

MODIFICATIONS OF THE ADMINISTRATIVE LAW JUDGE'S INITIAL  
DECISION, IN THE MATTER OF HORIZON CORPORATION,  
DOCKET NO. 9017

Note: These modifications are in addition to those noted in the Commission's opinion.

| <u>Page</u> | <u>Line</u> | <u>Addition or Deletion</u>                                                                                                                                                                                         |
|-------------|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 493         | 1           | Add footnote "None of the findings of fact 1 to 23 applies to the time period after October 10, 1978, unless otherwise indicated herein."                                                                           |
| 493         | 22          | Change to read: "Horizon as of the date the record in this proceeding closed and for some time past had been engaged . . ."                                                                                         |
| 495         | 18          | Delete: "the balance has been or will become available for sale" and insert: "it is uncertain whether all or any part of the balance will become available for sale to consumers."                                  |
| 502         | 34          | Insert footnote to read: "TBA maps* . . ." Footnote placed at bottom of page 502 should read: "* A TBA map depicted an entire property and the surrounding area and included certain information relating thereto." |
| 504         | 9           | Change period to comma at the end of the sentence and add the following phrase: "but were challenged primarily on the grounds that they contained deceptive and misleading statements and representations."         |
| 504         | 37          | Delete the word "requirements" and place in lieu thereof the word guidelines.                                                                                                                                       |
| 504         | 40          | Delete the sentence beginning, "The evidence of record" and add the following sentence in lieu thereof: "OILSR never brought any proceeding seeking to enforce those guidelines against Horizon."                   |
| 505         | 23          | Delete the words "recent years" and insert in lieu thereof, "1973 and 1974"                                                                                                                                         |
| 506         | 39          | Delete the phrase "and early 70's"                                                                                                                                                                                  |

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A number of typographical errors contained herein were corrected during the editing of the document and, thus, may not be found within the text as indicated

- 507 2 Before the sentence beginning "Invitations . . ." insert this sentence: "This sales method was deemphasized and ultimately terminated in the early 70's."
- 507 & 508 39-41 & 1 Delete this sentence and citations thereto: "While . . . 16543-44)."
- 508 18-20 Delete this sentence beginning: "Jing Jo Yu . . . closing rooms (Tr. 6353-60)."
- 508 18 After "16480" insert from lines 20-22: "6; see testimony of Elsie Colon . . ." plus citations thereto
- 512 5 & 6 Delete "that permeated"
- 512 5 Insert "in" after "theme"
- 512 7 Delete "promise" and insert "representation" in lieu thereof
- 512 8 Delete "constant"
- 512 28 After "Tr. 1918" insert "; see also Tr. 1922-23"
- 512 30-38 Delete these lines
- 513 1 & 2 Delete these lines
- 515 21 Change "tract" to "track"
- 517 11 Insert "in late 1969" between the words "used" and "in"
- 518 9 Change "would" to "could"
- 521 23 Insert "in the late 1960's and early 1970's" between "presentations" and "used"
- 523 29 Delete "numerous" and insert "some" in lieu thereof
- 524 13 & 14 Delete both of these lines and insert in lieu thereof: "One sales representative testified that he was given the following party close for use at the conclusion of the dinner talk:"
- 524 38-40 Delete "These . . . investment." and insert "(CX 505-15)" after "properties" on line 38.
- 525 9 Insert "some of" between the words "by" and "Horizon"
- 525 10 Delete the words "Land is" and insert in lieu thereof "These salesmen"
- 525 11 Insert "land" between "represented" and "to"
- 525 12 Insert "by them" between "represented" and "as".
- 526 21 Insert "During the late 1960's and early 1970's many" before "sales"
- 527 19 Insert "some" between "which" and "sales"

- 527 20 Delete the "s" on "representatives"
- 527 27 Delete the last "s" in "representatives"
- 527 34 Delete "Horizon's internal surveys of its sales offices revealed" and add "There were" in lieu thereof
- 528 9-14 Delete the sentences beginning "One sales representative told prospects. . . . There were no figures. (Tr. 5970)."
- 528 23 Add "s" to make "value" plural
- 528 23-24 Delete "was to raise the inference" and insert in lieu thereof "inferred"
- 528 37 Add new sentence: "The FHA charts were deemphasized in 1972 and eliminated in 1974."
- 528 38 Delete "Horizon's internal survey of its sales offices revealed" and add "There were" in lieu thereof
- 529 25 Delete the word "entire"
- 530 33 Delete the word "greatly"
- 530 34 Delete the word "grossly"
- 531 2 Delete the word "percentage" and insert in lieu thereof "range"
- 531 2 Delete the word "would" and insert in lieu thereof "might"
- 531 12 Delete "would assure" and insert in lieu thereof "should lead to"
- 531 20 Insert "some" before the word "sales"
- 531 20 & 21 Insert the word "approximate" between "the" and "time"
- 531 22-26 Delete five lines beginning "Bruce . . . representatives:"
- 531 22 Insert after sentence ending on line 22: "These representatives did not present."
- 531 27 Change "The" to the lower case "the"
- 531 27 Delete "is not presented to the customer"
- 531 29 Delete "But"
- 531 29 Begin sentence: "Rather, . . ."
- 531 29 Delete "it is" and insert "they" in lieu thereof
- 531 29 Insert "development" after "with"
- 531 29 Delete "assured"

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- 531 30 Change "the" to "them", add period after "them" and delete "representative (CX 929E)."
- 531 33 Add an "s" to "reveal" and delete "beyond any doubt"
- 531 38 Insert "Some" before "Training"
- 532 5 Begin paragraph with: "During 1970-1971 such instructions or directions were included in the training manuals. In addition to the written instructions, there were oral restrictions and limitations given to sales representatives. Such instructions did not eliminate the investment misrepresentations."
- 532 28 Change "would" to "could"
- 532 34 Delete the word "thereafter" and insert "1971" in lieu thereof
- 534 37 Correct the misspelling of "antedates"
- 538 23-28 Delete the whole paragraph and insert in its place: "Some sales representatives used the 'Principles' in their presentations. Other representatives did not use them. They often were not read or understood by customers."
- 540 13 Delete the word "clearly"
- 540 13 Insert the word "some" between the words "that" and "sales"
- 543 3-9 Delete whole paragraph
- 543 & 544 39-6 Delete lines 39-41 and 1-6.
- 544 17 Delete the words "very very"
- 544 18 Delete the words "very much".
- 545 33-35 Delete the line: "Horizon's 'self-evaluative' documents, which report on surveys of sales offices which Horizon undertook beginning in 1973, revealed that"
- 545 35 Begin paragraph with "Representations . . ."
- 545 35 Delete the word "routinely"
- 545 37 & 38 Delete the sentence: "These representations are set out in detail in findings 91-100, see especially CX 927L-M,O,"
- 545 40 & 41 Delete: "These internal survey reports reveal that"
- 545 37 & 38 Insert and place in parentheses citations after "mentioned", line 37
- 545 41 Insert the word "some" before the word "older"
- 546 1 Delete: "Findings 91-100; see especially"
- 546 2 Insert hyphen in "CX 927G-I"

- 546 2 Add the sentence: "Some sales representatives used time periods as short as three to five years before the land could be resold at a profit. The shortest time periods were for lots close to the development areas (CX 927L-M)."
- 546 3 Delete: "The survey documents reveal that it was routine"
- 546 3 Insert: "Another" before "practice" and "was" after "practice"
- 546 6 Delete the word "much"
- 546 7 Delete "(Findings 91-100; especially"
- 546 9-14 Delete the whole paragraph
- 546 30 & 31 Delete: "Horizon's internal surveys of its sales offices revealed that"
- 546 31 Capitalize "The"
- 546 32 Delete "serious"
- 546 33 Delete "(Finding 93; see especially"
- 546 34-36 Delete the whole paragraph
- 546 38 Insert the sentence: "Some, but not all, of these customers did receive refunds" after "misrepresentations"
- 546 38-42 Delete lines 38-42 beginning with "On April 12, 1972"
- 547 1-12 Delete these lines
- 547 14 Insert "some" after "that"
- 548 23 Change "would" to "could"
- 548 24 Insert the sentence: "Other Waterwood customers purchased on the basis of profit and development potential in periods up to ten years (CX 930 C, G, 932F)."
- 549 4 Change "would" to "could"
- 549 25 Delete "and utilities would be provided"
- 552 30-35 Delete last full paragraph at bottom of page
- 554 4-10 Delete these lines
- 555 3 Add the sentence: "A limited resale program was instituted in Horizon City in 1975 for deeded lots and in Waterwood in 1976 for deeded and undeeded lots."

- 556 5-8 Delete "J.D. Oliver and A.R. Oliver were informed by the Horizon sales representative that the Waterwood lots that they purchased would be resold by the sales representative or by Horizon. (Tr. 976-78, 1037-38, 1090-91)."
- 557 2 Add, within the parenthetical citation: "; see also, CX 951G, H)"
- 557 18 Insert after "Tr. 4902": "; see also CX 927N)."
- 557 31-41 Delete these lines
- 558 42 Delete text beginning "Mr. Gothard."
- 559 1-5 Delete text beginning "by Bruce Lehmann" to "(Tr. 6100)."
- 560 4 Delete "-82)" and insert "-86, 16288)."
- 560 5-15 Delete this paragraph
- 560 16-20 Delete these lines, but keep sentence beginning "Evelyn Tracy . . ."
- 560 24 Delete: "Horizon's internal surveys of its sales offices found" and insert "In" in lieu thereof, before "several"
- 560 25 Delete the word "where"
- 560 27 Delete the word "outright"
- 560 30 Insert "; see also Tr. 16673, 16691-696, 16676, 16679" after "950E, G"
- 560 30 Add sentence: "Customers believed that Horizon's price for its land reflected a fair local real estate market price for which they might resell their land (CX 946H)."
- 562 16 Add after the last sentence: "Statements approved by the company were not considered a basis for refunds"
- 564 21 & 22 Delete "apparently as late as 1977" and add citations in line 22 to citations in line 21
- 564 23 After "Commission's" insert "investigation began"
- 564 23 Delete "complaint herein issued"
- 567 17 Insert "some" in lieu of "Horizon's internal surveys of its sales offices found evidence that"
- 567 26 Add ", CX 951G, H" after "Tr. 16478-80"
- 567 29 Insert "some" before "customers"
- 567 33 Insert "some" before "customers"
- 568 23 Add the word "not" between the words "that" and "all" and delete the word "not" between "were" and "staked."

- 568 29 After the word "he", insert the word "scheduled" and delete the word "controlled"
- 568 30 Add "s" to "tour" and delete the word "schedules"
- 573 29-32 Delete these lines
- 573 33-35 Delete these lines
- 575 13-17 Delete these lines
- 575 25 Insert the sentence: "It was the customer's choice to visit by jeep or by airplane" before the sentence beginning "This sale . . ."
- 577 36 End paragraph by inserting sentence: "She did not receive a refund because the sales representative did not believe that a misrepresentation had been made."
- 579 7 & 8 Delete sentence beginning "Horizon headquarters"
- 579 8 Delete "In April, 1973"
- 579 8 Add "During 1973 and 1974" before "Horizon mailed"
- 579 25-27 Delete: "The general practice, however, was not to give customers the appreciated value on their trade-ins (Tr. 3941, 4612-13)."
- 580 20 Insert "some" before the word "sales" and change the upper case "S" to lower case.
- 580 24 Delete this line
- 580 25 Capitalize the "R" in "reloading"; delete "the" after "in" and insert "some" in lieu thereof. Change the semi-colon after "offices" to a comma; delete "reloading" and insert "where it" in lieu thereof
- 580 27 Delete "These surveys showed that" and insert "some" in lieu thereof
- 580 31 Insert "C," between "929" and "D"
- 580 31 & 32 Delete: "The surveys also revealed" and insert "In some"; also delete "where"
- 580 36 Start sentence with "There were" and delete "The surveys"; delete "noted"
- 580 40 Insert "Some" before "sales"
- 581 38 At the end of line 38, add: "The University later conducted a few classes in the Rio Community shopping center offices."
- 582 16 & 17 Delete the phrase: ", employed by Horizon from 1968 until 1974 (Tr. 1904)" and after "trained" insert "in 1968"
- 582 29 Insert "Some" before the word "sales"

- 582 36 Insert "Some" before the word "customers"
- 583 1 Change "would" to "could"
- 583 30-41 Delete these lines
- 584 1 Delete this line
- 584 29 Change "would" to "could"
- 584 40 Insert "possible" in front of "three-way"
- 585 33-35 Delete these lines
- 585 36-43 Delete these lines
- 586 12 & 13 Delete: "Horizon's internal surveys of its sales offices reveal extensive" and insert "There was"
- 587 3-10 Delete first full paragraph
- 587 38 & 39 Delete the last sentence: "There is other evidence of pressure on customers to purchase immediately."
- 589 9 Delete "each" and insert "one" in lieu thereof
- 589 24 & 25 Delete "(Tr. 4946)"
- 589 26 & 27 Delete these lines and insert ellipsis before "being sold"
- 589 28 Insert "4946," before "4966"
- 590 18 Add new paragraph between paragraph ending on line 18 and paragraph beginning on line 19: "Numerous lots were typically available for sale in a particular unit or subdivision. One or more lots in a given unit or subdivision would generally be allocated to a particular salesman or to several salesmen. Allocations of unsold lots were occasionally shifted among salesmen or from one sales office to another. The sales representative called Horizon before finalizing a sale to find out whether a given lot had already been sold and to remove the lot from inventory if it were sold."
- 590 19 After "period" insert "in either 1970 or 1971"
- 590 32 Add this sentence: "No other witness testified to the use of this preplanned call approach."
- 591-592 38-2 Delete paragraph beginning "Joan Wild . . ."
- 592 31-36 Delete the first two sentences from this paragraph
- 593 16 Insert "There were" in place of "Horizon's internal surveys of its sales offices revealed"
- 595 19-28 Delete these lines
- 595 & 596 29-43 & 1-2 Delete these lines except for citations; insert "; see also Tr. 16430, 16506, 2111-14, 2126, 2169, 4687, 4733-35)." after "5053-54" at end of line 18

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- 596 5 Insert "2011-12, 2113-14" after "Tr."
- 596 29-42 Delete these lines
- 597 1-2 Delete these lines
- 603 22 Insert "many" in place of "almost all"
- 604 4 Insert "some salesmen" in place of "it is"
- 604 4 Insert "or mainly" after "only"
- 604 5 Insert "Other sales representatives indicated that the Southeast was one of El Paso's major growth directions."
- 611 23 Delete "sales representatives and"
- 613 10-16 Delete this paragraph
- 617 31 Insert "offered rebuttal evidence" in place of "employees testified"
- 618 4 Insert after "Tr.": "915, 1503,"
- 618 7-37 Last sentence of first full paragraph and rest of page should be deleted
- 619 1-2 Delete these lines
- 619 3 First full paragraph should start "Many customers testified"
- 619 3 Delete "all"
- 635 16 Change "Wesley Roark" to "Wayne Roach"
- 637 12 Delete "grossly"
- 637 13-14 Delete "to continue" and add comma after "fund"
- 637 14 Add the phrase after "fund": "unless such fact is disclosed clearly and conspicuously"
- 640 31 Last paragraph, insert "some" after "that"
- 641 11-14 Delete first sentence
- 641 22-24 Delete sentence starting with "Joan Wild", including citations
- 641 33-43 Delete these lines
- 642 19-25 Delete this paragraph
- 644 7-9 Delete this paragraph
- 644 33 Insert "all" before "purchasers"
- 644 34 Insert "all" before "customers"
- 644 35 Delete "they" and insert "some" before "were"

- 644 41 Delete words "which can be used" and insert in lieu thereof: "which has no significant impediments, such as easements, to the use of the entire lot"
- 645 2-5 Delete these lines, starting with "There is"
- 645 6 Delete: "There is no record evidence that"; and insert the words "failed to inform some" after "Horizon"; delete "informed any"
- 645 7 "Customer" should be plural
- 650 19 Add this citation at the end of the first full paragraph: "(See also Tr. 3519-21, 3729-30, 1291-93.)"
- 650 28-39 Delete these lines, beginning with "Mr. Rosenthal"
- 651 8 Delete heading
- 651 9-40 Delete these lines
- 652-665 Delete these pages
- 666 1-18 Delete these lines
- 671 19 & 20 Delete sentence starting "He noted" and ending with "(Tr. 6690-93)"
- 673 23-30 Delete these last eight lines starting with "This understanding"
- 673 23 Add the sentences: "The contractual exchange privilege for many lots expired when the lots were deeded to the customer. Horizon voluntarily honored some exchange requests after deeding them."
- 700 27 Add prefix "dis" to "similar"
- 703 5-7 Delete the words: "described the Horizon communities as 'bastard' cases because Horizon has shifted the financial burden of its developments to the lot purchasers (Tr. 16032-34). He"
- 706 19 Add: "The evidence on this contention was inconclusive."
- 719 7-11 Delete sentence beginning "However Horizon"
- 721 35 At the end of the paragraph add: "Some customers who forfeited made unsuccessful efforts to obtain refunds (e.g., John Gothard, Tr. 6097-6100)."
- 723 13 Delete "Available evidence indicates that Horizon had"; capitalize "No" and after "public" (line 15) insert "were offered into evidence"
- 723 28 Delete "there were" and insert "he had seen"
- 723 37 Delete heading
- 723 38-41 Delete these lines

- |         |       |                                                                                                                                                                                                                                                       |
|---------|-------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 724-725 |       | Delete these pages                                                                                                                                                                                                                                    |
| 726     | 1-27  | Delete these lines                                                                                                                                                                                                                                    |
| 726     | 29    | Before "Horizon's" insert "Many of"                                                                                                                                                                                                                   |
| 726     | 29    | Delete the word "all" in the first line of finding 136                                                                                                                                                                                                |
| 726     | 31    | Delete "they" and insert "These lots" in lieu thereof                                                                                                                                                                                                 |
| 727     | 8     | Delete "Leonard Steele testified that"                                                                                                                                                                                                                |
| 727     | 9     | Begin the sentence with "Water"                                                                                                                                                                                                                       |
| 727     | 10    | Insert "ground" before "water"                                                                                                                                                                                                                        |
| 727     | 11-14 | Delete the sentence starting with "This will require" including citations                                                                                                                                                                             |
| 727     | 14    | Add at end of the paragraph the sentences: "Therefore, it was never part of the development plan to use individual wells. Rather, the plan called for the use of company wells for which adequate fresh water existed as of the date of the hearing." |
| 727     | 18-20 | Delete the sentence after "CX, 10M" beginning with "This" and ending with "(Finding 85-86)."                                                                                                                                                          |
| 728     | 14    | Before "Horizon City" insert the words, "the most remote"                                                                                                                                                                                             |
| 728     | 35-37 | Delete the phrase, "but no money has been escrowed to assure completion of the roads and"; capitalize "There" to begin a new sentence and add this phrase after "roads": "but they have been maintained to date"                                      |
| 728     | 41    | Add this paragraph after "(CX-10K)" "The cost of development and of assessment were not adequately disclosed to some customers (CX 932F; 950J)."                                                                                                      |
| 729     | 9     | Delete "Average price per acre \$53.78"                                                                                                                                                                                                               |
| 730     | 4     | Delete the zero in the third column                                                                                                                                                                                                                   |
| 730     | 9     | Delete "\$133.45" in the third column                                                                                                                                                                                                                 |
| 730     | 29    | Delete the phrase "Average price per acre \$148.00"                                                                                                                                                                                                   |

## FINAL ORDER

This matter has been heard by the Commission upon the appeal of counsel for respondents and complaint counsel and upon briefs and oral argument in support of and in opposition to the appeals. The Commission, for the reasons stated in the accompanying Opinion, has granted each appeal in part and denied each in part. Therefore, *It is ordered*, That the initial decision of the administrative law

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judge be adopted as the Findings of Fact and Conclusions of Law of the Commission except as otherwise inconsistent with the attached opinion (including Appendix A).

Other Findings of Fact and Conclusions of Law of the Commission are contained in the accompanying Opinion.

*It is further ordered*, That the following Order to Cease and Desist be entered:

#### ORDER

##### PREAMBLE

1. For purposes of this Order the following definitions shall apply:

*Horizon Corporation* or *respondent* shall mean the corporate respondent, its successors and assigns, its officers, directors, agents, representatives and employees, directly or through any corporate subsidiary, division, or other device.

*Purchase price* and *cash price* shall be defined as cash price is defined in the Truth-in-Lending Act's implementing Regulation Z (12 C.F.R. 226.2(n)).

*Lots* or *land* shall include all subdivided parcels of land sold or offered for sale by respondent.

*Subdivision* shall mean any land (located in any state) which is divided or is proposed to be divided into lots, whether contiguous or not, for the purpose of sale as part of a common promotional plan, such as the plan used by respondent in marketing the properties involved in this proceeding. One indicator of a common promotional plan is the use of standard form contracts in the context of large scale merchandising of small lots to persons who typically do not see the land at the time of purchase. *Provided, however*, That, *lots* or *land* shall not include: [2]

a. The offer or sale of lots in a subdivision containing fewer than twenty-five lots.

b. The offer or sale of any lot upon which a residential or commercial structure is located.

c. The offer or sale of any lot together with or under a contract with respondent or a builder to construct a house or other building thereon within twenty-four (24) months.

d. The offer or sale of lots for which the total purchase price in any single transaction is more than \$50,000.00, or the cumulative size of the lot or lots sold in a single transaction is 100 acres or more.

e. The offer or sale of any lot or parcel to any person, partnership or corporation not affiliated with respondent where the land is not acquired for any personal, family or household purpose. *Personal, family or household purpose* shall include investments by individual consumers.

2. As used in this Order, a requirement to cease and desist from representing or misrepresenting shall include representing or misrepresenting directly or by implication, and by any manner or means. [3]

3. Sections IV, V and VI of this Order shall not apply to the sale and offer of sale by respondent of the following types of lots:

a. All lots which at the time of sale are accessible by paved road and to which electric, water and sewer lines have been installed to the lot line.

b. All lots which at the time of sale are accessible by paved road and to which electric and water lines have been installed to the lot line, and where a septic tank can be installed at a cost not to exceed the normal installation cost ordinary to the locale in which the lot is located and where such a septic tank is permitted by laws or ordinances in effect as of the date of sale.

c. All lots for which Horizon or any other bona fide entity is obligated by contract, covenant, indenture, charter, statute or ordinance to provide, or has provided, paved access, and electric, water and sewer lines to the lot line.

d. All lots to which access over maintained roads and electric lines to the lot line are already in place or are the obligation of Horizon or any other entity, and water and sewage disposal are available from a central water system or a well and septic tank at costs not to exceed the normal installation costs ordinary to the locale in which the lot is located, [4] and where such well and septic tank are permitted by law or ordinances in effect as of the date of sale.

e. All lots which would otherwise qualify under paragraphs a, b, c, or d, above, except that an electric line is not installed to the lot line and no bona fide entity is obligated to provide an electric line extension if the lot is one acre or larger in size and an electric line extension is available from a utility company at a cost disclosed in the Cost Sheet provided pursuant to Section II. A herein.

4. Sections I, II, and III of this Order shall apply only to the sale and offer of sale by respondent of any lot or land qualifying under subparagraphs a, b, c, d or e above.

## Final Order

## I.

*It is ordered.* That respondent Horizon Corporation, a corporation, its successors and assigns, and respondent's officers, agents, representatives, and employees, acting directly or through any corporation, subsidiary, division or other device in connection with the advertising, offering for sale or sale of lots or land as defined herein, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

## A. Representing that:

1. The purchase of land which respondent is offering or has offered for sale, has been, is or will be a good, profitable, safe or sound investment, unless respondent can demonstrate that such is a fact and is not misleading. [5]
2. There is little or no financial risk involved in the purchase of respondent's land, unless respondent can demonstrate that such is a fact and is not misleading.
3. The resale of land purchased from respondent is not, or will not be difficult, unless respondent can demonstrate that such is a fact and is not misleading.
4. Respondent will repurchase, resell, or assist in the resale of land purchased from respondent, unless such is a fact, and is not misleading, and unless respondent discloses clearly and conspicuously the current costs of such service and any material limitation on such service.
5. The value of any land, wherever situated, whether or not marketed by respondent, has risen, is rising, or will rise, unless such is a fact and not misleading.
6. Lots to which respondent has given one designation, such as "multi-family residential," "commercial," "acreage" or terms of similar import, have a significantly different present or expected value than lots with any other designation unless (i) such representation is true and is not misleading, (ii) respondent has a reasonable basis at the time of making such representation to believe that it is true, and (iii) respondent discloses clearly and conspicuously in immediate conjunction with the written use of any such designation other than [6]single family residential: A lot's designation as [specify designation, e.g. multi-family] may have no bearing on whether such use will occur.
7. The price set by respondent for the land is equivalent to the market value of such land, unless at the time of such representation

it is substantiated by adequate market data on sales and resales (including attempts to resell and listings for resale that are known or should be known by respondent) of similar land (land in a similar location with the same degree of development); *provided, however*, that if the data upon which the market value is determined does not include resales by individual purchasers, respondent shall clearly and conspicuously disclose both orally and in writing, that the seller's estimate of market value is not based on actual resales by individual purchasers.

8. The purchase of land from respondent is a way to achieve financial security, to deal with inflation, or to make money.

9. The demand for land offered for sale by respondent has increased, is increasing, or will increase, unless such is a fact and is not misleading.

10. Land being offered for sale by respondent will soon be unavailable because of the pace of sales or dwindling supply, or that the supply of any other land is decreasing, unless such is a fact and is not misleading. [7]

11. Purchasers must purchase immediately in order to insure that a particularly desirable location will be available at the same price in the foreseeable future, unless such representation is true and is not misleading.

12. The signing of a contract does not immediately create a binding legal obligation on the part of the purchaser including, but not limited to, representations that the purchaser is only making a deposit, is only reserving the land, is only taking the first step, or is not making a final decision, or in any manner whatsoever obscuring or misrepresenting the legal or practical significance of signing a contract; *provided*, that respondent may accurately recite the terms and conditions of the contract and of all refund privileges and cancellation rights, if applicable.

13. The federal property report or state property report is in any way an endorsement of or a judgment of the merits or value of the land being offered by any federal or state agency, unit, or official.

14. Any lot is located within a geographic area designated or described as "community," "town," "city," or by words or terms of similar import, unless respondent discloses in reasonable proximity therewith the approximate population of the community, town or city, its distance from the lot subject to the representation, and an accurate listing of some or all of the facilities located therein; *provided, however*, that such disclosures [8] need not be made where such representation is made on-site to a purchaser within the subdivision in which the lot is located; and *provided, further*, that

respondent shall not be obligated to rename any currently platted property or to make any such disclosures solely because of the use of the name of any such currently named property.

15. The purchase of land in general is a good, profitable, safe or sound investment.

B. Making any false or misleading reference to:

1. The past or future price of land offered by respondent, or the past or future value of land offered by respondent, or the past or future increases in price, including reference by actual dollar amount, percentage increase, or by any other means, as indicative of market value, or of a change of market value.

2. The past or present population, employment or industrial statistics or trends or other statistics or trends in a geographic area.

3. The predicted future population, employment or industrial statistics or trends or other statistics or trends in a geographic area. For such future statistics or trends, such reference shall not be considered false if at the time such reference is made respondent has a reasonable basis for believing it to be an accurate prediction. [9]

4. The present, planned, proposed or potential development, improvement or facilities of the lot being offered or of the unit, subdivision or project in which the lot is located. An accurate statement shall not be considered misleading if it is clearly disclosed to the customer (a) whether the development or improvement will be undertaken by respondent or a third party, (b) when the development or improvement is likely to be undertaken, (c) whether the purchaser has any contractual or other interest in the development or improvement, and (d) any costs which may accrue to the customer other than those normally assessed for the use of a public facility.

5. Investments of any sort, including any reference to insurance, stocks, the stock, commodity or options markets, savings accounts or certificates, annuities, or land as an investment.

6. The signing of a contract or any reservation by any individual other than the immediate purchaser, of any land being offered by respondent, including but not limited to, any reference to any other person having a "hold" on a lot; *provided, however*, that respondent may refer to any bona fide sale or option on a lot for which it receives consideration.

7. Respondent's reputation, size, assets or listing on any stock exchange. It shall not be considered false or misleading for respondent to make such references [10]as are required by statute or regulation in the place and manner required by such statute or regulation, or for respondent to provide any purchaser or prospective

purchaser upon request with any document prepared in accordance with the rules of the Securities and Exchange Commission, the Department of Housing and Urban Development, or the Office of Interstate Land Sales Registration.

8. The present, planned, proposed or potential development of any land by anyone other than respondent.

9. The time within which land purchased from respondent can be resold.

C. Engaging in any of the following acts or practices, directly or by implication, through the use of any means:

1. Discouraging purchasers from obtaining the assistance of counsel or other professional or personal advice in connection with a purchase decision or the purchase of respondent's land.

2. Failing to provide any required federal or state property report before the customer signs the contract; failing to recommend that the customer read the federal property report; interrupting or distracting any customer from reading a property report. [11]

3. Making any statement or representation concerning the rights or obligations of respondent or the purchaser which differs in any material respect from the rights or obligations of the parties as stated in the contract of sale, or the property report.

4. Including language in any contract permitting the respondent to retain any sums paid by the purchaser in excess of the amount permitted to be retained by respondent under Part III F of this Order, upon the failure of the purchaser to pay any installment due or upon the failure to perform any other obligation under the contract.

5. Failing to disclose, clearly and conspicuously, to each customer the existence, size, location, and nature of any and all easements and other physical features which could significantly affect the full use and enjoyment of the lot being offered for sale.

6. Misrepresenting the true nature and purpose of any event or activity, including, but not limited to telephone calls, sales calls, dinner parties or other similar gatherings, contests, awards of free or reduced price gifts or vacations, and sightseeing tours. [12]

## II

*It is further ordered, That respondent:*

A. Provide each prospective purchaser of lots a copy of the "cost sheet" pursuant to regulations of the Office of Interstate Land Sales

Registration in effect as of January 1, 1981. Such cost sheet shall be properly filled out to disclose the estimated costs for the lot or parcel offered. If such regulations are revised to provide for increased disclosure of development cost information to the prospective purchaser, respondent shall comply with such revised regulations. If such regulations are revised to require less disclosure, respondent shall, notwithstanding such regulations, disclose all development cost information now required, unless such disclosure would violate the revised regulations. If necessary to comply with revised regulations, the format of the disclosure may be revised, *provided*, that any revised format must disclose the required information in a clear and conspicuous manner.

B. Include in all contracts of sale the following provision:

The contents of the federal property report are part of this contract. *Provided, however*, That where the property report provides an accurate and not misleading estimate of costs or description of current facilities it shall not be a breach of the contract should such estimate or description become inaccurate after the contract is effective. [13]

C. Include in all contracts executed from the date this Order becomes final until the final disbursement of the trust fund established in part VII of this Order the following provision:

In the event Horizon is unable to furnish the improvements to the Buyer's lot as described herein within six months of the promised date, unless such failure is caused by acts of God or other causes not under control of Horizon, Horizon shall, upon reconveyance of the lot in the same form and condition of title as conveyed to Buyer, offer the Buyer a choice of an exchange for an alternative lot or a refund of all principal and interest paid under this Contract or the Promissory Note and Deed of Trust, where applicable. If Horizon provides such exchange or refund, Horizon shall be released from any and all obligations under this contract at law or in equity.

*Provided, however*, Horizon may use any time period shorter than six months in such contractual clause.

D. Notify each purchaser within 30 days of any failure to provide, within six months of the promised date, any improvements to the purchaser's lot as required by the contract. [14]

### III

*It is further ordered*, That:

A. Respondent shall include clearly and conspicuously in all contracts, promotional materials and printed advertisements the following statement:

The seller is not selling the lots in this subdivision as an investment. The future value of this land and your ability to resell it are uncertain. It is suggested that you discuss any possible purchase with a qualified professional.

B. Respondent shall include clearly and conspicuously in each contract for the sale of land the following statement in 12 point bold face type immediately preceding the space provided for the purchaser's signature; *provided, however*, that in the event that any state or federal law or regulation requires that another statement immediately precede the space provided for the purchaser's signature, the statement required herein may precede any such statement(s):

YOU HAVE THE RIGHT TO CANCEL THIS CONTRACT, WITHOUT ANY PENALTY OR OBLIGATION, AT ANY TIME PRIOR TO MIDNIGHT OF THE TENTH BUSINESS DAY AFTER THE DATE YOU SIGN THIS CONTRACT.

IF YOU CANCEL WITHIN THIS TIME, WE WILL PROMPTLY REFUND ANY PAYMENTS MADE BY YOU UNDER THIS CONTRACT. [ 15]

TO CANCEL THIS CONTRACT, YOU MUST NOTIFY US WITHIN TEN BUSINESS DAYS AFTER YOU SIGN THE CONTRACT. NO SALES REPRESENTATIVE WILL CONTACT YOU DURING THESE TEN BUSINESS DAYS. IF A SALES REPRESENTATIVE CONTACTS YOU AND YOU NOTIFY US OF THE CONTACT WITHIN 30 DAYS OF ITS OCCURRENCE, YOU WILL HAVE UP TO 180 DAYS FROM THE DATE OF PURCHASE TO CANCEL THIS CONTRACT.

WE RECOMMEND THAT BEFORE SIGNING YOU CAREFULLY EXAMINE THIS CONTRACT AND THE PROPERTY REPORT AND HAVE THEM REVIEWED BY A QUALIFIED PROFESSIONAL.

During this ten-business-day period after the signing of a land purchase contract, Horizon is forbidden to initiate any sales-related contact with the purchaser. Any such contact shall be grounds for rescission of the purchase contract and recovery of all payments thereunder at purchaser's option, exercisable any time before the expiration of 180 days from the date of purchase, but only if the customer notifies Horizon of the contact within thirty days after its occurrence. *Provided, however*, That it shall not be forbidden for a non-sales employee or representative of Horizon to contact a customer by telephone to ascertain if the property report was delivered, and to check the accuracy of the information on the contract. [16]

C. Respondent shall furnish each purchaser, at the time the purchaser signs a contract for the purchase of land, with the Purchaser Cancellation Notice required by regulation of the Office of Interstate Land Sales Registration as of January 1, 1981. In the event that such regulation is revised to disclose more information to the customer, to extend the length of the cancellation period, or

otherwise to increase the purchaser's rights, respondent shall comply with such amended regulation. Notwithstanding any revision to such regulation, respondent shall grant to the customer at the minimum the rights required by the regulation in effect on January 1, 1981.

D. Respondent shall honor any signed and timely notice of cancellation or its functional equivalent by the purchaser, and promptly after the receipt of such notice, (a) refund all payments made under the contract (b) cancel any contract or other legal document executed by the purchaser, and (c) provide the purchaser with written notice of such cancellation.

Whenever a timely notice of cancellation or its functional equivalent is received and said notice is not sufficient or proper in any manner, and respondent does not intend to honor the notice, respondent shall immediately notify the purchaser by certified mail, return receipt requested, enclosing the notice, informing the purchaser [17] of the error and stating clearly and conspicuously that a proper notice signed by the purchaser must be mailed by midnight of the fifth business day following the purchaser's receipt of the mailing, if the purchaser is to obtain a refund.

E. Whenever respondent sells property to a purchaser who has never seen the property before executing a contract for the purchase thereof, respondent shall extend a refund privilege conditioned upon the purchaser making a personal visit to the property within 180 days after the purchase and notifying respondent within ten business days after inspection that a refund is desired.

1. Respondent shall provide the purchaser with a copy of the following "Inspection and Refund Privilege Notice" at the time the contract is signed. The notice shall be a separate sheet of paper containing no other writing. The notice shall contain such of the bracketed language as is applicable. The notice shall be worded as follows:

#### INSPECTION AND REFUND PRIVILEGE NOTICE

Personal inspection of any land purchased is desirable. We recommend that you visit your property. If you visit your property within 180 days, you can cancel your contract for any reason within 10 days after your visit and get a full refund.

If you decide to inspect your land under the terms of the refund privilege, during the visit [18] the seller may encourage you to keep your land. The seller may also try to sell you more land, or have you trade for more expensive land. The seller [will or will not] reimburse you for your travel expenses [if you cancel your contract].

You should take time during your inspection to visit the local area and examine the real estate market where the property is located.

This inspection and refund provision is in addition to and does not take away your

rights to cancel within ten business days after you sign your contract. See your contract.

2. Respondent shall provide the purchaser ten business days after making the personal inspection within which to request a refund.

3. Respondent shall include in every contract, in immediate proximity to the provision setting forth the availability of this refund, the following statement:

IF YOU HAVE NOT PREVIOUSLY SEEN THE PROPERTY YOU HAVE UNTIL MIDNIGHT OF THE TENTH BUSINESS DAY AFTER THE CONCLUSION OF YOUR INSPECTION IN WHICH TO NOTIFY THE SELLER OF YOUR DECISION WHETHER TO CANCEL YOUR CONTRACT. NO SALES REPRESENTATIVE SHOULD CONTACT YOU ON BEHALF [19]OF THE SELLER DURING THIS TEN BUSINESS DAY PERIOD. IF A SALES REPRESENTATIVE CONTACTS YOU AND YOU NOTIFY US OF THE CONTACT WITHIN TEN DAYS OF ITS OCCURRENCE, YOU WILL HAVE 30 DAYS FROM THE DATE OF YOUR VISIT TO CANCEL THIS CONTRACT.

4. Respondent will insure that every purchaser who seeks to view his or her lot can see and identify the lot specified in the contract; *provided, however*, that so long as the lot can be located by a stake at one corner or other definite land mark, it is not necessary that all four corners be marked.

5. Respondent shall furnish each purchaser at the conclusion of the inspection visit with a dated and completed form, in duplicate, captioned "NOTICE OF CANCELLATION AFTER INSPECTION" which shall contain in bold face type of a minimum size of 10 point, the following statement:

#### NOTICE OF CANCELLATION AFTER INSPECTION

DATE OF CONCLUSION OF INSPECTION TOUR OF PROPERTY: \_\_\_\_\_

LOT IDENTIFICATION: \_\_\_\_\_

NAME OF CUSTOMER: \_\_\_\_\_

You may cancel your contract without any penalty or obligation at any time prior to midnight [20]of the tenth business day after the above date. No sales representative should contact you on behalf of the seller during this ten business day period. If a sales representative contacts you, and you notify us of the contact within 10 days of its occurrence, you will have 30 days from the date of your visit to cancel this contract.

If you cancel, we will promptly send you a full refund.

To cancel your contract, mail or deliver a signed copy of this cancellation notice or any other written notice, or send a telegram to (name of respondent), at (address of respondent's place of business), postmarked not later than midnight of \_\_\_\_\_

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I (we) hereby cancel the above described contract. (Each buyer must sign this notice).

---

DATE

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BUYER'S SIGNATURE [21]

6. Before furnishing a purchaser copies of the "Notice of Cancellation After Inspection" set forth above, respondent shall complete both copies by entering the name of the respondent and the address of its place of business, the conclusion date of the inspection of the property, the name of the customer, and the date, not earlier than the tenth business day following the conclusion of the inspection, by which the purchaser may cancel the purchase.

7. During the post inspection cancellation period, Horizon is forbidden to initiate any sales related contact with the purchaser. Any such initiation of contact shall be grounds for rescission of the purchase contract and recovery of all payments thereunder at purchaser's option, exercisable any time before the expiration of thirty days from the date of the visit, but only if the customer notifies Horizon of the contact within ten days of its occurrence.

8. Respondent shall investigate any notification received from purchasers of contact violating the provisions of III.E.7. above. [22]

9. Respondent shall honor any signed and timely Notice of Cancellation After Inspection or its functional equivalent submitted by a purchaser, and promptly after receipt of such notice will (a) refund all payments made under the contract, (b) cancel the contract executed by the purchaser, and (c) send written confirmation of such cancellation to the purchaser.

*Provided, however,* That if the property has been deeded to the purchaser, Horizon may require that the property be reconveyed to Horizon with the same condition of title as was conveyed to the customer.

10. Where a timely Notice of Cancellation After Inspection or its functional equivalent is received purportedly in accordance with the requirements of this section, but where said notice is not sufficient or proper in some manner and respondent does not intend to honor the notice, Horizon shall immediately notify the purchaser by certified mail, return receipt requested, enclosing the notice, informing the purchaser of the error and stating clearly and conspicuously that a proper notice signed by the purchaser must be mailed by midnight of the fifth day following the purchaser's receipt of the mailing if the purchaser is to obtain a refund. [23]

F. Include in all contracts for the sale of land a provision limiting the amount of principal and interest to be forfeited by the purchaser in the event of the purchaser's default to an amount not greater than (1) 44 percent of the cash price of the property plus (2) any amount paid which exceeds the cash price of the property.

G. Refund to each person who purchases land after the date this Order becomes final and defaults on his or her contract, all principal and interest paid which exceeds 44 percent of the cash price of the land up to a maximum refund of 56 percent of the cash price of the lot. Such refund shall be made within sixty (60) days after the purchaser is deemed to have defaulted; *provided, however*, that this paragraph shall not preclude respondent from offering a defaulting purchaser additional alternatives which may be selected at the purchaser's option, in lieu of a refund. For purposes of this section of the Order, a purchaser shall be deemed to have defaulted when either of the following occurs: [ 24]

1. the purchaser notifies respondent of intent to default; or
2. the purchaser fails to make a payment for a period of six months from the due date of a payment; *provided, however*, that this provision shall not prohibit respondent from granting any purchaser an extension of time within which to make payments.

H. Respondent shall not misrepresent the right of a purchaser to cancel a transaction or receive a refund under any provision of this Order or any applicable statute or regulation in order to solicit or obtain the purchaser's assent to or otherwise impose any condition, waiver or limitation upon such right. [25]

#### IV

*It is ordered*, That respondent in connection with the advertising, offering for sale and sale of lots or land other than those lots or land covered by parts I, II and III of this Order, do forthwith cease and desist from:

A. Representing that:

1. The purchase of land which respondent is offering or has offered for sale, has been, is or will be a good, profitable, safe or sound investment, unless respondent can demonstrate that such is a fact and is not misleading.
2. There is little or no financial risk involved in the purchase of respondent's land, unless respondent can demonstrate that such is a fact and is not misleading.

3. The resale of land purchased from respondent is not, or will not be difficult, unless respondent can demonstrate that such is a fact and is not misleading.

4. Respondent will repurchase, resell, or assist in the resale of land purchased from respondent, unless such is a fact, and unless the terms, conditions and arrangements for repurchase, resale or assistance are clearly and conspicuously disclosed at the time such representation is made. [26]

5. The value of any land, wherever situated, whether or not marketed by respondent has risen, is rising, or will rise, unless respondent can demonstrate that such is a fact and is not misleading.

6. Lots to which respondent has given one designation, such as "single-family residential," "multi-family residential," "commercial," "acreage" or terms of similar import, have a significantly different present or expected value than lots with any other designation unless (i) such representation is true and is not misleading, (ii) respondent has a reasonable basis at the time of making such representation to believe that it is true, and (iii) respondent discloses clearly and conspicuously in immediate conjunction with the use of any such designation: A lot's designation as [specify designation, e.g., multi-family] will have no bearing on whether such use will occur.

7. The price set by respondent for the land is equivalent to the market value of the land, unless adequate market data on resales (including attempts to resell and listings for resale that are known or should be known by respondent) of similar land (land in a similar location with the same degree of development) by previous purchasers in the possession of respondent at the time of such representation substantiates the representation. [27]

8. The purchase of land from respondent is a way to achieve financial security, to deal with inflation, or to make money.

9. The purchase of land in general is a good, profitable, safe or sound investment.

10. The demand for land offered for sale by respondent has increased, is increasing, or will increase, unless respondent can demonstrate that such is a fact and is not misleading.

11. Land being offered for sale by respondent will soon be unavailable because of the pace of sales or dwindling supply, or that the supply of any other land is decreasing, unless such is a fact and is not misleading.

12. Purchasers must purchase immediately in order to insure that a particularly desirable location will be available, or that lots similar to those being offered for sale may not or will not be

available at the same price in the foreseeable future, unless such representation is true and is not misleading. [28]

13. Purchasers have been specially selected, unless respondent can demonstrate that such is a fact and is not misleading.

14. The signing of a contract does not immediately create a binding legal obligation on the part of the purchaser, including, but not limited to, representations that the purchaser is only making a deposit, is only reserving the land, is only taking the first step, or is not making a final decision, or in any manner whatsoever obscuring or misrepresenting the legal or practical significance of signing a contract; *provided*, that respondent may accurately recite the terms and conditions of the contract and of all refund privileges and cancellation rights, if applicable.

15. The federal property report or state property report is in any way an endorsement of or a judgment of the merits or value of the land being offered by any federal or state agency, unit, or official.

16. Any of the lots is located within a geographic area designated or described as a "community," "town," "city," or by words or terms of similar import; *provided, however*, that respondent shall not be obligated to rename any currently platted property. [29]

B. Making any reference, directly or by implication, through the use of any means, to:

1. The past or future price of land offered by respondent, or the past or future value of land offered by respondent, or the past or future increases in price, including reference by actual dollar amount, percentage increase, or by any other means, as indicative of market value, or of a change of market value.

2. The past, present or future population, employment or industrial statistics or trends or other statistics or trends in a geographic area, unless respondent has a reasonable basis at the time of the statement or representation to conclude that such statistical trend either now has or, within the near future, will have a significant effect on respondent's property or the part thereof, other than those parts of each property which respondent or any other entity has reserved for development, or has developed with roads, and electric, water, telephone, and sewer lines, to which such statement or representation refers or relates.

3. The present, planned, proposed or potential development, improvement or facilities of the unit, [30] subdivision or project in which the offered land is located that differs in any material respect from the relevant language of the most current property report or from the "Notice to Buyers" (set forth in Part V of this Order).

4. Investments of any sort, including any reference to insurance, stocks, the stock, commodity or options markets, savings accounts or certificates, annuities, or land as an investment.

5. The reservation or consideration by any individual other than the immediate purchaser, of any land being offered by respondent, including but not limited to any reference to any other person having a "hold" on a lot; *provided, however*, that respondent may refer to any bona fide sale or option on a lot for which it receives consideration.

6. Respondent's reputation, size, assets or listing on any stock exchange; *provided*, that respondent may make such references as are required by statute or regulation in the place and manner required by such statutes or regulations; and *provided, further*, that [31]respondent may provide any purchaser or prospective purchaser upon request with any document prepared in accordance with the rules of the Securities and Exchange Commission, the Department of Housing and Urban Development, or the Office of Interstate Land Sales Registration.

7. The present, planned, proposed or potential development of any land by anyone other than respondent.

8. The time within which land purchased from respondent can be resold.

C. Engaging in any of the following acts or practices, directly or by implication, through the use of any means:

1. Discouraging purchasers from obtaining the assistance of counsel or other professional or personal advice in connection with a purchase decision or the purchase of respondent's land.

2. Failing to provide any required federal or state property report before the customer signs the contract; failing to recommend that the customer read the federal property report; interrupting or distracting any customer from reading a property report. [32]

3. Filling out a contract with a purchaser's personal information prior to the purchaser signifying, by affirmative statement, that he or she desires to purchase the land being offered.

4. Subjecting a purchaser who has evidenced a desire not to purchase respondent's land to continued sales efforts from any sales representative or other employee other than the original sales person, i.e., any institution of a "T.O." or "takeover" system.

5. Including in any contract or in any other document shown or provided to purchasers, language stating that no express or implied representations have been made in connection with the sale of

respondent's land, or that any particular representation has not been made in connection therewith.

6. Making any statement or representation concerning the rights or obligations of respondent or the purchaser which differs in any material respect from the rights or obligations of the parties as stated in the contract of sale, the Notice to Buyers provided for in Section V of this Order, or the property report. [33]

7. Including in any contract language permitting the respondent to retain any sums paid by the purchaser in excess of the amount permitted to be retained in Sections VI, H. and I. of this Order upon the failure of the purchaser to pay any installment due or upon the failure to perform any other obligation under the contract.

8. Failing to disclose, clearly and conspicuously, both orally and in writing, to each customer the existence, size, location, significance and nature of any and all easements and other physical features which could significantly affect the full use and enjoyment of the lot being offered for sale.

9. Misrepresenting the true nature and purpose of any event or activity, including, but not limited to telephone calls, sales calls, dinner parties or other similar gatherings, contests, awards of free or reduced price gifts or vacations and sightseeing tours. [34]

## V

*It is further ordered, That respondent:*

Distribute to all prospective purchasers of land covered by this section, a copy of the following "Notice to Buyers" at the commencement of any sales presentation, request that the purchaser read it, and not interrupt the reading thereof by any purchaser. Where the sale is conducted entirely through the mail, the notice shall accompany the property report mailed to the purchaser. The Notice shall be on a separate piece of paper and shall contain only the required information and no other writing, unless approved in advance by the Commission.

### NOTICE TO BUYERS

NAME OF SUBDIVISION:

NAME OF SELLER:

EFFECTIVE DATE OF NOTICE:

THE LAND BEING OFFERED FOR SALE IS IN THE STATE OF \_\_\_\_\_  
MILES FROM THE CITY OF \_\_\_\_\_. THE LOT IS \_\_\_\_\_ [ACRE(S) OR

SQUARE FEET] IN SIZE AND THE COST IS \$ \_\_\_\_\_. YOU MAY PURCHASE LOTS OTHER THAN THIS ONE.

THE SELLER IS NOT SELLING THE LOTS IN THIS SUBDIVISION AS AN INVESTMENT. THEREFORE, DO NOT COUNT ON YOUR LOT RISING IN VALUE OR YOUR BEING ABLE TO RESELL IT. [ 35]

THE FUTURE VALUE OF LAND IS UNCERTAIN AND MAY HAVE NO RELATION TO THE PRICE, WHICH IS SET BY THE SELLER. THE FUTURE POPULATION OF THIS SUBDIVISION AND THE SURROUNDING AREAS CANNOT BE PREDICTED.

[PROVIDE the following development information for the unit(s) being offered:]

#### ROADS

(INFORMATION TO BE APPLICABLE TO THE ROADS FRONTING PURCHASER'S LOT)

State who is currently responsible for construction and maintenance and whether the roads will be maintained by public authority, a property owners' association or some other entity at some time in the future. State the cost to buyer for construction/maintenance, if any, during interim and after turnover.

State whether there is adequate financial assurance in the form of an escrow or trust account, or surety bond, to assure completion of the roads as represented. If not, include the following warning: WARNING: TOO LITTLE MONEY HAS BEEN SET ASIDE TO ASSURE THE COMPLETION OF THE ROADS. THEREFORE, THERE IS NO ASSURANCE THAT THEY WILL BE COMPLETED. [36]

Provide the following road information:\*

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| Unit | Starting<br>date | Percentage now<br>completed | Estimated<br>completion<br>date | Present<br>surface | Final<br>surface** |
|------|------------------|-----------------------------|---------------------------------|--------------------|--------------------|
|------|------------------|-----------------------------|---------------------------------|--------------------|--------------------|

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\* If not known, insert the following warning: WARNING THERE ARE NO PLANS FOR ROADS.

\*\* If unpaved then state "UNPAVED" and describe the surface.

## WATER

If water is to be supplied by an individual private system, state the estimated cost to the buyer of installation, treatment facilities, necessary equipment and any other required costs. If individual wells are to be used, state whether or not a refund or exchange will be issued in the event a productive well cannot be installed. If yes, state the terms and conditions thereof. If no, insert the following warning: WARNING: A SUCCESSFUL PRODUCING WELL IS NOT GUARANTEED. NO REFUND OR EXCHANGE WILL BE GRANTED IF YOU ARE UNABLE TO DIG A SUCCESSFUL WELL. [37]

If the water is to be provided by a central system, state whether the buyer is to pay any construction costs, one-time connection fees, availability fees, special assessments or deposits for the central system. If so, state the estimated cost. If the buyer will be responsible for construction costs of the water mains, state the cost to install the mains to the most remote lot covered by the Notice. State whether there is adequate financial assurance in the form of an escrow or trust account, or surety bond, to assure completion of the central system and any future expansion. If not, include the following warning: WARNING: TOO LITTLE MONEY HAS BEEN SET ASIDE TO ASSURE THE COMPLETION OF THE CENTRAL WATER SYSTEM. THEREFORE, THERE IS NO ASSURANCE THAT IT WILL BE COMPLETED.

Provide the following water information:

| Unit | Starting<br>date | Percentage now<br>complete | Service Available<br>date* |
|------|------------------|----------------------------|----------------------------|
|------|------------------|----------------------------|----------------------------|

\* If not known, insert the following warning: WARNING: THERE ARE NO PLANS FOR A CENTRAL WATER SYSTEM. [38]

## SEWER

State the method of sewage disposal to be used. If by septic tank or other individual system, state the estimated cost of the system and any necessary tests. State whether a permit is required. If so, and if each and every lot has not been already approved, insert the following warning: WARNING: THERE IS NO ASSURANCE PERMITS CAN BE OBTAINED FOR THE INSTALLATION AND USE OF SEPTIC TANKS OR OTHER INDIVIDUAL ON-SITE SEWAGE SYSTEMS. State whether or not a refund

or exchange will be issued in the event a permit is denied for the particular lot purchased, and the terms and conditions thereof. If neither will be issued, insert the following warning: WARNING: NO REFUND OR EXCHANGE WILL BE GRANTED IF YOU ARE UNABLE TO INSTALL A SEPTIC TANK OR OTHER ON-SITE SEWAGE SYSTEM.

If a central sewage treatment and collection system is being installed, state who is responsible for construction of the system. State whether buyer will pay any construction costs, special assessments, one-time connection fees, availability fees, use fees or deposits. State the amounts of these charges. If the buyer is to pay the cost of the sewer mains, state the cost of installation of the mains to the most remote lot in this Notice. State whether there is adequate financial assurance [39] in the form of an escrow or trust account, or surety bond, to assure completion of the central system and any future expansion. If not, include the following warning: WARNING: TOO LITTLE MONEY HAS BEEN SET ASIDE TO ASSURE THE COMPLETION OF THE CENTRAL SEWER SYSTEM. THEREFORE, THERE IS NO ASSURANCE THAT IT WILL BE COMPLETED. Provide the following sewer information:

| Unit | Starting<br>date | Percentage of<br>completion | Service Availability<br>date* |
|------|------------------|-----------------------------|-------------------------------|
|------|------------------|-----------------------------|-------------------------------|

\* If not known, insert the following warning: WARNING: THERE ARE NO PLANS FOR A CENTRAL SEWAGE SYSTEM.

#### ELECTRIC SERVICE

If the primary service lines have not been extended in front of, or adjacent to each lot, state whether the buyer will be responsible for any construction costs. If so, state the utility company's policy and charges for extension of primary lines. Based on that policy, state the cost to the buyer for extending primary service to the most remote lot in this Notice. Provide the following electric service information:

| Unit | Starting<br>date | Percentage of<br>completion | Service Availability<br>date* |
|------|------------------|-----------------------------|-------------------------------|
|------|------------------|-----------------------------|-------------------------------|

\* If not known, insert the following warning: WARNING: THERE ARE NO PLANS FOR AN ELECTRIC SERVICE SYSTEM. [ 40]

**TELEPHONE SERVICE**

If the service lines have not been extended in front of, or adjacent to each lot, state whether the buyer will be responsible for any construction costs. If so, state the utility company's policy and charges for extension of service lines. Based on that policy, state the cost to the buyer of extending service lines to the most remote lot in this Notice.

Provide the following telephone service information:

| Unit | Starting date | Percentage of completion | Service Availability date* |
|------|---------------|--------------------------|----------------------------|
|------|---------------|--------------------------|----------------------------|

\* If not known, insert the following warning: WARNING: THERE ARE NO PLANS FOR A TELEPHONE SYSTEM.

**RECREATIONAL FACILITIES**

Identify each recreational facility. For each facility, provide the following information:

| Facility | Percent complete | Date of start of construction | Date Available for use | Financial Assurance of completion* | Buyer's cost and assessments** |
|----------|------------------|-------------------------------|------------------------|------------------------------------|--------------------------------|
|----------|------------------|-------------------------------|------------------------|------------------------------------|--------------------------------|

\* If none, state "none." If such exists, state the type and amount. [41]

\*\* State any construction or use costs to the buyer including any applicable property owner's association assessment, maintenance assessment or use fee.

At the conclusion of the Notice, place the following warning set off by a box outline: IMPORTANT: OBTAIN AND READ THOROUGHLY EACH PROPERTY REPORT AND CONTRACT BEFORE SIGNING ANYTHING. THE PROPERTY REPORT CONTAINS INFORMATION THAT YOU SHOULD KNOW AND UNDERSTAND BEFORE YOU SIGN A CONTRACT TO BUY THIS LAND. IT IS DESIRABLE TO HAVE A LAWYER OR OTHER QUALIFIED PROFESSIONAL EVALUATE THIS PURCHASE BEFORE YOU SIGN ANYTHING. KEEP THIS NOTICE—STATEMENTS MADE IN IT BECOME A PART OF ANY CONTRACT YOU MAY SIGN WITH THE SELLER. [42]

## VI

*It is further ordered,* That in all sales and offers to sell after the date this Order becomes final, respondent shall:

A. Include clearly and conspicuously:

1. In all contracts for the sale of land the following statement:

The seller is not selling the lots in this subdivision as an investment. Therefore, do not count on your lot rising in value or your being able to resell it. The future value of this land is uncertain and may have no relation to the price, which is set by the seller. It is suggested that you discuss any possible purchase with a lawyer or other qualified professional.

2. In all sales presentations, promotional materials and printed advertisements covered by this section the following statement:

The future value of land is very uncertain. The value, if any, of this land may have no relation to the price, which is set by the seller. The [43]seller is not selling the lots in this subdivision as an investment.

Therefore, do not count on your lot rising in value or your being able to resell it. It is suggested that you discuss any possible purchase with a lawyer or other qualified professional.

B. Include clearly and conspicuously in each contract for the sale of land the following statement, in 12 point bold face type:

YOU, THE BUYER, HAVE THE RIGHT TO CANCEL THIS CONTRACT, WITHOUT ANY PENALTY OR OBLIGATION, AT ANY TIME PRIOR TO MIDNIGHT OF THE TENTH BUSINESS DAY AFTER THE DATE YOU SIGN THIS CONTRACT.

IF YOU CANCEL WITHIN THIS TIME, WE WILL PROMPTLY REFUND ANY PAYMENTS MADE BY YOU UNDER THIS CONTRACT.

TO CANCEL THIS CONTRACT, YOU MUST NOTIFY US WITHIN TEN BUSINESS DAYS AFTER YOU SIGN THE CONTRACT. NO SALESMAN WILL CONTACT YOU DURING THESE TEN DAYS. IF A SALES REPRESENTATIVE CONTACTS YOU AND YOU NOTIFY US OF THE CONTACT WITHIN 30 DAYS OF ITS OCCURRENCE, YOU WILL HAVE UP TO 180 DAYS FROM THE DATE OF PURCHASE TO CANCEL THIS CONTRACT. [44]

During this ten-business-day period after the signing of a land purchase contract, Horizon is forbidden to initiate any sales-related contact with the purchaser. Any such contact shall be grounds for rescission of the purchase contract and recovery of all payments thereunder at purchaser's option, exercisable any time before the expiration of 180 days from the date of purchase, but only if the customer notifies Horizon of the contact within thirty days after its occurrence. *Provided, however,* That it shall not be forbidden for a non-sales employee or representative of Horizon to contact a customer by telephone to ascertain if the property report was

delivered, and to check the accuracy of the information on the contract.

*Provided*, That where Horizon as a matter of corporate practice or pursuant to any legal requirement provides a cancellation period exceeding ten business days, the highest applicable specific number of days greater than ten shall be substituted for "ten" or "tenth" wherever those words appear in the Notice of Cancellation set forth above. This requirement shall apply to Sections VI. C. and VI. D. of this Order as well as to this Section VI. B. [45]

C. Print the following in 12 point bold face type as a separate paragraph of the contract immediately preceding the space provided for the purchaser's signature:

YOU HAVE TEN BUSINESS DAYS IN WHICH TO RECONSIDER YOUR DECISION AND TO CANCEL THIS CONTRACT WITH FULL REFUND. HOWEVER, WE RECOMMEND THAT BEFORE SIGNING YOU EXAMINE CAREFULLY THIS CONTRACT AND THE PROPERTY REPORT AND HAVE THEM REVIEWED BY A LAWYER OR OTHER QUALIFIED PROFESSIONAL.

*Provided, however*, That in the event that any federal or state law or regulation requires that another statement immediately precede the space provided for the purchaser's signature, the above statement may precede such statements(s).

D. Furnish each purchaser, at the time the purchaser signs a contract for the sale of land, with two copies of a form, captioned in 12 point bold face type " NOTICE OF RIGHT OF CANCELLATION, " which shall contain in 10 point bold face type the following information and statements: [46]

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Date of Transaction

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Lot Identification

#### NOTICE OF RIGHT OF CANCELLATION

You may cancel this transaction without any penalty or obligation at any time prior to midnight of the tenth business day after the date shown on the contract. Use this time to examine with care this contract and property report. We suggest that you also use this time to have this contract and the property report reviewed by a lawyer or other qualified professional.

No sales representative should contact you on behalf of the seller during this ten business day period. If a sales representative contacts you, and you notify us of the

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contact within 30 days of its occurrence, you will have up to 180 days from the date of purchase to cancel this contract.

If you cancel, any payments made by you under the contract will be returned promptly to you.

To cancel this contract, notify us not later than midnight of \_\_\_\_ that you want to cancel. Although you may notify us in any manner you choose, we recommend that you notify us by mailing a signed copy of this notice to (name of respondent) at (address). [47]

I (we) hereby cancel this contract. (Each buyer must sign this notice).

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Date

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Signature of Buyer

Respondent shall, before furnishing copies of this "Notice of Right of Cancellation" to the purchaser, complete both copies by entering the name of respondent, the address of the respondent's place of business, the date of the transaction, and lot identification(s), and the date, not earlier than the tenth business day following the date of the signing by the purchaser, by which the purchaser may give notice of cancellation.

Respondent shall, where the signature of a purchaser is solicited during the course of a sales presentation, inform each purchaser orally, at the time the purchaser signs the contract, of the right to cancel as stated in this Paragraph of this Order.

E. Honor any signed and timely notice of cancellation by the purchaser, or its functional equivalent, and promptly after the receipt of such notice, (a) refund all payments made under the contract and (b) cancel and return any contract or other legal document executed by the purchaser. [48]

Whenever a timely notice of cancellation or its functional equivalent is received and said notice is not sufficient or proper in any manner, and respondent does not intend to honor the notice, respondent shall immediately notify the purchaser by certified mail, return receipt requested, enclosing the notice, informing the purchaser of the error and stating clearly and conspicuously that a proper notice signed by the purchaser must be mailed by midnight of the fifth business day following the purchaser's receipt of the mailing, if the purchaser is to obtain a refund.

F. Whenever respondent extends a privilege or other right

whereby the purchaser may exchange undeveloped land for a building lot:

1. Include in all materials, including the contract, which discuss the privilege or right, or if such privilege or right is described orally, include in such oral discussion, and in a concurrently delivered written notice, the following statement: BUILDING EXCHANGE LOTS EQUAL IN SIZE AND COST TO THE LOT YOU ARE PURCHASING MAY BE LOCATED SUBSTANTIAL DISTANCES FROM THE ESTABLISHED DEVELOPED AREAS. THEY MAY HAVE LESS DESIRABLE ROADS, UTILITIES AND APPEARANCE. THEREFORE, YOU MAY WISH TO EXCHANGE FOR OTHER BUILDING LOTS THAN THE SELLER MAY OFFER. THESE OTHER LOTS MAY BE SMALLER IN SIZE AND MAY REQUIRE YOU TO PAY MORE MONEY THAN YOU ARE NOW CONTRACTING TO PAY.

2. State the specific financial terms or formula for exchange of the purchaser's equity in the original [ 49]lot into the building lot, in the same place and manner as the statement in subparagraph 1 above.

3. Include in all contracts for the sale of land a provision extending the contractual rights and privileges of the purchaser to all subsequent buyers and assignees of that land.

G. Whenever respondent sells property sight unseen it shall extend a refund privilege conditioned upon the purchaser making a personal visit to the property within 180 days after purchase and notifying respondent within ten business days after inspection that a refund is desired. Respondent shall:

1. Provide the purchaser with a copy of the following "INSPECTION AND REFUND PRIVILEGE NOTICE " at the time the contract is signed. The notice shall be on a separate sheet of paper containing no other writing. The notice shall be worded as follows:

#### INSPECTION AND REFUND PRIVILEGE NOTICE

Personal inspection of any land purchased is desirable. We recommend that you visit your property. If you visit your property within the next 180 days, you can cancel your contract for any reason within 10 days after your visit and get a full refund. [50]

If you decide to inspect your land under the terms of the refund privilege, during the visit the seller may encourage you to keep your land. The seller may also try to sell you more land, or have you trade for a more expensive lot.

You should take time during your inspection to visit the local area and examine the real estate market where the lot is located.

If you cancel this purchase, the seller will not reimburse you for your travel expenses.

This inspection and refund privilege is in addition to and does not take away your

right to cancel within ten business days after you sign your contract. See your contract.

2. Provide the purchaser ten business days after making the personal inspection within which to request a refund.

3. Include in every contract, in immediate proximity to the provision setting forth the availability of this refund, the following statement: YOU HAVE UNTIL [51]MIDNIGHT OF THE TENTH BUSINESS DAY AFTER THE CONCLUSION OF YOUR IN PERSON INSPECTION IN WHICH TO NOTIFY THE SELLER OF A DECISION TO CANCEL. NO REPRESENTATIVE OF THE SELLER SHOULD CONTACT YOU IN ANY WAY DURING THIS TEN BUSINESS DAY PERIOD. IF A SALES REPRESENTATIVE CONTACTS YOU AND YOU NOTIFY US OF THE CONTACT WITHIN TEN DAYS OF ITS OCCURRENCE, YOU WILL HAVE 30 DAYS FROM THE DATE OF YOUR VISIT TO CANCEL THIS CONTRACT.

4. Insure that every purchaser who seeks to view his or her lot can see and identify the particular lot specified in the contract; *provided, however*, that so long as the lot can be located by a stake at one corner or other definite landmark, it is not necessary that all four corners be marked.

5. Orally inform the purchaser of the post-visit ten-business-day cancellation right (i) at the time the contract is signed, unless the sale is entirely completed through the mail, and (ii) at the conclusion of the inspection visit.

6. Furnish each purchaser at the conclusion of the inspection visit with a dated and completed form, in duplicate, captioned "NOTICE OF CANCELLATION AFTER INSPECTION " which shall contain in bold face type of a minimum size of 10 point, the following statement: [ 52]

NOTICE OF CANCELLATION AFTER INSPECTION

DATE OF CONCLUSION OF INSPECTION TOUR

OF PROPERTY: \_\_\_\_\_

LOT IDENTIFICATION: \_\_\_\_\_

NAME OF CUSTOMER: \_\_\_\_\_

You may cancel your contract without any penalty or obligation at any time prior to midnight of the tenth business day after the above date. No sales representative of the seller should contact you in any way during this ten business day period. If a sales representative contacts you and you notify us of the contact within 10 days of its occurrence, you will have 30 days from the date of your visit to cancel the contract.

If you cancel, we will promptly send you a full refund.

To cancel your contract, mail or deliver a signed copy of this cancellation notice or any other written notice, or send a telegram to (name of respondent), at (address of

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respondent's place of business), postmarked not later than midnight—of  
\_\_\_\_\_. [53]

I (we) hereby cancel the above described contract. (each buyer must sign this notice).

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Buyer's signature

7. Before furnishing a purchaser copies of the "Notice of Cancellation After Inspection" set forth in paragraph VI. G. 6. above, complete both copies by entering the name of the respondent and the address of its place of business, the conclusion date of the inspection of the property, the name of the customer, and the date, not earlier than the tenth business day following the conclusion of the inspection, by which the purchaser may cancel the purchase.

8. During the post-inspection cancellation period, Horizon is forbidden to initiate any sales related contact with the purchaser. Any such initiation of contact shall be grounds for rescission of the purchase contract and recovery of all payments thereunder at purchaser's option, exercisable any time before the expiration of thirty days from the date of the conclusion of the visit, but only if the customer notifies Horizon of the contact within ten days of its occurrence. [54]

9. Investigate any notification received from purchasers of contact violating the provision of Paragraphs VI. G. 8. above, and comply with the requirements of Section X, Paragraphs F and G herein.

10. Honor any signed and timely Notice of Cancellation After Inspection or its functional equipment submitted by a purchaser, and promptly after the receipt of such Notice (a) refund all payments made under the contract, and (b) cancel and return any contract or other legal document executed by the purchaser.

11. Where a timely Notice of Cancellation After Inspection or its functional equivalent is received purportedly in accordance with the requirements of this section, but where said notice is not sufficient or proper in some manner and respondent does not intend to honor the notice immediately notify the purchaser by certified mail, return receipt requested, enclosing the notice, informing the purchaser of the error and stating clearly and conspicuously that a proper notice signed by the purchaser must be mailed by midnight of the fifth day

following the purchaser's receipt of the mailing if the purchaser is to obtain a refund. [55]

H. Include in all contracts for the sale of land a provision limiting the amount of moneys to be forfeited by a purchaser in the event of the purchaser's default under the contract to an amount not greater than respondent's actual damages from such forfeiture, such provision to include the definition of "actual damages" set forth in Section VI. I. below.

I. Refund to customers who purchase after the effective date of this order and who are deemed in default, all moneys paid under the contract, including but not limited to principal, interest, taxes, and assessments which in the aggregate exceed respondent's "actual damages", as that term is defined below, within 60 days after the purchaser is deemed to have defaulted; *provided*, that this paragraph shall not preclude respondent from offering a defaulting purchaser additional alternatives which may be selected at the purchaser's option, in lieu of a refund. For purposes of this section of the Order, a purchaser shall be deemed to have defaulted when either of the following occurs:

1. purchaser notifies respondent of intent to default; or
2. purchaser has failed to make a payment for a period of six months from the due date of such payment. [56]

"Actual damages" upon a buyer's default shall be limited to respondent's actual out-of-pocket costs for commissions and overrides paid out to sales personnel and not recovered from them in connection with the cancellation of an account or contract to buy property from respondent as a result of the buyer's default, *provided*, that the amount of the actual damages may not exceed 15 percent of the cash price of the property, as "cash price" is defined in the Truth-In-Lending Act's implementing Regulation Z (12 CFR 226.2(n)).

J. Forbear from using or enforcing in any manner, or representing that respondent will rely upon or enforce in any manner, against any purchaser, a contract clause which provides that the respondent may retain all sums previously paid by the purchaser in the event that the purchaser fails to pay any installment due or otherwise to perform any obligation under the contract.

K. Not misrepresent, nor solicit or obtain the purchaser's assent to or otherwise impose any condition, waiver or limitation upon, the right of a purchaser to cancel a transaction or receive a refund under any provision of this Order or any applicable statute or regulation. [57]

## VII

*It is further ordered,* That respondent shall establish the Horizon Corporation Trust Fund for the benefit of past purchasers of lots from respondent on the following basis:

1. The trust fund will be established not later than fifteen (15) days following the date this Order is issued by the Commission in final form.

2. The trustee shall be a national bank mutually agreeable to respondent and the Commission, pursuant to a trust agreement also mutually agreeable to respondent and the Commission.

3. Not later than thirty (30) days following the date this Order is issued in final form respondent shall issue a debenture payable to the "Horizon Corporation Trust Fund," and deliver it to the trustee.

4. The debenture will be a six (6) year noninterest bearing debenture in the principal amount of \$14.5 million, payable in six equal installments with the first such installment being due on June 1, 1982, and subsequent installments being due on each June 1 thereafter to and including June 1, 1987. [58]

Payments into the trust fund shall be due and payable on the dates specified in this paragraph. The trustee shall receive each of the payments specified in this Order no later than seven days after it is due and payable. Respondent shall be in violation of the terms of this Order if it fails to make any of the payments specified in this agreement within the period ending seven days after such payment is due and payable. Interest payments required by Paragraph VII (8) of this Order shall continue to apply to any delay in payment beyond the date when it is due and payable. Such interest payments shall be required regardless of any allegation of a violation of this Order as described in this paragraph. [59]

5. The trustee shall maintain the corpus of the trust fund in general obligations of or obligations guaranteed by the United States Government or an agency of the United States Government. All interest earned during the pendency of the trust fund shall be added to the corpus of the trust fund.

6. The trustee shall make the books and records of the trust fund available to the Federal Trade Commission or a representative thereof for inspection and copying during normal business hours at any time(s) until sixty (60) days following the final disposal of the trust fund residue. The trustee and respondent shall be given twenty-four (24) hours advance notice of any inspection of the trust fund books and records by the Commission. The trustee shall provide

an annual report in the nature of an accounting of the trust fund to the Commission.

7. No costs associated with the establishment, administration or distribution of the trust fund shall be paid out of the principal or interest of the fund, except as provided in paragraph 18 if there is a third distribution of funds. [60]

8. If any of the six annual payments into the trust fund shall not be made on the date any such payment is due, Horizon shall pay interest on the principal amount then due and owing at a rate which is two percent (2%) above the prime interest rate at Citibank, New York, at the close of business on the date the payment is due or the first business day thereafter.

9. Within thirty (30) days following the third payment into the trust fund, the trustee shall distribute substantially all of the money then in the trust fund to the persons eligible for payments from the fund as determined herein.

10. Within thirty (30) days following the final payment into the trust fund, the trustee shall distribute all of the money in the trust fund to the persons eligible for payments from the fund as determined herein.

11. The persons eligible for payment from the trust fund shall be those who meet the criteria listed on Exhibit A attached hereto.

12. Purchasers eligible for payment from the trust fund shall be mailed a copy of the letter attached hereto as Exhibit B within 180 days from the date this Order is issued in final form by the Commission. [61]

13. Any person eligible for payment from the trust fund who cannot be located by respondent shall forfeit his or her right to receive the notification in Exhibit B and the two payments from the trust fund. Respondent shall exercise good faith efforts reasonably calculated to locate all persons eligible for payments from the trust fund. Such efforts shall include:

(a) Mailing the notification to the most current address as disclosed in respondent's records or on the county tax rolls, if such tax rolls are reasonably available from the county in which the person's land is located.

(b) Confirming addresses with the appropriate improvement association, if any.

(c) If necessary, mailing a second notification letter with an address correction requested from the Post Office.

(d) Telephoning any person whose mailing address cannot be discovered through the above methods. Respondent shall, to the

extent necessary, telephone the last known home and business telephone number of the person, and seek information from directory assistance at the person's last known address. [62]

If the above efforts are unavailing, the person shall be removed from the list of eligible persons; *provided, however*, that the person shall be reinstated if respondent or the trustee should be informed of his or her current mailing address not less than thirty (30) days prior to either of the disbursements from the trust fund. If such person is reinstated as eligible for a payment from the trust fund after the initial disbursement from the fund, his or her right to a payment shall be limited to his or her proportionate share of the second distribution.

14. Persons eligible for a payment from the trust fund will be informed in the notification letter that they must inform respondent of all address changes until the final distribution of the fund. A form for such notification, attached hereto as Exhibit D, will be provided to each eligible person for this purpose. Respondent will inform the trustee of all such address changes not less than thirty (30) days prior to each distribution from the trust fund. If any person's payment check is returned by the Post Office as being undeliverable because of incorrect address, and if the person failed to inform respondent of a change of address which has occurred, such person will forfeit any right to a share of the distribution. [63]

15. Respondent may, at its sole discretion, require each eligible person to sign a waiver of claims in the form attached hereto as Exhibit C as a condition precedent to receiving payment from the trust fund.

16. Persons eligible for refunds will not be required to reconvey property to respondent to qualify for payment from the trust fund.

17. Each eligible person will receive a pro rata share of the trust fund distribution to which he or she is entitled, to be determined on the basis of the ratio of his or her payments of principal to respondent to the total of all such payments from June 1, 1969 to the date of each distribution by all persons eligible for payments from the trust fund. Payment will be made by check drawn on the trust fund and mailed to eligible persons by first class mail.

18. The trustee will be instructed to make all reasonable efforts to distribute the entire trust fund. Any residue in the fund resulting from interest earned after checks are mailed to eligible persons or from checks not cashed for a period of six (6) months after distribution or other causes will be donated in equal shares to the Horizon Communities Improvement Association, [64]Inc., the Horizon Communities Improvement Association of New Mexico, Inc., the

Tierra Grande Improvement Association, Inc., and the Waterwood Improvement Association, Inc. *Provided, however,* That if the residue exceeds \$250,000 the trustee may redistribute the residue to those purchasers who cashed the second distribution check. All expenses of such redistribution shall be paid from the residue of the trust fund, and no such distribution shall be made unless the expenses of the distribution are not more than 25 percent of the trust fund residue. Any residue remaining after the third distribution shall be distributed to the improvement associations as provided above. [65]

### VIII

*It is further ordered,* That respondent shall assure that it and other entities will spend not less than \$45 million for improvements in the properties within the twenty years following the date this Order becomes final. Such expenditures may be made for improvements in Rio Communities, Horizon City, Arizona Sunsites, Waterwood, and/or Paradise Hills. The improvements may include roads, utilities, hotels, residential apartments, commercial facilities, recreational facilities, churches, civic buildings, or any other improvements or facilities, except that expenditures for construction of single family residences shall not be included in the computation of the \$45 million. To qualify under this provision, the improvements must be located within the confines of the properties listed above. The only exception to this locational requirement is that expenditures to construct utility plants and transmission or pipe lines predominantly to serve a Horizon property shall be included, notwithstanding that the plant and the transmission or pipe lines may not be located within one of the five properties enumerated above. [66] The expenditure of funds required by this paragraph shall be made according to the following schedule:

\$11.25 million shall be spent within 7 years of the effective date of this Order; \$22.5 million shall be spent within 10 years of the effective date of this Order; \$33.75 million shall be spent within 15 years of the effective date of this Order; \$45 million shall be spent within 20 years of the effective date of this Order.

### IX

*It is further ordered,* That not more than one officer or employee of respondent shall at any one time serve on the boards of directors of each of the following: Horizon Communities Improvement Association, Inc., the Horizon Communities Improvement Association of

New Mexico, Inc., the Tierra Grande Improvement Association, Inc. and the Waterwood Improvement Association, Inc. [67]

## X

*It is further ordered*, That respondent, Horizon Corporation shall:

A. Deliver, by certified mail or in person, a copy of this Order to all of its present and future sales representatives and other employees, independent brokers, advertising agencies, and others who sell or promote the sale of respondent's land;

B. Provide each person so described in Paragraph A above with a form to be returned to respondent, clearly stating each person's intention to conform his or her business practices to the requirements of this Order.

C. Inform each person described in Paragraph A above that respondent shall not use the services of any such person, unless such person agrees to and does file a notice with respondent that he or she will conform his or her business practices to the requirements of this Order;

D. In the event such person will not agree to so file notice with the respondent and to conform his or her business practices to the requirements of this Order, respondent shall not use the services of such person; [ 68]

E. Inform the persons described in Paragraph A above that respondent is obligated by this Order to discontinue dealing with those persons who engage on their own in the acts or practices prohibited by this Order or who fail to adhere to the affirmative requirements of the Order;

F. Institute a reasonable program of continuing surveillance to reveal whether the sales practices of each of said persons described in Paragraph A above conform to the requirements of this Order, and promptly investigate and make good faith efforts to resolve any complaints about such persons received by respondent, and maintain records of any such complaint, investigation and disposition for five years from the date of the disposition of the complaint;

G. Discontinue dealing with any person described in Paragraph A above revealed by the aforesaid program of surveillance, who more than once engages on his or her own in the acts or practices prohibited by this Order; *provided, however*, that in the event remedial action is taken, the sole fact of such dismissal or termination shall not be admissible against respondent in any proceeding brought to recover penalties for alleged violations of any paragraph of this Order. [69]

## Exhibit A

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## XI

*It is further ordered,* That respondent notify the Commission at least 30 days prior to any proposed change in the corporate respondent, such as dissolution, assignment, reorganization or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or other change in the corporation which may affect compliance obligations arising out of this Order. [70]

## XII

*It is further ordered,* That respondent shall forthwith distribute a copy of this Order to each of its subsidiaries. [71]

## XIII

*It is further ordered,* That respondent shall within sixty (60) days after the service upon it of this Order, and annually thereafter until sixty (60) days after the final disbursement of funds in the trust funds established in part VII. herein, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order. [72]

## XIV

The relief set forth in this Order fully satisfies any claim for consumer redress which the Commission may have under Sections 5 and 19 of the Federal Trade Commission Act arising out of the acts and practices alleged in the complaint in this matter.

## EXHIBIT A

To be eligible for a partial refund from Horizon Corporation, a person must meet all of the following criteria:

1. The person must have contracted to purchase a lot from Horizon Corporation at any time from June 1, 1969 to August 31, 1974.
2. The purchaser must either:
  - (a) have completed paying for the lot; or
  - (b) be current in making payments to Horizon when the trustee distributes the partial refunds; or
  - (c) have defaulted on his or her contract after paying 75% or more of the purchase price.

3. The lot purchaser must not have received prior relief of any of the following types from Horizon:

(a) Relief amounting to at least 25% of the cash price of the lot from (i) a refund, (ii) a judgment in a lawsuit, or (iii) a reduction in the price of the lot; or

(b) an exchange of the lot initially purchased for a lot developed with a road and utilities; or

(c) an exchange of the original lot for a lot in Paradise Hills pursuant to the filing of a claim in the settlement of the class action entitled *O'Neil v. Horizon Corp.*, No. Civ. 75-133 (D. Ariz. 1975).

4. No refunds will be given for any purchase prior to June 1, 1969. If as a result of an exchange or a subsequent purchase after June 1, 1969 the purchaser's contract is increased, a refund will be given based only on the increase in the contract price.

## EXHIBIT B

IMPORTANT: We owe you a partial refund.

Dear Customer:

We are sending this letter to you under an order issued by the Federal Trade Commission.

In 1975, the Federal Trade Commission filed a complaint against Horizon Corporation concerning its past sales practices. As part of the resolution of this complaint, Horizon will refund to you a portion of the purchase price of the land you purchased from us. Horizon also will spend or cause to be spent \$45 million for development in its properties over the next twenty (20) years, and will refrain from certain sales practices in the future.

The following questions and answers explain how much money you are entitled to receive, the options you have, and some important information about your land.

*Who is entitled to a refund?*

Refunds will be made to all customers of Horizon who satisfy the following conditions:

1. You must have purchased a lot from Horizon Corporation at any time from June 1, 1969 to August 31, 1974. If your purchase during this time period was an exchange of a lot purchased prior to June 1, 1969, your partial refund will be based only on the increased contract price.

2. You must have completed paying for your lot *or* be current in your payments to Horizon when the trustee distributes the refunds *or* have defaulted on your contract after paying 75% or more of the cash price. (The cash price is the price of the lot excluding interest.)

3. You will not receive a partial refund if you have already received a reduction in the cash price of your lot of 25% or more, a refund of 25% or more of the cash price of your lot, an exchange for a lot developed with a road and utilities, or an exchange for a lot in Paradise Hills as part of the settlement of the class action suit entitled *O'Neil v. Horizon Corporation*.

Our records show that you are entitled to a refund.

*How much money will be refunded?*

Horizon will pay \$14.5 million into a trust fund over the next six years. This money, plus the interest earned on it, will be distributed to the eligible customers in two (2) payments. We estimate that each customer will receive about 12% of the cash price of the lot(s) purchased. Of course, your refund may be more or less than that amount depending on such factors as the number of customers seeking refunds.

*When will I receive my refund?*

You will receive part of your refund in July 1984. The rest will be paid in July 1987.

*What do I have to do to receive my refund?*

You must sign the attached notice and return it to Horizon in the self-addressed envelope within ninety (90) days. **IMPORTANT** - by signing this notice you give up any right you may have to sue Horizon for all claims of any kind arising from the transaction for your purchase of land, that is, the manner in which the land was marketed, the purchase contract and the circumstances in which the contract was signed. If you have questions, we suggest you consult a lawyer before you sign this.

*You must also keep us informed of any changes in your address. This is important.* If we cannot find you when we mail out the refund checks, you will lose your right to a refund. An address change form is enclosed in this letter for your convenience. You do not have to use this form so long as you tell us either in person or by mail each time you move.

*What should I do if I do not receive my checks?*

If you have not received your first check by August 1, 1984 or have not received your second check by August 1, 1987 you should write to us as soon as possible.

*Do I have to give back my land?*

No. You do not have to give back the land to receive this refund.

*What are the plans for developing my lot?*

The lot you have purchased is completely undeveloped. Unless your lot is located in Waterwood, Horizon has no plans to develop your lot. If your lot is in Waterwood, consult your contract. In properties other than Whispering Ranch your lot is or will be accessible by a road, paved in Waterwood and unpaved in the other properties. It may or may not be possible to develop your lot or extend utility lines to it. Your contract may give you the right to exchange your lot for a fully developed lot. An exchange will cost you more money. If you have questions, please refer to your contract or write to Horizon Corporation.

*What are Horizon's plans for development?*

Horizon will spend, or will assure that others spend, at least \$45 million in development over the next twenty years. This money will be spent for roads, utilities, stores, apartment houses, recreational facilities, civic buildings, or other improvements within the properties. The money will not be used to improve your lot. The improvements may or may not directly benefit you or your lot.

*Can I resell my lot?*

There is virtually no resale market at the present time for lots which have not been developed with utilities. It is unlikely that you could resell your lot at the present time. There is no certainty that prospects for resale will improve in the future. The

growth of nearby cities may not make resale of your lot any easier. Horizon is not obligated to buy back your lot or help you resell it.

*What efforts will Horizon make to reduce my property taxes?*

Horizon does not have direct control over the amount of your property taxes. However, Horizon filed suit in El Paso County to reduce property taxes on land in Horizon City. As a result of this suit, property taxes for many lots in Horizon City declined from about \$14.00 per year to \$8.00 per year. Similar efforts are now underway concerning Rio Communities.

*What options do I have?*

You have three options with respect to your lot.

1. You may accept our refund offer and keep your land. You may also accept our refund offer and exchange your land if your contract permits an exchange. If you have not fully paid for your property, you will have to continue making your payments in order to keep your land or exchange it. See your contract for a full explanation of the exchange privilege that applies to your land.

2. You can refuse to make any further payments that are due under your contract.

If you refuse to make further payments *after* you have already paid 75% or more of the cash price, you will be eligible for the refund described above. If you stop paying *before* you have paid 75% of the cash price, you will *not* be eligible for the refund described above. (Only payments of principal count toward the 75%.)

In either case, you will lose your land and all the payments you have made.

3. Instead of accepting the refund described above, you may seek redress for any injury you believe Horizon has caused you. If you were a member of the class in the *O'Neil* suit or have previously accepted relief from Horizon, you may not be able to choose this option. We recommend that you consult an attorney before you choose this option.

*If I have other questions, whom should I contact?*

If you have questions about this offer, please write to us at the following address:

Refund Offer  
Horizon Corporation  
Post Office Box 27324  
Tucson, Arizona 85726

We will answer your questions promptly.

We recommend that you keep this letter for future reference.

Sincerely,

Donald C. White  
President  
Horizon Corporation