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**345TH DISTRICT COURT**  
TRAVIS COUNTY COURTHOUSE  
P. O. BOX 1748  
AUSTIN, TEXAS 78767

July 18, 2006

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Ms. Laurie Eiserloh  
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Legal Department  
301 W. 2<sup>nd</sup> Street  
Austin, Texas  
*Via FAX: 512/974-6490*

Re: Cause No. D-1-GN-06-001212; *The Heritage Neighborhood Association and Simon Atkinson v. Buckingham Investments, Ltd., and City of Austin*; In the 53<sup>rd</sup> District Court of Travis County, Texas

Dear Counsel:

Enclosed is a copy of *Order Granting Plaintiffs' Motion for Sanctions* in this cause. This document has been signed by the Court and filed with the District Clerk. Please provide a copy of this order to all involved parties.

Sincerely,

Kimberley Toepfer-Bochsler  
Judicial Aide, 345th District Court  
Travis County, Texas

Enclosure (1)

**COPY**

**CAUSE NO. D-1-GN-06-001212**

**THE HERITAGE NEIGHBORHOOD ASSOCIATION and Simon Atkinson, Plaintiffs**

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**IN THE DISTRICT COURT**

v.

**TRAVIS COUNTY, TEXAS**

**BUCKINGHAM INVESTMENTS, LTD., and CITY OF AUSTIN, Defendants**

**53<sup>rd</sup> JUDICIAL DISTRICT**

**ORDER GRANTING PLAINTIFFS' MOTION FOR SANCTIONS**

The Court, having reviewed the file and after hearing the argument of counsel, finds as follows:

That Defendant, Buckingham Investments, Ltd. failed to produce documents sought by a valid notice for deposition and request for production without substantial justification and that no other circumstances make the award of expenses unjust. In fact, the Court finds that Defendant was faxed a notice of deposition and request for production on April 21<sup>st</sup>, 2006, that specified a date for production and appearance for deposition of May 22<sup>nd</sup>, 2006. The Court further finds that no objection was made to the time and/or place of appearance or production of documents and that no documents were produced. The Court further finds that defense counsel agreed to produce the requested documents at least on or before July 7<sup>th</sup>, and, failing that, further agreed to produce the documents on or before July 14<sup>th</sup>. The Court further finds that <sup>although some documents were produced</sup> a substantial portion of the documents ~~those documents themselves identify as other responsive documents~~ sought have not yet ~~been~~ produced, despite numerous requests by Plaintiffs' counsel.

The Court further finds that it was necessary for Plaintiffs' counsel to spend at least five (5) hours at a reasonable and necessary fee of \$360.00 per hour to prepare for and bring this motion, and that Plaintiffs' counsel had exhausted all reasonable avenues to obtain the production short of bringing this motion.

5.7.

Therefore, Defendant Buckingham Investments, Ltd. is hereby ordered to fully produce all documents specified in Plaintiffs' April 21, 2006 notice for deposition and request for production. Such documents shall be physically delivered to the office of Plaintiffs' counsel, Mark Perlmutter, on or before July 19, 2006 at 5:00 p.m. (five p.m.).

It is further ordered that Defendant's corporate representative, Christopher May, appear at the offices of Plaintiffs' counsel on or before August 31, 2006, at a time mutually agreeable to the parties, for further deposition, not to exceed four additional hours.

It is further ordered that Buckingham Investments, Ltd. pay the amount of \$1,800.00 to Plaintiff as reasonable and necessary attorney's fees on or before July 19, 2006 at 5:00 p.m. <sup>28 (twenty-eight)</sup>

Signed this 18 day of July, 2006.

5-1-1  
~~STEPHEN YELENOSKY, JUDGE PRESIDING~~

AGREED AS TO FORM:

[Signature]  
 Mark Perlmutter

AGREED AS TO FORM:

George Slade