CLERK
SUPREME COURT OF VIRGINIA
RECEIVED
JAN 22 1981
RICHMOND, VIRGINIA

IN THE

Supreme Court of Virginia

AT RICHMOND

RECORD NO. 800936

WYATT REALTY ENTERPRISES, INC.,

Appellant

vs

BOB JONES REALTY COMPANY,

Appelle

APPENDIX

James M. Pickrell
Kellam, Pickrell & Lawler
1020 First & Merchants National
Bank Building
Norfolk, Virginia 23510
Counsel for Appellant

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VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF PORTSMOUTH

BOB JONES REALTY COMPANY	:	
Plaintiff,	:	
vs.	:	MOTION FOR JUDGMENT
WYATT REALTY ENTERPRISES, LTD.	:	
Defendant.	:	

SERVE: John P. Wyatt
Registered Agent
3431 High Street
Portsmouth, Virginia
Registered Office

COMES NOW the Plaintiff, Bob Jones Realty Company, by counsel and moves for a Judgment against the defendant on the grounds and in the amount as hereinafter set forth:

1. Plaintiff is a corporation organized and existing under the laws of the State of Virginia, having its principal place of business at Portsmouth, Virginia. Defendant is a corporation organized and existing under the laws of the State of Virginia having its principal place of business at Portsmouth, Virginia.

2. On or about July 19, 1979, the parties entered into a written arbitration agreement whereby both plaintiff and defendant consented that an arbitration be held and to abide absolutely by the award and finding of the abrbitrators and in the event of an adverse decision to make prompt compliance and pay the fees and costs provided for in the by-laws of the Portsmouth/Chesapeake Board of Realtors, Inc. A copy of the arbitration agreements are attached hereto as exhibits to this Motion for Judgment and made a part hereof.

3. On or about August 15, 1979, an arbitration panel consisting of Ted Bowen, Paige Taylor and Edna Kear, proceeded to hear the evidence of the parties, and found that Wyatt Realty Enterprises, Ltd., also known as Wyatt Realty Company, was indebted to Bob Jones Realty Company in the amount

of One Thousand Seven Hundred Ninety Seven and 00/100 ($1,797.00) Dollars and ordered that the said Wyatt Realty Enterprises, Ltd. pay that sum to Bob Jones Realty Company within fifteen (15) business days from the said August 15, 1979.

4. Defendant has failed and refused to pay the amount owed under the arbitration agreement, all of which is justly due and owing the plaintiff under the said agreement.

WHEREFORE, plaintiff, Bob Jones Realty Company, moves for Judgment against the defendant, Wyatt Realty Enterprises, Ltd. for the sum of One Thousand, Seven Hundred Ninety Seven and 00/100 ($1,797.00) Dollars plus interest thereon from August 30, 1979 and its attorney's fees and costs in this behalf expended.

BOB JONES REALTY COMPANY

BY: James W. Backus
Of Counsel

James W. Backus
Attorney at Law
364 Crawford Street
Portsmouth, Virginia 23704

Form 8

AWARD OF ARBITRATORS

The undersigned, arbitrators, who were duly appointed to hear and determine all differences and controversies existing between Milford Howell/Bob Jones Realty and Barbara Lawrence-Jan Deal/Wyatt Realty do hereby certify that on the 15th day of August 19 79, at the hour of 2 o'clock P. M., we proceeded to hear the evidence of the parties to said controversy after giving 10 days notice to each of the parties in writing of the time and place of our first meeting, and having heard all of the evidence, proof and arguments of the respective parties of the arbitration, we do hereby find and judge that there is now due and owing from the said Wyatt Realty Company to the said Bob Jones Realty Company the sum of One thousand seven hundred ninety-seven and 00/100 ($1,797.00) Dollars, which sum it is ordered that the said Wyatt Realty Company pay to said Bob Jones Realty Company within fifteen (15) business days from this date.

Dated: August 15, 1979

Ted Bowen
Paige Taylor
Edna Kear

(Arbitrators)

Form 7

ARBITRATION AGREEMENT

The undersigned having consented that an arbitration be held through the PORTSMOUTH/CHESAPEAKE BOARD OF REALTORS, INC. Board of REALTORS (insert proper name of Board) and under its rules and regulations in the matter of Milford Howell/Bob Jones Realty and Barbara Lawrence/Wyatt Realty

Robert A. Jones, Broker and John Wyatt, Broker

hereby agrees and promises to abide absolutely by the award and findings of the arbitrators, and in the event of an adverse decision to make prompt compliance and pay the fees and costs as provided for in the by-laws of the Board.

Signed Milford K. Howell Jr.
Milford Howell

Address 4805 Portsmouth Boulevard

City Portsmouth, Virginia 23701 Phone 488-2563

Dated: July 19, 19 79

Form 7

ARBITRATION AGREEMENT

The undersigned having consented that an arbitration be held through the PORTSMOUTH/CHESAPEAKE BOARD OF REALTORS, INC Board of REALTORS (insert proper name of Board) and under its rules and regulations in the matter of Milford Howell/Bob Jones Realty and Barbara Lawrence/Wyatt Realty

Robert A. Jones/ Broker and John Wyatt/Broker

hereby agrees and promises to abide absolutely by the award and findings of the arbitrators, and in the event of an adverse decision to make prompt compliance and pay the fees and costs as provided for in the by-laws of the Board.

Signed _____
Robert A. Jones

Address 4805 Portsmouth Boulevard

City Portsmouth, Virginia 23701 Phone 488-2563

Dated: July 19, 19 79

Form 7

ARBITRATION AGREEMENT

The undersigned having consented that an arbitration be held through the PORTSMOUTH/CHESAPEAKE BOARD OF REALTORS, INC. Board of REALTORS (insert proper name of Board) and under its rules and regulations in the matter of Milford Howell/Bob Jones Realty and Barbara Lawrence/Wyatt Realty

Robert A. Jones, Broker and John Wyatt, Broker

hereby agrees and promises to abide absolutely by the award and findings of the arbitrators, and in the event of an adverse decision to make prompt compliance and pay the fees and costs as provided for in the by-laws of the Board.

Signed [illegible]
John Wyatt

Address 3237 Western Branch Boulevard

City Chesapeake, Virginia 23321 Phone 484-7777

Dated: July 19, 1979

Form 7

ARBITRATION AGREEMENT

The undersigned having consented that an arbitration be held through the PORTSMOUTH/CHESAPEAKE BOARD OF REALTORS, INC. Board of REALTORS (insert proper name of Board) and under its rules and regulations in the matter of Milford Howell/Bob Jones Realty and Barbara Lawrence/Wyatt Realty
Robert A. Jones, Broker and John Wyatt, Broker
hereby agrees and promises to abide absolutely by the award and findings of the arbitrators, and in the event of an adverse decision to make prompt compliance and pay the fees and costs as provided for in the by-laws of the Board.

Signed [illegible]
Barbara Lawrence

Address 3237 Western Branch Boulevard

City Chesapeake, Virginia 23321 Phone 484-7777

Dated: July 19, 19 79

ANSWER AND GROUNDS OF DEFENSE (PARA. 5)
OF WYATT REALTY ENTERPRISES, LTD.
APPELLANT

(5) This defendant states that if, in fact, the Court finds that it was before the Board of Arbitration and that the Board of Arbitration had justification over it, which is denied, that the decision of the Board is contrary to the law of the Commonwealth of Virginia, and that the issue before the Board was one of law; that any decision of the Board of Arbitration awarding this plaintiff a commission paid this defendant is contrary to the evidence and the law of the Commonwealth of Virginia, and is subject to review by this Court and subject to being set aside for errors of law.

WHEREFORE, this defendant prays that this suit be dismissed as to it and that it recover its costs.

ILLAM,
PICKRELL
& LAWLER

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF PORTSMOUTH
ON THE 19TH DAY OF MARCH, 1980/

BOB JONES REALTY COMPANY, Plaintiff	)	
	)	AT LAW NO L-79-852
vs	)	
WYATT REALTY ENTERPRISES, LTD, Defendant.	)	

At this day came the parties by their Attorneys and neither party requiring a jury, the Court proceeded in lieu of a jury to determine the whole matter of law and fact; whereupon, evidence being heard, the defendant, by counsel, moved the Court to enter Summary Judgment in favor of the defendant, which motion being heard, the Court doth overrule; It is therefore considered by the Court that the plaintiff recover of the defendant the sum of One Thousand Seven Hundred Ninty-Seven ($1,797.00) Dollars with interest thereon to be computed at the rate of eight per cent per annum from the 19th day of March, 1980, till paid and costs. To which action of the Court the defendant noted his exceptions.

Enter
3-19-80
W.R.O.

****

ASSIGNMENT OF ERROR

The Arbitration Board, intending to follow the law of Virginia, erroneously found that the listing of Bob Jones Realty Company was superior to and superseded the listing of Wyatt Realty Enterprises, Ltd., and awarded the commission which Wyatt Realty had been paid to be paid to Jones Realty. The trial court erred in not setting aside the award on the grounds that the arbitration award was contrary to the law of the Commonwealth of Virginia as applied to the real estate listings involved.

STATEMENT OF FACTS, TESTIMONY, AND OTHER INCIDENTS OF TRIAL PURSUANT TO RULE 5:9 (c) (i), AND NOTICE OF FILING AND PRESENTATION TO THE TRIAL JUDGE ON FRIDAY, MAY 23, 1980, AT 9:30 A.M.

STATEMENT OF FACTS, TESTIMONY, AND OTHER INCIDENTS OF TRIAL PURSUANT TO RULE 5:9 (c) (i)

(1) Ted Bowen, President of Bowen Realty, 106 American Legion Road, Chesapeake, Virginia, called by the plaintiff, testified that he and Paige Taylor, of Taylor Bros. Realty Co. of Portsmouth, Va., Inc., 3106 Tyre Neck Road, Portsmouth, Virginia, and Edna Kear, Forrest H. Long, Inc., real estate, 3403 Clifford Street, Portsmouth, Virginia, all members of the Portsmouth/Chesapeake Board of Realtors, were duly appointed to arbitrate and did arbitrate the dispute between Wyatt Realty Company, also known as Wyatt Realty Enterprises, Ltd., and Bob Jones Realty Company, over which real estate firm was entitled to the commission of $1,797.00 received by the defendant, hereinafter called "Wyatt Realty", in the sale of the residence of Barbara Rice Brown, located at 4612 Southampton Arch, Portsmouth, Virginia, also known as Lot 161, Subdivision of Section One, Plat of Southampton. Mr. Bowen testified that the Board was appointed and proceeded under the by-laws of the Portsmouth/Chesapeake Board of Realtors as set forth in Plaintiff's Exhibit 1, "By-Laws of Portsmouth/Chesapeake Board of Realtors", and

WHO

KELLAM, PICKRELL & LAWLER
ATTORNEYS AT LAW
NORFOLK, VA.

CIRCUIT COURT
PORTSMOUTH, VA.
FILED
5-12-80
WALTER M. EDWARDS, CLERK
By D.C.

that the arbitration proceeded according to the Code of Ethics and Arbitration Manual, Plaintiff's Exhibit 2; that they intended to and did comply with the requirements of the statutes of the Code of Virginia controlling said procedure, and that their actions were in accordance with the Code of Ethics and Arbitration Manual and were not in violation of any statutes of the Code of Virginia controlling same, if any, that he knew of; that prior to the commencement of the arbitration proceedings an arbitration agreement was entered into by the plaintiff and defendant in the above styled cause (Plaintiff's Exhibit 3, Arbitration Agreement); that representatives of both Bob Jones Realty Company and Wyatt Realty testified at the arbitration hearing, and that the procedural guide (Defendant's Exhibit B) was read to the parties prior to the commencement of the hearing; that after hearing the evidence the Board entered a unanimous arbitration award (Plaintiff's Exhibit 4) in which Wyatt Realty was ordered to pay Bob Jones Realty Company the sum of $1,797.00. Mr. Bowen testified further that at the time of the hearing (Defendant's Exhibit A) the listing agreement was presented as evidence and was before the Board; that in addition thereto, Defendant's Exhibit D, the Multiple Listing Service Agreement was before the Board as evidence, and that through subsequent renewals Wyatt Realty's listing expired June 2, 1979, subject to the terms and conditions set forth in Defendant's Exhibit C; that on June 2, 1979, prior to Wyatt Realty's listing expiring, Riley & Associates, Inc., 117 S. Witchduck Road, Virginia Beach, Virginia, contacted Wyatt Realty, both Wyatt Realty and Riley & Associates, Inc. being members of the Metro Multiple Listing Service, and Wyatt Realty made arrangements for Riley & Associates,Inc. to show the property to

W.H.O.

prospective purchasers; that the property was shown on June 2, 1979, prior to the Wyatt Realty listing expiring; that after the Wyatt Realty listing expired, the owner of the property (Mrs. Brown) listed the property with Bob Jones Realty Company; that on June 6, 1979, Mrs. Brown entered into a Contract of Sale agreeing to sell the property pursuant to the terms and conditions of the Contract of Sale as set forth in Defendant's Exhibit D; that the evidence before the Arbitration Board was that the transaction closed, the purchase price was paid to the owner (Brown), and that Wyatt Realty received the real estate commission. Mr. Bowen further testified that inasmuch as Wyatt Realty's listing had expired on June 2, 1979 and Bob Jones Realty Company's listing had commenced thereafter on June 2, 1979, since the property was listed with Bob Jones Realty Company at the time of the entry of the Contract and the evidence was that Wyatt Realty knew Bob Jones Realty Company had the listing, that Bob Jones Realty Company was entitled to the commission. Mr. Bowen stated that the arbitration award was based on what the Arbitration Board felt was the correct application of the right of the parties, to-wit, Bob Jones Realty Company and Wyatt Realty Enterprises, Ltd., and that the provision in the listing agreement of Wyatt Realty, that if the property was sold to a person or persons with whom Wyatt Realty had negotiated as a prospective purchaser before the listing expired, to-wit, June 2, 1979, within sixty (60) days after the expiration of the listing agreement, that Wyatt Realty would be entitled to the commission, was not controlling; that the controlling issue was that Wyatt Realty's listing had expired, that Bob Jones Realty Company's listing was in force at the time of the sales contract and Wyatt Realty knew of the new listing; and that the Board intended to and in its opinion did determine the matter in accordance with real estate law.

(2) Mr. Paige Taylor, Taylor Bros. Realty Co. of Portsmouth, Va., Inc. 3106 Tyre Neck Road, Portsmouth, Virginia, was offered as a witness by the plaintiff. Mr. Taylor identified himself as a member of the Board of Arbitration, he was present during the testimony of Mr. Bowen and it was stipulated that Mr. Taylor's testimony for purposes of the trial was in accordance and not in disagreement with the testimony of Mr. Bowen previously.

(3) Edna Kear, with Forrest H. Long, Inc., real estate, 3403 Clifford Street, Portsmouth, Virginia, was offered as a witness by the plaintiff. Mrs. Kear identified herself as a member of the Board of Arbitration, she was present during the testimony of Mr. Bowen and it was stipulated that Mr. Taylor's testimony for purposes of the trial was in accordance and not in disagreement with the testimony of Mr. Bowen previously.

(4) Mr. Bob Jones, President of Bob Jones Realty Company, was called by the plaintiff and testified that while he did not testify at the arbitration hearing, a representative of his company testified and they secured the listing on the subject property after Wyatt Realty's listing expired on June 2, 1979; that they gave notice to Wyatt Realty that they had the listing before the closing on the contract, which was closed June 6, 1979, pursuant to the contract; and that they made claim to the commission because of their listing; that Wyatt Realty refused to recognize them as being entitled to the commission and that they brought this arbitration proceeding. Mr. Jones testified it was the position of Bob Jones Realty Company, and the Arbitration Board upheld it, that since Bob Jones Realty Company's listing was in existence at the time of the signing of the Contract of Sale (Defendant's Exhibit D), Bob Jones Realty Company was entitled to the commission. Mr. Jones acknowledged that no members of his firm had any contact with the purchasers set forth in Defendant's Exhibit D.

r.H.O.

(5) Mr. John P. Wyatt, President of Wyatt Realty Enterprises, Ltd., was called as an adverse witness, and testified that all the testimony as set forth by Mr. Bowen and Mr. Jones was before the Arbitration Board. He testified he appeared and testified before the Arbitration Board and it was the position then and now of Wyatt Realty that the property was shown by them through the Metro multiple listing service agreement before their listing expired; that thereafter, within four (4) days a contract was signed by all parties and the owners of the property agreed to pay Wyatt Realty a commission by contract (Defendant's Exhibit D); subject to admission because hearing June 16, 1979. that it was Wyatt Realty's position before the Arbitration Board and now as between Bob Jones Realty Company and Wyatt Realty, Bob Jones Realty Company did not have any claim on this commission from Wyatt Realty; that the contract had been entered into within the sixty (60) days after the listing expired with a party to whom the property had been shown for purposes of sale before the listing expired, and that Bob Jones Realty Company had no claim to the commission paid under the Contract of Sale (Defendant's Exhibit D).

Form 7

Case No. L79-852

Plaintiff's Exhibit # 3

Date 3-19-80

Judge WRO

ARBITRATION AGREEMENT

The undersigned having consented that an arbitration be held through the PORTSMOUTH/CHESAPEAKE BOARD OF REALTORS, INC. Board of REALTORS (insert proper name of Board) and under its rules and regulations in the matter of Milford Howell/Bob Jones Realty and Barbara Lawrence/Wyatt Realty

Robert A. Jones, Broker and John Wyatt, Broker

hereby agrees and promises to abide absolutely by the award and findings of the arbitrators, and in the event of an adverse decision to make prompt compliance and pay the fees and costs as provided for in the by-laws of the Board.

Signed John P. Wyatt

John Wyatt

Address 3237 Western Branch Boulevard

City Chesapeake, Virginia 23321 Phone 484-7777

Dated: July 19, 19 79

Form 8

AWARD OF ARBITRATORS

The undersigned, arbitrators, who were duly appointed to hear and determine all differences and controversies existing between Milford Howell/Bob Jones Realty and Barbara Lawrence-Jan Deal/Wyatt Realty do hereby certify that on the 15th day of August 19 79, at the hour of 2 o'clock P. M., we proceeded to hear the evidence of the parties to said controversy after giving 10 days notice to each of the parties in writing of the time and place of our first meeting, and having heard all of the evidence, proof and arguments of the respective parties of the arbitration, we do hereby find and judge that there is now due and owing from the said Wyatt Realty Company to the said Bob Jones Realty Company the sum of One thousand seven hundred ninety-seven and 00/100 ($1,797.00) Dollars, which sum it is ordered that the said Wyatt Realty Company pay to said Bob Jones Realty Company within fifteen (15) business days from this date.

Dated: August 15, 1979

Ted Bowen
Paige Taylor
Edna Kear

(Arbitrators)

Case No. L79-852
Plaintiff's Exhibit # 4
Date 3-19-80
By WBO

Section SOUTHAMPTON	Address 4612 SOUTH HAMPTON ARCH	MLS# 791820	
Owner BARBARA R. BISCUN	Ph 484-8666	City PORTSMOUTH	Area 101
Occupant SAME	Ph 484-8866	Lot Size 90 X 110	
Key CLICK/AGENT	Bdrs: 4	Baths 2	Age 1
Stories 1	# Rms 5	SFLA 1845	
Cond FAC	Style RANCH	Siding BRICK	Poss: Vacant

Stories	1	2	3		Yes	No		Yes	No	Heat ELEC	Acreage
Liv Rm	1			A/C	X		220V	X		Roof COMP	
Din. Rm	1			DW	X		Stm W.	X		Floors CARPET/TILE/CRAFT	
Kitchen	1			Disp	X	X	Stm. D.	X		Fence YES - BACK YARD	
Bedrooms	3	1+		Ref.		X	W. Hookup	X		Fireplace YES - WOOD BOX	
Baths	2			Range	X		D. Hookup	X		Taxes 620.55	Mo/Yr
Den/Fr	1			Exh. Fan	X		City Water	X		Dist. Auth MIN	%
Util Rm	1			Gas		X	City Sewer	X		Fl. Ins. Req: Yes ( )	No (X)

Gar: Att ( ) Det SF 300 1st Trust CLEAR @ % $ /mo.

Porch/Patio: SF YES 72 Held By Loan # Yrs. Rem.

Legal Desc: LOT 151 SECTION 2 PLAT SOUTHAMPTON Equity $ 59,900.00

Remarks: HOME IN MINT CONDITION - AVERAGE ELECT $87. - DELUXE LIGHT FIXTURES EXTRA INSULATION. TAGGED SHRUBS TO BE REMOVED. ATTIC FLOORED. FINISHED BEDROOM OVERGARAGE. PANELING IN HALL + DIN RM. BOOKSHELF IN DEN. 7' MANTLE ON FIREPLACE CALL AGENT FOR LIST OF EXTRAS

Realtor RED JONES REALTY CO
No. 255 Ph 484-0400
Agent MILFORD K. HOLT III
No. 1201 Ph 484-7030

PORTSMOUTH / CHESAPEAKE, VIRGINIA
RESIDENTIAL — MULTI-FAMILY — CONDOS

Price	List Date	Exp. Date	Waterfront
59,900	6.2.79	9.6.79	Yes ( ) No (X)

☒ RESIDENTIAL
☐ MULTI-FAMILY
☐ CONDOS

Case No. L79-852
Defendant's Exhibit # A
Date 3-19-80
Judge WHO

(THE ABOVE DATA IS PART OF THIS CONTRACT; IT IS CERTIFIED BY OWNER TO BE CORRECT TO THE BEST OF HIS KNOWLEDGE)

STANDARD FORM AUTHORIZATION TO SELL

In consideration of the services of the above named Realtor, hereinafter called Agent, and of Agent's agreement to submit for sale the real property described herein, hereinafter called Property, with Multiple Listing Service of Portsmouth, Inc., hereinafter called MLS, the undersigned owner hereby gives and grants Agent the exclusive and irrevocable right to sell Property for the price and upon such terms and conditions as set forth herein, or for such price, terms or conditions that may be hereafter agreed upon. Owner further authorizes Agent to accept a deposit from any purchaser on account of the purchase of Property.

I hereby list for sale with said Agency, exclusively and irrevocably, until the 6th day of September, 1979, at six o'clock P.M. the above Property.

The price of Property shall be the amount listed above, by cash or financing. Should the Purchaser wish to finance the purchase of Property, and a purchase money discount in the form of a percentage of the loan is required by the lender, Owner agrees to pay the amount of discount authorized above.

Unless indicated by the words NO ASSUMPTION in the Remarks section above, Owner agrees that the existing financing on Property can be assumed upon payment of Owner's equity.

If, during the term of this agency, Agent procures a prospect ready, willing and able to purchase Property, at the price and upon the terms above stated or otherwise assented to by Owner, Owner agrees to pay Agent a cash commission which shall be 6 percent of the gross sales price, with a minimum commission of $ 625. If Property is unimproved the commission shall be ____ percent with a minimum of $ _____. Owner will also pay Agent the cash commission if, irrespective of price or terms, said property is sold or otherwise disposed of by Owner or anyone else during the term of the agency, or if within ninety days after the termination of this agency, Property is sold or disposed of to any person, who, during the term of this agency was apprised of the availability of Property through the efforts of Agent or other broker.

Owner agrees that during the term of this agency he will refer to Agent all inquiries concerning Property and will not personally negotiate, or permit anyone other than Agent or brokers authorized by Agent to negotiate, with any prospective purchaser. Should a prospective purchaser be obtained in accordance with the provisions of this agreement, owner agrees to execute a contract of sale and be bound by the terms and conditions contained therein.

Agent is authorized to place its "For Sale" signs on Property with Owner removing any other signs. Owner agrees to make the entire Property available for showing at all reasonable hours.

If Owner allows Agent to place a key holder upon Property, Owner shall hold harmless Agent and MLS of any and all liability or loss or damage resulting therefrom.

Owner agrees that all deposits or down payments made by prospective purchasers shall remain in escrow with Agent until the date of settlement or forfeiture, at which time Agent shall make distribution thereof by applying said funds first to commission due with any overage to be paid to Owner.

This agreement shall be binding upon the parties hereto, their heirs, executors, administrators, and assigns.

WITNESS, the following signatures and seals this 2ND day of JUNE, 19 79.

THE OWNER HEREBY ACKNOWLEDGES RECEIPT OF A COPY OF THIS AGREEMENT.

REALTOR Bob Jones Realty Co. Barbara R. Brown (SEAL)

By Milford K Howell JR (SEAL)

Rev. Dec. 1975

37

ULTIPLE LISTING SERVICE OF PORTSMOUTH, INC.

PRICE	SECTION	RLTR. CD.	TYPE	ROOMS	AGE	STORIES	COND.	STYLE	SFLA
59,500	South Hampton	430	1	8	6 yrs	1	Excel	Rancher	1825

DDRESS 4112 South Hampton Arch CITY Portsmouth, Virginia ZIP 23 LOT SIZE 90' x 110'
WNER Barbara R. Brown (sole) PHONE 484-8860 KEY HOLDER owner + agent
CCUPANT Same as above PHONE Same TYPE SIDING Brick POSSESSION: [illegible]

STORIES	1	2	3			
IV. RM.	[illegible]			AIR COND.	Central (E)	ST. WIND Yes
IN. RM.	[illegible]			DISH WASH.	Yes	ST. DOOR Yes
ITCHEN	Kenmore			DISPOSAL	No	W. HOOKUP Yes
ED RMS.	2	1		REFRIG.	No	D. HOOKUP Yes
ATHS	[illegible]			RANGE	Built-in	WATER: City ☐ Private ☐
EN/FAM.	1			EXH. FAN	Yes	SEWER: Public ☒ Septic ☐
TILITY	1			FIREPLACE	Yes Fam. Rec	OTHER
AR.: ATT. [illegible] DET.			SF 200	CARPET	WW	WHY SELLING Personal
ENCE Backyard				FLOORS	Carpet / tile	CONST.: SLAB/CRAWL/BSMT.
ORCH/PATIO Frontporch				HEAT	Electric	TAXES: Amt 600 MO./YR.
OOF				GAS	No	DISC. AUTH. Mem. %
				220V	Yes	FL. INS. REQ.: Yes ☐ No ☒

Case No. L79-852
Defendant's Exhibit # C
Date 3-19-80
Judge WRB

LOT NO. 101 BLOCK SECTION One, PLAT South Hampton
LISTING REALTOR Hatt Realty Enterprises, Ltd. PHONE 484-7777
LISTING AGENT Barbara E. Lawrence PHONE 484-3420

1ST TRUST	@	%	$	/MO.	
HELD BY		LOAN NO.		DATE	YRS. RM.
2ND TRUST	@	%	$	/MO.	
HELD BY		LOAN NO.		DATE	YRS. RM.

INFORMATION IS DEEMED RELIABLE BUT NOT GUARANTEED

REMARKS: Heat pump - elec. Oil was $590.00 for mo of Sept. Never saw so much insulation. Bay window in kitchen - All tagged shrubs to be removed. Drapes - negotiate Deluxed light fixtures, chair rail + panel in hallway + dining area, Honey-pine wood interior. Beautifully landscaped. Finished room upstairs. Exposed beams in den. Fireplace with wood box, wicker light in bedroom to be removed.

Lot 101, Subdivision of Section One, South Hampton, Portsmouth, Va. 23704 Drapes - negotiate
Map Book 8, pg. 112

(THE ABOVE DATA IS PART OF THIS CONTRACT; IT IS CERTIFIED BY OWNER TO BE CORRECT TO THE BEST OF HIS KNOWLEDGE)

STANDARD FORM AUTHORIZATION TO SELL

In consideration of the services of the above named Realtor, hereinafter called Agent, and of Agent's agreement to submit for sale the real property described herein, hereinafter called Property, with Multiple Listing Service of Portsmouth, Inc., hereinafter called MLS, the undersigned owner hereby gives and grants Agent the exclusive and irrevocable right to sell Property for the price and upon such terms and conditions as set forth herein, or for such price, terms or conditions that may be hereafter agreed upon. Owner further authorizes Agent to accept a deposit from any purchaser on account of the purchase of Property.

I hereby list for sale with said Agency, exclusively and irrevocably, until the 2nd day of ~~November~~ March, 19 79, at six o'clock P.M. the above Property.

The price of Property shall be the amount listed above, by cash or financing. Should the Purchaser wish to finance the purchase of Property, and a purchase money discount in the form of a percentage of the loan is required by the lender, Owner agrees to pay the amount of discount authorized above.

Unless indicated by the words NO ASSUMPTION in the Remarks section above, Owner agrees that the existing financing on Property can be assumed upon payment of Owner's equity.

If, during the term of this agency, Agent procures a prospect ready, willing and able to purchase Property, at the price and upon the terms above stated or otherwise assented to by Owner, Owner agrees to pay Agent a cash commission which shall be _____ percent of the gross sales price, with a minimum commission of $_____. If Property is unimproved the commission shall be 7% percent with a minimum of $_____. Owner will also pay Agent the cash commission if, irrespective of price or terms, said property is sold or otherwise disposed of by Owner or anyone else during the term of the agency, or if within ninety days after the termination of this agency, Property is sold or disposed of to any person, who, during the term of this agency was apprised of the availability of Property through the efforts of Agent or other broker.

Owner agrees that during the term of this agency he will refer to Agent all inquiries concerning Property and will not personally negotiate, or permit anyone other than Agent or brokers authorized by Agent to negotiate, with any prospective purchaser. Should a prospective purchaser be obtained in accordance with the provisions of this agreement, owner agrees to execute a contract of sale and be bound by the terms and conditions contained therein.

Agent is authorized to place its "For Sale" signs on Property with Owner removing any other signs. Owner agrees to make the entire Property available for showing at all reasonable hours.

If Owner allows Agent to place a key holder upon Property, Owner shall hold harmless Agent and MLS of any and all liability or loss or damage resulting therefrom.

Owner agrees that all deposits or down payments made by prospective purchasers shall remain in escrow with Agent until the date of settlement or forfeiture, at which time Agent shall make distribution thereof by applying said funds first to commission due with any overage to be paid to Owner.

This agreement shall be binding upon the parties hereto, their heirs, executors, administrators, and assigns.

WITNESS, the following signatures and seals this 2nd day of November, 19 78.

THE OWNER HEREBY ACKNOWLEDGES RECEIPT OF A COPY OF THIS AGREEMENT.

REALTOR Wyatt Realty Enterprises Ltd. Reginald R Brown (SEAL)

By Barbara E. Lawrence (SEAL)

Rev. Dec. 1975

File No. .....

METRO MLS, INC.

Defendant's Exhibit # D

STANDARD PURCHASE AGREEMENT

Date 2/29/82

Judge .....

THIS PURCHASE AGREEMENT is made this 6 day of JUNE, 1979

between DARRYL A. AND WANDA BAILEY, hereinafter known as the Buyer;

and BARBARA R. BROWN (SOLE), hereinafter known as the Seller;

and RILEY AND ASSOCIATES INC.

and WYATT REALTY, hereinafter known as the Agent(s).

WITNESSETH:

That for and in consideration of the sum of Five Hundred Dollars ($500.00) by Check in hand paid, receipt of which is hereby acknowledged, the Buyer agrees to buy and the Seller agrees to sell for the sum of Fifty Nine Thousand & Five Hundred Dollars ($59,500.) all that certain piece, parcel or lot of land (hereinafter referred to as the "Property") described as follows, to-wit:

LOT 161, SECTION I, PLAT OF SOUTHAMPTON, ALSO KNOWN AND NUMBERED AS 4612 SOUTHAMPTON ARCH, PORTSMOUTH VA. WITH ALL IMPROVEMENTS THEREON. ALL PLUMBING, HEAT, COOKING AND ELECTRICAL SYSTEMS TO BE IN GOOD WORKING ORDER AT TIME OF SETTLEMENT. PROPERTY TO BE INSPECTED FOR TERMITES AND OTHER WOOD DESTROYING INSECTS, COST OF INSPECTION AND ANY NECESSARY TREATMENT OR REPAIRS TO BE AT SELLER'S EXPENSE. BUYERS TO HAVE WALK THROUGH INSPECTION PRIOR TO CLOSING.

The purchase price to be paid as follows:

$500.00 WITH CONTRACT TO APPLY TO BUYER'S CLOSING COSTS
59,500.00 TO BE SUPPLIED BY A V.A. TYPE LOAN AT THE PREVAILING INTEREST RATE AT TIME OF SETTLEMENT. ~~BUYER TO PAY $500.00 OF BUYER'S CLOSING COST~~ BB.
$500.00 OF BROKERAGE TO APPLY TO THE BUYER'S CLOSING COSTS. B.B.

Possession to be: AUGUST 6th 1979

Buyer agrees promptly to do everything necessary to obtain the aforesaid loan, but if such loan is not obtainable the earnest money deposit shall be returned to Buyer, excepting out-of-pocket expenses. If FHA or VA financing is to be obtained by Buyer, the appropriate FHA/VA Exhibit, when signed, is made a part of this agreement.

It is understood and agreed by Buyer and Seller that all earnest money deposited with this agreement shall remain in escrow with Agent (listing firm) until the date of settlement. All taxes, insurance, rents and interest are to be prorated as of the date of settlement, and settlement is to be held on or before Aug. 6, 1979, or as soon thereafter as title can be examined and papers prepared, allowing a reasonable time to correct any defects reported by a title examiner.

Seller agrees to convey the Property by General Warranty Deed with the usual English covenants of title. Title to the Property shall be free and clear of all liens, tenancies and encumbrances of every kind except those mentioned above, but it is understood that the Property is to be conveyed subject to any easements and restrictions of record thereon.

Seller shall pay all expenses of Deed preparation, the grantors tax on said Deed, and all expenses, if any, for removal of title defects. Buyer shall pay all other closing costs, including without limitation costs for preparing deed(s) of trust and costs of recording all documents. Discount fee to obtain the mortgage loan, not to exceed 2.5% of the loan amount, shall be paid by Seller.

Seller agrees to deliver the Property at settlement in substantially the same condition as at the date of this agreement. Seller assumes until settlement all risk of loss or damage to the Property by fire, windstorm, casualty or other hazards.

Buyer represents that he has inspected the Property; that except as mentioned herein he has found its condition to be satisfactory; and that his decision to buy the Property has been based upon his inspection and representations, if any, made to him by Seller.

Seller shall provide a statement showing the absence of termites and other wood-destroying insects on the Property. Cost of inspection and any necessary treatment and repairs shall be paid by Seller.

The commission rate for the sale, lease or management of real estate is negotiable between each Metro MLS, Inc. member and its client. Buyer and Seller agree that Agent(s) was the sole procuring cause of this agreement, and Seller agrees to pay Agent(s) a cash brokerage fee for services in the amount of 7.5% of the sales price of the Property. If either Buyer or Seller defaults under this agreement, such defaulting party shall be liable for the cash brokerage fee due Agent(s) and for any expenses, including reasonable attorney's fees, incurred by the Agent(s) or non-defaulting party in connection with this transaction or with the enforcement of this agreement.

THIS IS A LEGALLY BINDING AGREEMENT; IF NOT UNDERSTOOD, SEEK LEGAL ADVICE.

WITNESS the following signatures and seals:

Riley & Asso. Inc. (Agent)

By Dan Riley

Whatt Realty (Agent)

By Barbara Lawrence

Revised 3-1-79

x Daryl A. Bailey (SEAL) (Buyer)

x Wanda H. Bailey (SEAL) (Buyer)

Barbara A. Brown (SEAL) (Seller)

(SEAL) (Seller)

See Addendum Attached.

CERTIFICATE

Pursuant to Rule 5:35

I hereby certify that prior to the filing of twenty (20) copies of this Appendix simultaneously with twenty (20) copies of the Appellant's Brief, Record No. 800936, in the Clerk's Office of the Supreme Court of Virginia, I mailed three (3) copies of this Appendix and three (3) copies of Brief of Appellant to James W. Backus, Esquire, Attorney for Appellee, at his office at 364 Crawford Parkway, Portsmouth, Virginia 23704.

James M. Pickrell

James M. Pickrell
Kellam, Pickrell and Lawler
1020 First & Merchants Bank Building
Norfolk, Virginia 23510

Counsel for Appellant