

DENHAM LAW FIRM, PLLC

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JAMES W. BACKSTROM
1942 - 2006

BOBBY G. O'BARR, SR.
1932 - 2006

THELMA S. ZINNER
1922 - 2001

December 15, 2009

H. Scot Spragins, Esquire
Hickman, Goza & Spragins, PLLC
Post Office Box 668
Oxford, MS 38655-0068

Re: Hurricane Katrina (State Farm) BAD FAITH CLAIM
Henry Kuehn and June P. Kuehn v.
State Farm Fire and Casualty Company
Civil Action Number: 1:08cv577-LTS-RHW
1305 Cove Place
Ocean Springs, MS
Policy Number: 24-BN-1533-4
Policy Form: FP-7955
Claim Number: 24-Z208-456
Date of Loss: August 29, 2005
Our File No. 10618-001

Dear Scot:

Thank you for your letter of December 14, 2009. You refer to my recent correspondence, but my correspondence, unanswered up until now, can hardly be categorized as recent, having gone out to State Farm's attorney on October 27, 2009, and October 28, 2009. The letters, which you have seen, are attached. Your presumption that we have never responded to the City's inquiries and ignored the threat is undoubtedly created by State Farm's expectation that we would react to the City in the same fashion as State Farm has reacted to the Kuehns' request for help. Nothing could be further from the truth, and the City has certainly not been ignored but rather engaged by us. Had we waited on this check, the house would have been destroyed already. As it is, with the fees and expenses having to come out of the check because of State Farm's failure to pay without extensive litigation and because of deterioration caused by the extreme passing of time, it appears we may have to give in to the City and allow the demolition.

Still, thank you for the check, though it is a shame that it has taken so long for State Farm to wake up. It is accepted only because State Farm will not seek reimbursement for these sums

H. Scot Spragins, Esquire
RE: Kuehn v. State Farm
December 15, 2009
Page 2

which they have owed my clients for years and because this does not impact our quest for justice. We will proceed to collect our clients' damages.

If it occurs to you and to State Farm to do the right thing by the Kuehns, instead of the strategic thing, which you have attempted through this cynical, tardy tender, then why don't you engage in meaningful and realistic negotiations to settle my clients' damages instead of continuing at the Kuehns' expense in trying to redirect the law of appraisal in Mississippi? We stand ready, as we have always been, to engage you in good faith.

Sincerely,
DENHAM LAW FIRM, PLLC



EARL L. DENHAM

ELD/tlf

cc: Henry Kuehn
June P. Kuehn

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VIA FACSIMILE (228) 769-6392

October 27, 2009

John A. Banahan, Esquire
Bryan, Nelson, Schroeder, Castigliola & Banahan
Post Office Drawer 1529
Pascagoula, MS 39568-1529

Re: Henry Kuehn and June P. Kuehn v.
State Farm Fire and Casualty Company
Civil Action Number: 1:08cv577-LTS-RHW
Our File No. 10618-001

Dear John:

Please be advised my clients received a letter from the City of Ocean Springs notifying them that the City will be cleaning off their lot. See the attached letter dated October 20, 2009. My clients are powerless to keep their home from being destroyed because State Farm will not pay them, and State Farm is now on notice of this problem.

We demand that State Farm forward forthwith the amount of the appraised loss as determined by the appraisers and umpire without condition so that the Kuehns will not entirely lose their home.

Sincerely,
DENHAM LAW FIRM, PLLC


EARL L. DENHAM

ELD/kdk

Enclosure

cc: Henry and June Kuehn



P.O. Box 1800
 Ocean Springs, MS
 39566-1800

1016 Porter Avenue
 Ocean Springs, MS 39564

PH: 228-875-3246
 FX: 228-875-9571

Connie Moran
 Mayor

Troy Ross
 Alderman, At Large

John Gill
 Alderman, Ward 1

Man McDonald
 Alderman, Ward 2

Chris Coey
 Alderman, Ward 3

Greg Danver
 Alderman, Ward 4

Jerry Daigo
 Alderman, Ward 5

James Hagan
 Alderman, Ward 6

City Clerk
 228-872-4438

Police Chief
 228-872-2211

Fire Chief
 228-872-1167

Public Works
 228-875-3355

**Community
 Development and
 Planning**
 228-875-2115

**Human Resources
 and Staff Management**
 228-875-3438

**Public and
 Utility Services**
 228-875-3065

To: Henry and June Kuehn
 3208 North Third Street
 Ocean Springs, MS 39553

Re: Condition of property at: 1305 Cove, Ocean Springs, MS 39564

Date: Tuesday, October 20, 2009

Dear , Mr. & Mrs. Kuehn

The Mayor and Board of Aldermen have determined that all Katrina damaged properties that were developed prior to Katrina, must be maintained. This includes periodic mowing to insure that the property does not harbor pests and become a nuisance to the neighborhood. Also the property may not be left in a state of disrepair. Arrangements need to be made to repair or remove the abandoned structure.

Since we have received no response, the City will proceed with the lot cleaning process. You will be notified of the hearing date.

Sincerely,

Terry Agar
Terry Agar, CFM
 Building Official/Floodplain Manager
 City of Ocean Springs, MS 39564
 tagar@oceansprings-ms.gov
 228-872-4940

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carl@denhamlaw.com

VIA FACSIMILE (228) 769-6392

October 28, 2009

John A. Banahan, Esq.
Bryan, Nelson, Schroeder, Castigliola & Banahan
Post Office Drawer 1529
Pascagoula, MS 39568-1529

Re: Henry Kuehn and June P. Kuehn v.
State Farm Fire and Casualty Company
Civil Action Number: 1:08cv577-LTS-REW
Policy Number: 24-BN-1533-4
Claim Number: 24-Z208-456
Date of Loss: August 29, 2005
Our File No. 10618-001

Dear John:

My clients received a notice from the City of Ocean Springs notifying them that they must demolish and remove their home and level the lot by November 17, 2009, or the City will do it for them and assess the cost of clean up and may level penalties. A copy of the City of Ocean Springs notice is attached.

In light of these events, we must again demand that State Farm forward forthwith the amount of the appraised loss as determined by the appraisers and umpire without condition so that my clients will not incur the additional costs of clean up and penalties on top of the total loss of their home.

Sincerely,
DENHAM LAW FIRM, PLLC


EARL L. DENHAM

ELD/kdk

cc: Henry and June Kuehn

1699

P.O. Box 1900
Ocean Springs, MS
39566-1900

1018 Porter Avenue
Ocean Springs, MS 39566

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Connie Moran
Mayor

Julia Weaver
At-Large

John Gill
At-Large

Mark McDonnell
At-Large

Gurtis Floyd
At-Large

Greg Deryn
At-Large

Jerry Dingo
At-Large

James Hagan
At-Large

City Clerk
228-875-4246

Public Works
228-875-4247

Fire Dept.
228-875-4248

Police Dept.
228-875-4249

Community
Development and
Planning
228-875-4250

Human Resources
228-875-4251

Finance
228-875-4252

**Notice of Property Cleaning
Pursuant to
Miss. Code 21-19-11**



Property Owner Henry & June Kuehn
Mailing Address 3208 North Third Street
Property Address 1305 Cove
Date of Notice: 10/19/2009 – by mail, notice by publication, & by posting on property.

Date of Public Hearing November 17, 2009
At City Hall, 1018 Porter Avenue, Ocean Springs, MS - 6:00 P.M.

On or about the Date of First Inspection, the City of Ocean Springs Code Enforcement Unit noted the property located on the above address to be in such a state of uncleanliness so as to be a menace to public health and safety of the Citizens of Ocean Springs.

The following items must be brought into compliance prior to the hearing date provided above:

- 1) Storm damaged home must be demolished and removed.
- 2) Lot must be leveled after demolition, and overgrown condition of lot must be remedied and maintained at regular intervals.

Should you not comply, please be aware the City of Ocean Springs, upon such finding at the hearing, may proceed to clean the property itself or by contract. The City may then adjudicate by resolution the actual cost of cleaning the property and may add a penalty of \$1, 500.00 or 50% of the cost of clean up, whichever is more.

The cost can be collected as a civil debt or enrolled as a lien with the circuit clerk and the land sold as if for delinquent taxes.

**This is a serious matter that demands your immediate attention.
Please contact this office as soon as possible with details about your
actions to remedy the above issues.**

Contact Information:

Terry Agar, CFM
Building Official/Floodplain Manager
City of Ocean Springs, MS 39564
tagar@oceansprings-ms.gov
228-872-4940

♻️ Printed on Recycled Paper

www.OceanSprings-MS.gov

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO 0356
RECIPIENT ADDRESS 15#10618#001#7698392#
DESTINATION ID
ST. TIME 10/28 18:52
TIME USE 01'30
PAGES SENT 3
RESULT OK

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THELMA S. ZINNER
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DATE: October 28, 2009
DELIVER TO: John A. Banahan
FAX NUMBER: (228) 769-6392
FROM: Earl L. Denham
RE: Henry Kuehn and June P. Kuehn v.
State Farm Fire and Casualty Company
Civil Action Number: 1:08cv577-LTS-RHW
Policy Number: 24-BN-1533-4
Claim Number: 24-Z208-456
Date of Loss: August 29, 2005
Our File No. 10618-001

NO. OF PAGES INCLUDING COVER SHEET: 3

PLEASE CALL (228) 875-1234 IF THERE IS A PROBLEM WITH THE RECEIPT OF THIS FACSIMILE OR YOU DO NOT RECEIVE THE ENTIRE TRANSMISSION.

MESSAGE: Please see attached letter and Notice from the City of Ocean Springs.