause of action:

1. The City of Bay St. Louis, which is a municipal corporation of the State of Mississippi, who may be served with process by service of Summons and Complaint upon the Mayor or Municipal Clerk of said municipal corporation.

2. Alan J. Lagarde who is believed to be a resident citizen of Hancock County, Mississippi, who may be served with process at his residence of 237 St. Charles Street, Bay St. Louis, Mississippi, 39520.
3. Ali I. Lagarde who is believed to be a non-resident of the State of Mississippi, who is believed to be a resident of the State of Maryland whose last known address is 3533 Stansbury Mill Road, Pheonix, Maryland, 21131.
4. Marilyn L. Lagarde who is a resident of the State of Mississippi, whose last known address is 913 Jefferson Avenue, Oxford, Mississippi, 38655.
5. Holly R. Purvis, who is a resident citizen of Hancock County, Mississippi, who may be served with process at her residence of 235 St. Charles Street, Bay St. Louis, Mississippi.
6. Cassandra R. Babin, who is a resident citizen of the State of Mississippi, who may be served with process at her residence of 233 St. Charles Street, Bay St. Louis, Mississippi.
7. Mary Hartel Brent Anderson as Trustee of the Mary Hartel Brent Anderson Revocable Trust who is believed to be a resident citizen of Hancock County, Mississippi, and who may be served with process at her address of 510 N. Beach Boulevard, Bay St. Louis, Mississippi.
8. Sydney Loughlin-Clarke who is a non-resident of the State of Mississippi, and who is believed to be a resident citizen of the State of Louisiana who last known address is 1204 State Street, New Orleans, Louisiana 70118.
9. Paul S Calonje who is a non-resident of the State of Mississippi, and who is believed to be a resident citizen of the State of Louisiana who last known address is

1204 State Street, New Orleans, Louisiana 70118.

10. Allan J. Sarrat, Jr., who is believed to be a resident citizen of the State of Mississippi, who may be served with process at his residence of 215 St. Charles Street, Bay St. Louis, Mississippi.
11. Margaret V. Sarrat, who is believed to be a resident citizen of the State of Mississippi, who may be served with process at her residence of 215 St. Charles Street, Bay St. Louis, Mississippi.
12. Julie E. Cullen who is believed to be a resident citizen of the State of Mississippi, who may be served with process at her residence of 211 St. Charles Street, Bay St. Louis, Mississippi.
13. Keith M. Christie, who is a non-resident of the State of Mississippi, and who is believed to be a resident citizen of the State of Louisiana who last known address is 5000 Pike Drive, Metairie, Louisiana 70003-2732.
14. Brenda P. Christie, who is a non-resident of the State of Mississippi, and who is believed to be a resident citizen of the State of Louisiana who last known address is 5000 Pike Drive, Metairie, Louisiana 70003-2732.
15. Corey Smiley, who is believed to be a resident citizen of the State of Mississippi, who may be served with process at his residence of 348 Ballentine Street, Bay St. Louis, Mississippi.
16. Dwight Easterly, who is a non-resident of the State of Mississippi, and who is believed to be a resident citizen of the State of Louisiana who last known address is 703 N. River Road, Denham Springs, Louisiana.
17. Michael W. Langlinalis, who is believed to be a resident citizen of the State of

Mississippi, who may be served with process at his residence of 129 Lakewood Drive, Waveland, Mississippi, 39576.

18. Sylvia O. Langlinais, who is believed to be a resident citizen of the State of Mississippi, who may be served with process at her residence of 129 Lakewood Drive, Waveland, Mississippi, 39576.

19. Emily M. Schulz, who is believed to be a resident citizen of the State of Mississippi, who may be served with process at her residence of 22211 Rue Le Terre, Kiln, Mississippi, 39556.

20. Michel Milot, who is believed to be a resident citizen of the State of Mississippi, who may be served with process at his residence of 358 Ballentine Street, Bay St. Louis, Mississippi, 39520.

21. Also made a party hereto are any and all persons who may be adversely effected or directly interested in the vacation of the lot lines and the re-subdivision thereof as herein set forth who shall be served with process by publication as required by Miss. Code Ann. §19-27-31.

22. Any and all persons who are non-residents of the State of Mississippi and their street addresses and post office addresses are unknown after diligent search and inquiry to a certain same who may be adversely effected or directly interested in the vacation of the lot lines and the re-subdivision thereof as herein set forth.

III

The property as acquired by the Local Housing Authority of the City of Bay St. Louis, Ballentine's immediate predecessor in title, was described as follows:

Parcel 1:

Lots 1 through 11, inclusive, of the Mrs. John Fayard's Subdivision of Lots 60, 63, and 64 of the Fourth Ward of the City of Bay St. Louis, Mississippi, as per the official plat of said city made by E. S. Drake, C. E. and filed May 1, 1923, in the office of the Clerk of the Chancery Court of Hancock County, Mississippi. (Deeds J-2/304; J-2/288; J-2/310; J-2/316)

Parcel 2:

Lot 63 of the Fourth Ward of the City of Bay St. Louis, Mississippi, as per official plat of said city made by E. S. Drake, C. E., and filed May 1, 1923, in the office of the Clerk of the Chancery Court of Hancock County, Mississippi.

Said lot comprises part of Lots 14, 15, 16, and 17 of the John Fayard Subdivision and is the same land acquired by Mrs. John Fayard, Jr., by deed dated May 7, 1946, and which is recorded in Vol. G-O, Page 263, in the Records of Deeds, Hancock County, Mississippi. (Deeds J-2/288 and J-2/289)

Parcel 3:

Lot 62 of the Fourth Ward of the City of Bay St. Louis, Mississippi, as per official plat of said city made by E. S. Drake, C. E., and filed May 1, 1923, in the office of the Clerk of the Chancery Court of Hancock County, Mississippi. (Deed J-2/288)

Parcel 4:

Commencing at the Southeast corner of Lot 62, Fourth Ward, City of Bay St. Louis, Mississippi; thence North 69 Degrees 41 Minutes West 250.18 feet to an iron stake; thence North 20 Degrees 24 Minutes East 90.80 feet to an iron stake as a place of beginning; thence North 20 degrees 24 minutes East 37.42 feet to an iron stake; thence North 70 Degrees 21 minutes West 200.13 feet to an iron stake; thence South 20 degrees West 37.22 feet to an iron stake; thence South 70 Degrees 16 minutes East 199.80 feet to the place of beginning being a part of Lots 60, 61, and 62, Fourth Ward City of Bay St. Louis, Mississippi, as per official map of said City by E. S. Drake, C. E, dated May 1, 1923 and on file in the office of the Chancery Clerk of Hancock County, Mississippi. (Deed J-2/364)

Parcel 5:

Beginning at the Southwest corner of Lot 63, Fourth Ward, City of Bay St. Louis,

Mississippi; thence South 70 Degrees East 198.12 feet to an iron stake; thence South 20 Degrees West 36.00 feet to an iron stake on the South line of Lot 66; thence North 70 Degrees West 198.12 feet to an iron stake; thence North 69 Degrees 41 Minutes West 288.12 feet to an iron stake; thence North 20 degrees East 36.00 feet to an iron stake; thence South 69 degrees 41 minutes East 288.98 feet to the place of beginning, said land being part of Lot 66, Fourth Ward, City of Bay St. Louis, Mississippi, as per official map of said city by E. S. Drake, C. E., dated May 1, 1923 and on file in the office of the Chancery Clerk of Hancock County, Mississippi. (Deed J-2/364)

Parcel 6:

Commencing at the Southeast corner of Lot 62, Fourth Ward, City of Bay St. Louis, Mississippi; thence North 69 Degrees 41 Minutes West 250.18 feet to an iron stake as a place of beginning; thence North 20 degrees 24 Minutes East 90.80 feet to an iron stake; thence North 70 Degrees 16 minutes West 199.80 feet to an iron stake; thence South 20 degrees West 88.77 feet to an iron stake; thence South 69 Degrees 41 Minutes East 198.75 feet to the place of beginning, said land being part of Lot 61, Fourth Ward, City of Bay St. Louis, Mississippi, as per official map of said city by E. S. Drake, C. E., dated May 1, 1923 and on file in the office of the Chancery Clerk of Hancock County, Mississippi. (Deed J-2/460)

Parcel 7:

Beginning at the Northeast Corner of Lot 150, in the Fourth Ward of the City of Bay St. Louis, Mississippi, as per official plat made by E. S. Drake, C. E. dated May 1, 1923 and on file in the office of the Chancery Clerk of Hancock County, Mississippi; thence North 70 Degrees West 300 feet, more or less, thence North 20 Degrees East 35 feet, more or less to the North Line of said Lot 66; thence South 70 East 300 feet , more or less, thence South 20 Degrees West 35 feet, more or less, to the place of beginning, being part of Lot 66 of the 4th Ward of the City of Bay St. Louis, Mississippi. (Deed J-3/385)

IV

The deeds from the Bay Waveland Housing Authority to Ballentine described the property as follows:

Parcel 1:

A PARCEL OF LAND SITUATED AND BEING LOTS 1 THROUGH 11, INCLUSIVE, AND A PART OF LOTS 14 THROUGH 17, INCLUSIVE, OF MRS. JOHN FAYARD'S SUBDIVISION OF LOTS 60, 63, AND 64 OF

FOURTH WARD, AND ALSO A PART OF LOT 61 AND 66 AND ALL OF LOTS 62 AND 63 OF FOURTH WARD, ALL IN THE CITY OF BAY ST. LOUIS, HANCOCK COUNTY, MISSISSIPPI, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT:

BEGINNING AT A CAPPED $\frac{1}{2}$ INCH REBAR SET AT THE NORTHWEST CORNER OF SAID LOT 3 OF MRS. JOHN FAYARD'S SUBDIVISION OF LOTS 60, 63, AND 64 OF FOURTH WARD; THENCE SOUTH 69 DEGREES 59 MINUTES 04 SECONDS EAST 473.11 FEET ALONG THE SOUTH LINE OF BALLENTINE STREET TO A FENCE CORNER POST FOUND AT THE NORTHEAST CORNER OF SAID LOT 11, MRS. JOHN FAYARD'S SUBDIVISION, THENCE SOUTH 20 DEGREES 21 MINUTES 48 SECONDS WEST 170.91 FEET TO A FENCE CORNER POST FOUND; THENCE SOUTH 70 DEGREES 03 MINUTES 01 SECONDS EAST 354.00 FEET TO A $\frac{1}{2}$ INCH REBAR FOUND; THENCE SOUTH 20 DEGREES 23 MINUTES 36 SECONDS WEST 119.68 FEET TO A CAPPED $\frac{1}{2}$ INCH REBAR SET; THENCE NORTH 69 DEGREES 42 MINUTES 50 SECONDS WEST 55.42 FEET TO A $\frac{1}{2}$ INCH REBAR FOUND; THENCE SOUTH 19 DEGREES 22 MINUTES 41 SECONDS WEST 38.28 FEET TO A $\frac{1}{2}$ INCH REBAR FOUND; THENCE NORTH 69 DEGREES 48 MINUTES 16 SECONDS WEST 485.79 FEET TO A CAPPED $\frac{1}{2}$ INCH REBAR SET; THENCE NORTH 20 DEGREES 01 MINUTES 16 SECONDS EAST 38.34 FEET TO A CAPPED $\frac{1}{2}$ INCH REBAR SET; THENCE NORTH 69 DEGREES 47 MINUTES 49 SECONDS WEST 159.44 FEET TO A CAPPED $\frac{1}{2}$ INCH REBAR SET; THENCE NORTH 18 DEGREES 50 MINUTES 16 SECONDS EAST 121.62 FEET TO A CAPPED $\frac{1}{2}$ INCH REBAR SET; THENCE NORTH 69 DEGREES 12 MINUTES 06 SECONDS WEST 252.16 FEET TO A CAPPED $\frac{1}{2}$ INCH REBAR SET ON THE EASTERLY RIGHT-OF-WAY OF CENTRAL AVENUE; THENCE NORTH 58 DEGREES 32 MINUTES 11 SECONDS EAST 208.04 FEET ALONG SAID EASTERLY RIGHT-OF-WAY OF CENTRAL AVENUE TO THE POINT OF BEGINNING. SAID PARCEL OF LAND CONTAINS 4.41 ACRES, MORE OR LESS.

Parcel 2:

LEGAL DESCRIPTION: A PARCEL OF LAND SITUATED AND BEING LOCATED IN A PART OF LOT 66B OF FOURTH WARD IN THE CITY OF BAY ST. LOUIS, HANCOCK COUNTY, MISSISSIPPI, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT:

COMMENCING AT A CAPPED $\frac{1}{2}$ " REBAR SET AT THE NORTHWEST CORNER OF LOT 3 OF MRS. JOHN FAYARD'S SUBDIVISION OF LOTS 60, 63 AND 64 OF FOURTH WARD; THENCE S 69°59'04" E 473.11 FEET ALONG THE SOUTH LINE OF BALLENTINE STREET TO A FENCE

CORNER POST FOUND AT THE NORTHEAST CORNER OF SAID LOT 11, MRS. JOHN FAYARD'S SUBDIVISION; THENCE S 20°21'48" W 170.91 FEET TO A FENCE CORNER POST FOUND; THENCE S 70°03'01" E 354.00 FEET TO A 1/2" REBAR FOUND; THENCE S 20°23'36" W 119.68 FEET TO A CAPPED 1/2" REBAR SET; THENCE N 69°42'50" W 55.42 FEET TO A 1/2" REBAR FOUND; THENCE S 19°22'41" W 38.28 FEET TO A 1/2" REBAR FOUND; THENCE N 69°48'16" W 485.79 FEET TO A CAPPED 1/2" REBAR SET AND BEING THE POINT OF BEGINNING; THENCE N 69°50'34" W 100.00 FEET ALONG THE SOUTH LINE OF SAID LOT 66B TO A POINT; THENCE N 20°01'16" E 38.42 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 66B; THENCE S 69°47'48" E 100.00 FEET ALONG THE NORTH LINE OF SAID LOT 66B TO A CAPPED 1/2" REBAR SET; THENCE S 20°01'16" W 38.34 FEET TO THE POINT OF BEGINNING. SAID PARCEL OF LAND CONTAINS 3,838.4 SQUARE FEET, MORE OR LESS.

V

Ballentine acquired Parcel 1 in Paragraph IV of the real property from Bay Waveland Housing Authority (Housing Authority) a/k/a Local Housing Authority of the City of Bay St. Louis a public body and corporation and politic of the State of Mississippi, by virtue of a Special Warranty Deed dated March 27, 2023, which was filed for record in the office of the Chancery Clerk of Hancock County, Mississippi, on March 29, 2023, and recorded in Deed Record Book 2023, at Pages 5162, et seq. Ballentine acquired Parcel 2 in Paragraph IV by Quit Claim Deed from the Housing Authority dated March 27, 2023, which was filed for record with the Chancery Clerk of Hancock County, Mississippi, on March 29, 2023, and recorded in deed records Book 2023, Pages 5170, et seq. All streets, roads, alleys, and adjacent sidewalks, all storm and sanitary sewer mains, and lift stations, all gas and water lines, located within the subject real property which had been previously dedicated to the City of Bay St. Louis were declared vacated by virtue of that certain Deed of Vacation executed by the City of Bay St. Louis, Mississippi, dated March 20, 2023, and recorded in the Deed Records of the Chancery Clerk of Hancock County, Mississippi, on March 29, 2023, and recorded in Deed Book 2023, Pages 5159, et seq.

VI

The subject property is abutted on the North by Ballentine Street. The property to the North of Ballentine Street contains property zoned and located in a C-2 Neighborhood Commercial District and R-2 Medium-Density Two-Family Residential District. The subject property is abutted on the West by a public road, Central Avenue, which abuts the right-of-way for the CSX Railroad line. To the West of the CSX Railroad line, the property is zoned R-2. The property to the South of the subject property is zoned R-2. The property to the East of the subject property is zoned R-2, all as reflected by the Official Map of Zoning of the City of Bay St. Louis dated September 7, 2010, which is a voluminous document which cannot be attached hereto and therefore is incorporated by reference.

VII

In December of 1952, when the subject property was owned by various owners, the local housing authority of the City of Bay St. Louis, purchased or otherwise acquired smaller parcels of land within the boundary of the subject property to consolidate the approximately 4.41 acres currently owned by Ballentine to be developed under the ownership of the "Local Housing Authority of the City of Bay St. Louis" for a public housing project. Multifamily structures were constructed on the subject property and existed on the subject property for decades (See various deeds from property owners to the Local Housing Authority of the City of Bay St. Louis contained in the abstracts of the subject property which are voluminous and will be entered into evidence at trial). On the subject property 18 dwelling buildings consisting of 36 living units (duplexes) and 1 management and maintenance building were constructed (See published Notice to Bidders in The Sea Coast Echo dated Friday, 12-5-52 at Page 7). The housing project was "ready for occupancy" on November 24, 1953 (See The Sea Coast Echo of Friday, November

20, 1953, Page 1, article titled "Housing Projects Ready for Inspection Sunday.) The housing project operated by the Bay St. Louis Housing Authority on the subject property continued to house residents until it was substantially destroyed in Hurricane Katrina on August 29, 2005 (The Sea Coast Echo, Saturday, February 11, 2006, Article titled "Public Housing May Be Back".) The housing project was not rebuilt on the property and the structures remaining thereon after Hurricane Katrina were demolished and the land has remained vacant. As stated in Paragraph V the property was subsequently sold to Ballentine. From and after 1953 until destroyed in 2005, the structures on the property were occupied as multifamily dwelling and zoned by the City of Bay St. Louis as R-2 Medium-Density Two-Family Residential District.

VIII

The subject property is currently zoned R-2 Medium-Density Two-Family Residential District by the Bay St. Louis Map and zoning Ordinance of September 17, 2010. The deeds to Ballentine include all of Lots 1-11 and part of Lots 14-17 of the Mrs. John Fayard Subdivision of Lots 60, 63, and 64, Fourth Ward, City of Bay St. Louis; and all of Lots 62 and 63 and part of Lot 61 and 66 of the Fourth Ward, City of Bay St. Louis, Mississippi. The lot numbers in the Fourth Ward are identified in legal descriptions as part of the City of Bay St. Louis, Mississippi, as per official plat of said city made by E. S. Drake, C. E., which was filed on May 1, 1923, in the office of the Clerk of the Chancery Court of Hancock County, Mississippi (Drake Lots hereinafter). The Mrs. John Fayard Subdivision, is a re-subdivision of what were "Drake" Lots 60, 63, and 64 of the Fourth Ward. The Mrs. John Fayard subdivision plat was filed in the office of the Chancery Clerk of Hancock County, Mississippi, on May 13, 1946, and recorded in Deed Book G-O page 263. A review of the said subdivision plat indicates that the majority of the lots do not conform with the size or square footage required by the Bay St. Louis zoning code for the

erection of structures in a R-2 Medium-Density Two-Family Residential District under the City of Bay St. Louis Zoning Ordinance of September 7, 2010, (as amended) which is voluminous and is incorporated herein by reference. The portion of the subject property which is not contained within the Mrs. John Fayard subdivision is comprised of "Drake" lots 62 and 63 and part of "Drake" lots 61 and 66 all in the Fourth Ward of the City of Bay St. Louis. There are no subdivision regulations, covenants, or any other restrictions filed or existing relating to or restricting use of Mrs. John Fayard's subdivision nor are any such covenants or restrictions filed or existing related to the "Drake" lots.

IX

A survey of the "Drake" lots and Mrs. John Fayard's subdivision lots in the subject property prepared by James C. Booth, Jr., PLF, of MB Survey and GEOMAGICS dated January 31, 2022 is attached hereto as Exhibit A. The "Drake" lots and the lots in the Mrs. John Fayard's Subdivision which Ballentine seeks to vacate were many years ago laid off, mapped and/or platted inside the municipality of Bay St. Louis, Mississippi. Ballentine is desirous of altering or vacating the existing lots and lot lines of the said lots for the reasons and circumstances described herein and Ballentine requests the court to approve the re-subdivision of the property so as to comply with the zoning code and subdivision regulations of the City of Bay St. Louis.

X

The existing lots platted within the subject property do not conform with size and other requirements of the zoning code and subdivision ordinances of the City of Bay St. Louis for property zoned R-2 Medium-Density Two-Family Residential District. Consequently as currently platted Ballentine's ability to develop the subject property to be compliant with present R-2 zoning is not an option. Pursuant to Miss. Code Ann. §19-27-31, Ballentine seeks to vacate

the existing platted lot lines and subdivide the approximately 4.4 acres into lots which comply with the city's zoning code and subdivision regulations.

XI

The Plaintiff is requesting the court to vacate all of the lots and lot lines currently existing as to the real property described hereinabove in Paragraph III and IV so that the same can be laid out and platted consistent with the manner in which subdivisions are planned and developed at the present time. Ballentine would show that it intends to develop the said property described in Paragraph III and IV above as set forth in Exhibit A attached hereto and made a part hereof which lays out the property in such a manner as to make it livable and R-2 Residential Subdivision.

XII

Ballentine would show unto the court that after the vacation of the lots and lot lines which currently exist, the overall description of Ballentine's property will be platted as shown in Exhibit B will be as follows:

A PARCEL OF LAND SITUATED AND BEING LOCATED IN A PART OF FOURTH WARD, CITY OF BAY ST. LOUIS, HANCOCK COUNTY, MISSISSIPPI, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT:

BEGINNING AT A CAPPED 1/2" REBAR SET AT THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF BALLENTINE STREET WITH THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF CENTRAL AVENUE; THENCE S 69°59'04" E 473.11 FEET ALONG THE SOUTH RIGHT-OF-WAY LINE OF BALLENTINE STREET TO A FENCE CORNER POST FOUND AT THE NORTHWEST CORNER OF LOT 12, MRS. JOHN FAYARD'S SUBDIVISION; THENCE S 20°21'48" W 170.91 FEET TO A FENCE CORNER POST FOUND; THENCE S 70°03'01" E 354.00 FEET TO A 1/2" REBAR FOUND; THENCE S 20°23'36" W 119.68 FEET TO A CAPPED 1/2" REBAR SET; THENCE N 69°42'50" W 55.42 FEET TO A 1/2" REBAR FOUND; THENCE S 19°22'41" W 38.28 FEET TO A 1/2" REBAR FOUND; THENCE N 69°48'16" W 485.79 FEET TO A CAPPED 1/2" REBAR SET;

THENCE N 20°01'16" E 38.34 FEET TO A CAPPED 1/2" REBAR SET;
THENCE N 69°47'49" W 159.44 FEET TO A CAPPED 1/2" REBAR SET;
THENCE N 18°50'16" E 121.62 FEET TO A CAPPED 1/2" REBAR SET;
THENCE N 69°12'06" W 252.16 FEET TO A CAPPED 1/2" REBAR SET ON
THE SOUTHEASTERLY RIGHT-OF-WAY OF CENTRAL AVENUE;
THENCE N 58°32'11" E 208.04 FEET ALONG SAID SOUTHEASTERLY
RIGHT-OF-WAY OF CENTRAL AVENUE TO THE POINT OF BEGINNING.
SAID PARCEL OF LAND CONTAINS 4.41 ACRES, MORE OR LESS.

XIII

The Defendants as identified in Paragraph II, Subparagraphs 2 – 20, inclusive, are owners of parcels of property which are contiguous to the subject property. To assist each Defendant in understanding where his or her property lines lie in relation to the lots and blocks to be vacated attached hereto is Exhibit C, a map showing the platted property to be vacated, and each said Defendants property is numbered on Exhibit C using the numbers opposite each Defendants name in Paragraph II above.

WHEREFORE, PREMISES CONSIDERED the Plaintiff prays that this its Complaint be received and filed and that after a hearing hereon the Court will grant the following relief:

That the Defendants will be served with process and required to answer this complaint within the time provided by law. Plaintiff would further show that Miss. Code. Ann. §19-27-31 requires publication by summons to made one time in a newspaper published or having general circulation in the county where the land is situated and that the publication be addressed to any and all other persons who may be adversely effected by, or directly interested in the request made by Ballentin herein.

Plaintiff further prays that upon a final hearing hereon the court will find and adjudge as follows:

1. That the court will determine that the Defendants identified herein constitute all of the parties required to be made a party hereto pursuant to Miss. Code Ann. §19-27-31 and that the re-subdivision as shown in Exhibit A will be compatible with and consistent with the zoning code and subdivision regulations of the City of Bay St. Louis than as the property is presently platted.
2. That the court will find that the current plat of the property owned by Ballentine is totally inadequate to serve the purposes for which it is zoned and under the conditions existing at the present time and as it has been used historically for the last 70+ years.
3. That the court will find that Ballentine is entitled to modify, alter, and re-subdivide the said property similarly to that shown on Exhibit B, subject however to any modification, requirement imposed by the City of Bay St. Louis, Mississippi.
4. The court will find that the requirements of §19-27-31 of the Mississippi Code have been fully complied with and that the areas of the plat requested to be vacated will be vacated and that Ballentine will be authorized pursuant to said Mississippi Code Section to re-subdivide the same as requested herein.
5. The court will vacate the lot lines and lots owned by Plaintiff as described in Paragraphs III and IV herein so that after vacating the lots, the property will have a description as set forth in Paragraph XII.

6. That the court enter such other and more general orders as may be necessary to accomplish the purpose of this complaint and to grant such other general relief as to which Plaintiff may be entitled.

Respectfully submitted this the 13th day of May, 2024.

BALLENTINE PROPERTIES, LLC

BY: 

MICHAEL J. YENTZEN

Manager of Ballentine Properties, LLC



CLEMENT S. BENVENUTTI

Attorney for Plaintiff

Post Office Box 2718

Bay St. Louis, Mississippi 39521


Telephone No.: 228-467-0744

MS Bar No.: 2435

STATE OF MISSISSIPPI
COUNTY OF HANCOCK

AFFIDAVIT

Personally appeared before me, the undersigned authority in and for the said county and state, on this 13th day of May, 2024, within my jurisdiction, the within named Michael J. Yentzen, who acknowledged that he is Manager of Ballentine Properties, LLC, a Mississippi Limited Liability corporation, and that for and on behalf of the said corporation, and as its act and deed he executed the above and foregoing instrument, after first having been duly authorized by said corporation so to do and that the facts, matters and things set forth in the above and foregoing Complaint are true and correct as stated therein and where stated on information and belief, he verily believes same to be true.


MICHAEL J. YENTZEN
Manager of Ballentine Properties, LLC

SWORN to and subscribed by me, this the 13th day of May, 2024.




NOTARY PUBLIC

Exhibit A: Survey with Existing Plat

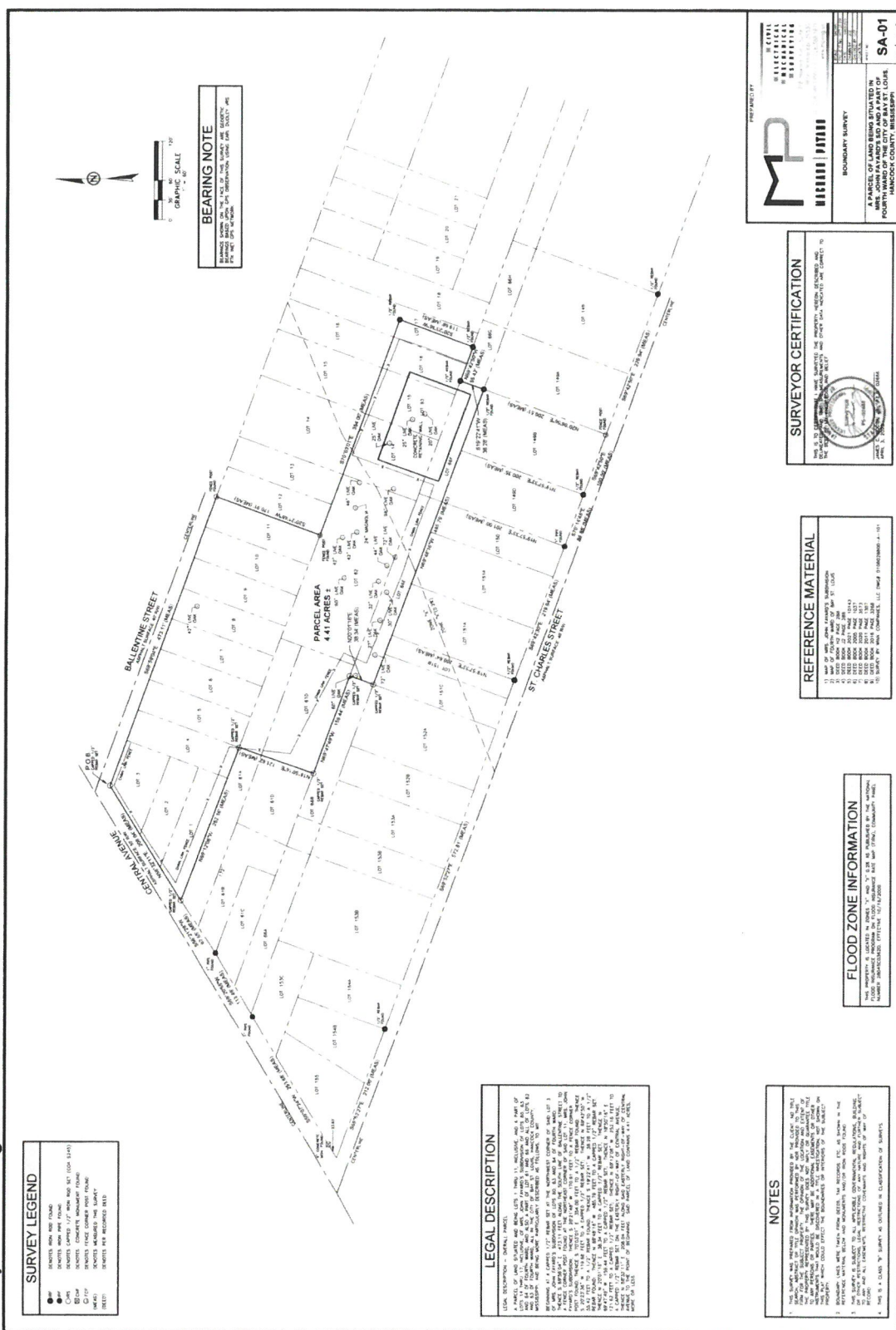


Exhibit C: Defendants and Properties

