

Exhibit E –

Expert Report of John A. Fowler, P.E.

FOWLER ENGINEERS

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BUILDING INSPECTION AND FORENSIC ENGINEERING DIVISION

January 28, 2010

Brian Weinthal, Esq.
Gilbert LLP
1100 New York Avenue, NW, Suite 700
Washington, DC 20005
F(202) 772-1913

Dear Mr. Weinthal,

At your request, we have provided a report that we prepared regarding the Mucha Property at 2558 South Shore Drive, which is located less than 400 feet from the McIntosh house.

Our inspection of the Mucha house was done for the Muchas' benefit and was performed on February 22, 2006. The resulting report is attached for your reference.

As can be seen from my Special Inspection report of the Mucha house, we concluded that the structure of the Mucha house was destroyed by wind before the storm surge of Hurricane Katrina arrived. The Mucha house was subjected to these conditions during the landfall of Hurricane Katrina on August 29, 2005.

In our opinion, which we hold to a reasonable degree of engineering probability, the structure of the Mucha house was heavily damaged by wind before the storm surge arrived.

We encourage you to contact us with any additional questions that you might have.

Sincerely,

JAF 1/28/10

John A. Fowler, P.E.
President



DRAFT

SPECIAL INSPECTION

Report of:

Mucha Residence
2555 South Shore Drive
Biloxi, Mississippi 39532

Prepared Especially For:

Rob Myers, Esq.
Owen and Galloway
P.O. Drawer 420
Gulfport, Mississippi 39502

Project No. P2557

Date of Inspection: February 22, 2006

Engineer: John A. Fowler, P.E.

At your request a **limited** inspection of the above property was performed on February 22, 2006. The report that follows has been prepared based on that inspection. The primary purpose of the inspection and this report is to evaluate the structural condition and the condition of the roof of this house.

This inspection was performed by and report written by John A. Fowler, P.E. For your interest, a copy of Mr. Fowler's resume is attached.

Criterion - Fowler Engineers offers two types of residential inspections; the standard inspection and the comprehensive inspection. Essentially, the standard inspection relies on visual evidence available at the time of the inspection, while the comprehensive inspection relies on visual evidence plus analysis, invasive testing, and extended, on-site evaluation to reach its conclusions.

Based on discussions prior to our inspection, you have chosen the standard inspection. Our inspection and the report that follows were conducted in accordance with the standards for a standard inspection.

The opinions expressed in this report are based on generally accepted engineering standards. The opinions are also based upon available evidence including physical data collected at the property, analysis of weather conditions, photographs, statements of individuals, as well as the Engineer's experience training and knowledge.

Weather

On August 27, 2005, the National Hurricane Center issued a hurricane warning for the north central Gulf from Morgan City, Louisiana eastward to the Alabama/Florida border. The advisory cautioned that coastal storm surge flooding of 15 to 20 feet above normal tide levels, locally as high as 25 feet along with large and dangerous battering waves, could be expected near and to the east of where the center makes landfall. By 1000 CDT on August 28, 2005, Katrina was a Category 5 hurricane with wind speeds of 165 mph and pressure of 902 millibars. Hurricane force winds extended 105 miles outward from the center, and tropical storm force winds extended 230 miles. Coastal storm surge flooding was increased to 18 to 22 feet above normal tide levels, and locally as high as 28 feet.

At 0400 CDT on August 29, 2005, the center was 90 miles south, southeast of New Orleans approximately 120 miles south, southwest of Biloxi, MS. Winds near the center had dropped to 150 mph. NOAA Buoy 42040 located approximately 50 miles east of the mouth of the Mississippi River, approximately 75 miles south of Dauphin Island, Alabama and approximately 95 miles southeast of Biloxi reported wave heights of at least 46 feet

Katrina made landfall at approximately 0600 CDT on August 29, 2005, in Plaquemines Parish between Grand Isle and the mouth of the Mississippi River) approximately 95 miles west, southwest of Biloxi as a Category 4 hurricane. By 0800 CDT, maximum sustained winds were near 135 mph, with hurricane force winds extending outward up to 125 miles from the center and tropical storm force winds extending outward up to 230 miles. Pascagoula Mississippi approximately 25 miles east of Biloxi Civil Defense reported a wind gust to 118 mph.

Katrina made a second landfall by 1000 CDT on August 29, 2005, near the Louisiana/Mississippi border (approximately 45 miles west of Biloxi) with maximum sustained winds of 125 mph.

Rainfall amounts from Katrina were not the main impact of the storm. Rainfall data showed 6.0" near Three Rivers, MS in Jackson County (less than 15 miles north, northeast of Biloxi, MS). Observed precipitation by NOAA estimates that approximately 4"-6" of rainfall amounts were associated with Katrina near this house.

As Hurricane Katrina made the second landfall along the Louisiana/Mississippi border, the National Weather Service in Mobile, AL measured winds as high as 132 mph between 3000 and 4000 feet above ground level. It is estimated that 80% to 90% (approximately 104 to 119 mph) of the wind speed value reached the ground.

The purpose of this inspection and report is to evaluate the current condition of the **structural system** of this building and to determine what, if any, significant maintenance, repairs, and/or replacement to this system might be expected within the next few years.

This inspection report is limited to observations made from visual evidence. No destructive or invasive testing was performed. The report is not to be considered a guarantee of condition and no warranty is implied.

In addition to the structural inspection, an evaluation of the roof was also performed.

For your reference while reading the report that follows, the following definitions may be helpful:

- Average* - Average compares the item to what is typical for construction in the geographic area in which the inspection occurs. It also compares it to buildings of similar age and construction type. Since construction practices vary from region to region, average is intended to be region specific.
- Excellent* - Component or system is in "as new" condition, requiring no rehabilitation, and should perform in accordance with expected performance.
- Good* - Component or system is sound and performing its function, although it may show signs of normal wear and tear. Some minor rehabilitation work may be required.
- Fair* - Component or system falls into one or more of the following categories: a) Evidence of previous repairs not in compliance with commonly accepted standards, b) Workmanship not in compliance with commonly accepted standards, c) Component or system is obsolete, d) Component or system approaching end of expected performance. Repair or replacement is required to prevent further deterioration or to prolong expected life.
- Poor* - Component or system has either failed, or cannot be relied upon to continue performing its original function as a result of having exceeded its expected performance, excessive deferred maintenance, or state of disrepair. Present condition could con-

tribute or cause the deterioration of other adjoining elements or systems. Repair or replacement is required.

All ratings are determined by comparison to other buildings of similar age and construction type. Further, some details of workmanship and materials will be examined more closely in higher quality homes where such details of workmanship and materials typically become more relevant.

Attached are the actual inspection field notes which contain additional information. These should be considered part of the overall evaluation and report.

DESCRIPTION

This house was a three story residence with brick veneer on the exterior walls and an asphalt fiberglass shingle roof surfacing. As we understand it, the house was approximately 12 years old when it was destroyed by Hurricane Katrina on August 29, 2005.

In addition, there was an attached garage. This building was included in this evaluation.

For purposes of this report, the building is assumed to face north and South Shore Drive.

For purposes of this report, all directions (left, right, rear, etc.) are taken from the viewpoint of an observer standing in front of the building and facing it.

SITE, SOILS, SETTLEMENT

There was little left of what had been this house during our inspection. Only parts of the foundation, some 2 x 6 wood sills, and a few pieces of OSB exterior sheathing remained. Some brick veneer was present as well.

Much of the fill washed out from under the slab on grade part of the house during Hurricane Katrina, causing this slab to settle severely. This part of the slab is in poor condition.

It looked like the storm surge got approximately 3 ½ feet deep inside the house during Hurricane Katrina. Mr. Mucha's own eyewitness account of the storm indicates the storm surge got about 3 feet deep inside the neighbor's house.

STRUCTURE

This house was a wood frame house supported on structural fill, with block foundation walls.

We noticed from the condition of the 2 x 6 sills that many of the exterior wall studs for the house were fastened to the sills by being face nailed from below as the house was constructed. Two, 10d nails were used to secure each wall stud. There were also some hold down straps to make the house more resistant to high winds.

The construction of the wood framing for the garage was different than the house. In the garage, studs were toenailed in place with 10d nails, and there were no straps. This made the garage more susceptible to damage from the high winds of Hurricane Katrina.

The Homeowner, Mr. Mucha, talked to us by phone recently. He stated that he saw the garage blow apart before 9:00 AM on August 29, 2005. This garage landed in the street in front of the house. Later, when he looked at his house from the neighbor's house just a few feet away, he could see all the way through the house through the front windows, because the rear wall of the house was gone.

The sequence of events of the destruction of this house by wind makes sense in light of the weaker hold down capacity of structural connections that we observed for the garage. The garage normally would be a little stronger on a house such as this, due to its shape and size. The smaller garage, with its more wall area relative to inside area, would be expected to resist the wind better than the house. The lack of stronger nailing of the studs and lack of straps that would have held the garage together are the probably reason that the garage was completely destroyed before the house.

This house was not designed for winds greater than 100 mph. Building codes enforced in Biloxi, Mississippi 12 years ago did not require any more hurricane or wind resistant construction than was used on this house. Unfortunately, Hurricane Katrina with its 118 mph winds destroyed this house, overcoming the strength of the structural features that would have held it together during a normal windstorm, or even a lesser hurricane.

Evidence of wind damage to this house includes the following:

- Construction of garage stud walls with no straps and minimal nailing of the exterior sidewall studs to the sill below
- Construction of the house with better nailing than the garage and hurricane straps, but still not adequate for the over 100 mph winds of Hurricane Katrina
- Homeowner's eyewitness report about garage being blown apart before 9:00 AM and before the arrival of the storm surge on the property
- Many shingles were found approximately 150 to 200 feet to the northwest of the house where they were blown off the Mucha house during Hurricane Katrina. These shingles cannot float, and could only have gotten to this remote location by being blown there as they were blown off the roof of the Mucha's house. Shingles of this type will peel off a house at approximately 95 mph and higher winds. The fact that they were all found 150 to 200 feet to the northwest indicates that they blew off the Mucha's house during high winds, and before the house collapsed.

There is over 1,000 feet of unobstructed open marsh behind the house which leaves a very large unobstructed path with for wind to come across the marsh from the south and southeast during a storm and damage the house. This is probably the reason why the Mucha house was destroyed by wind and some of the neighbors' houses were not. The neighbors' houses did not have an unobstructed path between their house and Hurricane Katrina as the Mucha's did. With the Mucha's house standing for some period of time before it was totally destroyed during Hurricane Katrina, it shielded the other houses in the neighborhood. The other houses in the neighborhood are also at varying angles to one another and shield each other, but this is not the case with the Mucha's house.

Due to storm surge damage causing the structural fill to wash out from beneath the floor slab on the lowest level, this slab has settled downward and is in poor condition.

The rest of the foundation is in fair condition, and it may be possible that it can be reused. The block foundation walls are filled with reinforced concrete. This is probably why they have survived.

The recently released FEMA Hurricane Katrina Inundation Map No. MS-J22 indicates that the water probably got 2 to 3 deep at the site of this house during Hurricane Katrina. This agrees with the homeowner eyewitness account.

GENERAL

The following are a few additional comments that may be of interest to you regarding this home:

When the garage was destroyed, and the rear wall blown off the house, a large amount of rainwater would have entered the house and damaging drywall, paint, etc., and ruining carpets, furniture, floor and wall finishes, etc. This would have happened well before the arrival of the storm surge as noted above.

CONCLUSION

In our opinion, which we hold to a reasonable degree of engineering probability, the structure of this house was destroyed by wind before the storm surge arrived. There was substantial damage to the structure of this house before the storm surge arrived. Evidence of this damage includes many of the roof shingles having been blown off and found 150 to 200 feet to the northwest, as well as destruction of the garage by wind as directly observed by the homeowners from a house a few feet away where they stayed during the storm.

Additional data concerning this home are noted on the enclosed individual inspection sheets.

We have enclosed a Glossary to help you understand some of the technical terms that are used in this report or in discussions about homes and their component parts.

This report has been prepared in strict confidence with you as our client. No reproduction or re-use of this report for the benefit of others is permitted without expressed written consent, except as may be required by Mississippi Law. Further, except as required by Mississippi Law, we will not release this report to anyone without your permission.

Many things have been discussed in this report. However, we realize that there may still be other things of interest to you that have not been discussed. Therefore, we encourage you to call with any additional questions you may have.

Thank you for the opportunity to be of assistance to you.

Sincerely,

John A. Fowler, P.E.
President

Attachments



Photo 1: Site conditions on February 22, 2006



Photo 2: Close up of what's left of the parts of the foundation and foundation wall



Photo 3: View from the rear showing settled slab and washed out fill



Photo 4: Sagged and settled slab with no fill beneath



Photo 5: Toenailed studs evident in what remains of the sill



Photo 6: Shingles found 150 to 200 feet to the northwest of the house



Photo 7: More shingles found to northwest



Photo 8: Shingles found to northwest

John A. Fowler, P.E.
Fowler Engineers

Area of Expertise

Mr. Fowler's skills include extensive experience in evaluation of all types of homes and buildings for investors, condominium managers, and homeowners. He founded Fowler Engineers in Mobile, Alabama in 1994. He has served as an expert witness in a number of court cases involving construction and buildings. Mr. Fowler has been admitted as an Expert Witness in County courts in Alabama and Florida, and in Federal court in Mobile, Alabama.

Qualifications

Mr. Fowler has over 27 years of experience in evaluation and design for all types of buildings and industrial and commercial construction. He is a licensed Professional Engineer in Alabama, Florida, Mississippi and several other states.

Mr. Fowler has inspected over 2,300 residential, multi-family, premanufactured and commercial buildings for buyers, sellers, banks and investors to determine structural integrity, quality of construction, correct operation of electrical, structural, mechanical systems, ADA compliance, plus site drainage, and soils analysis. He is a voting member of ASTM C-11 committee, which writes the U.S. specifications and standards for stucco.

Industrial and commercial experience includes design and specification for electrical and control systems and equipment, chemical compatibility studies and specification of materials, alloy analysis for a number of special corrosion resistance applications, and detailed work with a wide range of chemical reactions for industrial and commercial clients, including specification for safety and fire protection systems and equipment.

Environmental experience includes worker exposure studies for various types of hazardous chemicals, wastewater treatment facility design and analysis, Radon and Lead testing, asbestos sampling and analysis of laboratory results, domestic sewage treatment system inspection and analysis, and domestic well performance testing.

He has worked on design and inspection work on these important projects:

- Expert witness on houses with "sick building syndrome" and houses with construction defects
- Premanufactured home litigation
- Inspection and evaluation of Synthetic Stucco failures for a number of properties
- Troubleshooting sources of electrical fires for several Gulf Coast apartment complexes
- Inspection of several one million square feet plus shopping malls and shopping centers throughout the Southeastern U.S.
- Inspection and evaluation of concrete failures on several high rise Gulf front buildings
- Foundation repair design for various residential and commercial properties in Alabama and Florida

- Arson investigation of house fires in Southeastern U.S.

He has completed inspection work for these national clients:

- Cendant Mobility
- CB Richard Ellis
- Heritage Investments

Education

B. S. Engineering, University of Cincinnati, Cincinnati, Ohio 1981
Post Graduate Studies, University of South Alabama Structural Engineering Dept.
Structural Pest Termite correspondence course, Purdue University, Lafayette, Indiana

Professional Registration

Licensed Professional Engineer, States of Florida, Alabama, Mississippi, Louisiana, Arkansas, and Pennsylvania
Structural Pest control Certified Operator license, State of Alabama
Board-Certified Building Inspection Engineer No. 145

Specialty Subjects

Building Codes course instructor
Wood Destroying Organisms course instructor
Hurricane damage analysis
Premanufactured homes
Artificial Stucco/EIFS Expert
Residential, Multi Family/Condominium, Commercial and Industrial building inspection
Structural pest control and damage evaluation
Environmental inspection, testing, assessment
Light Gauge metal roof truss design
Fire cause and Origin Investigations

Professional Affiliations

Member National Society of Professional Engineers
Member Alabama Society of Professional Engineers
National Academy of Building Inspection Engineers
Voting Member ASTM Stucco Committee C 11
Member American society of Civil Engineers

Other

Past President, Azalea City Kiwanis Club
Young Life youth program volunteer leader
Past Firefighter and Lieutenant Station 3, Daphne, Alabama Fire Dept.

Expert Witness Cases
 09/30/04 to 12/07/09
 John A. Fowler, P. E.
 (D= Deposition, T=Trial)

Plaintiff or Defendant	Attorney	Court	Case No.
Phillip Hodgson	Irvine	AL District (T)	
Ms. Saade	Crew	Walton Co., FL (T)	
Contractor	Reminouque	Federal New Orleans, LA (D)	
Destin on the Gulf	Crew	(D)	
Insurance Co.	Bowman	Arbitration (T)	
Mobile Home Co.	Hamby	Arbitration (T)	
Carroll Construction	Crew	Arbitration (T)	
Malone	Cassidy	(D)	
Smith	Duhe	Alabama District (T)	
Frego	Mackey	(D)	
Brerdero	Medina	(D)	
St. Joe Paper	Medina	Florida, Port St. Joe, FL (T)	
Stone Container	Moye	(D)	
White	Loehr	(D)	
Benintende	Crow	Arbitration (T)	
Renzy	Mackey	(D)	
Mike McKool	Crew	(T)	
Harris	Sventek	(D)	
Smith	Whitehead	(D)	
Various	Owen	(D)	
Various	Myers	(D)	
Various	Dyal	(D)	
McCall	Owen	(D)	
Compton	Holland	(D)	
Lindsey	Owen	(D)	
Negri	Myers	(D)	

John A. Fowler - Rates

Service	Rate	Type	Note
Standard	\$283.00	Per Hour + Expenses	
Court	\$308.00	Per Hour + Expenses	4 hour minimum per day
Deposition	\$308.00	Per Hour + Expenses	4 hour minimum per day