Professor Stevenson is a trustee of a successful real estate investment trust, a director of a company which invests long-term pension accounts in the United States realty market, a Director of a company whose activities include building and development, and a trustee of a non-profit charitable organization whose primary purpose is acquisition and development of raw land which is deemed to be of a critical conservation interest (Tr. 6576–77). Professor Stevenson has been involved in a variety of studies for government and others (Tr. 6577). He has had experience of various types in dealing with real estate and other investments, including work with major corporations regarding their involvement in real estate as investors and users (Tr. 6574, 6577–78).

Professor Stevenson has examined large properties in the Southwestern United States, including Texas. He did a study of Woodlands, a 17,000 acre property north of Houston, Texas, and a study of a 7,000 acre recreational land development in East Texas (Tr. 6578–80). He is a member of various professional organizations (Tr. 6581), and has written numerous articles and a book on real estate investments and other aspects of real estate. He has worked on feasibility studies and the economics of high-rise buildings (Tr. 6582). Professor Stevenson is also a limited partner in a 160-acre development project near Castle Ridge, Colorado, which is selling 10-acre tracts of land with utilities (Tr. 6661–66, 6886–6896).

Professor Stevenson stated that there are three fundamental factors to be considered in a real estate investment; the property itself, the financial return or investment structure, and the people who are involved as investors, managers and active partners. In terms of investment philosophy, one must seek an investment where all three factors work together; an investment lacking in any one dimension should be rejected (Tr. 6585, 6814–15). He observed that there are more investment opportunities than money; therefore, an investor should be very selective in committing capital to any particular investment. An investor must seek a means of evaluating investments whereby he can quickly reject a large number, make intensive study of a few more, and do an extremely intensive study of those investments where he intends **[198]**to place funds (Tr. 6585–86). An investor must know the risks and the potential rewards of an investment (Tr. 6587).

Professor Stevenson stated:

I fundamentally believe that your sound investment value must ultimately be related to use, which is basically a retail end user use. I think this is true in the stock market where you see many of the promotions that had no fundamental end market for their product, got burned. This has been true in real estate. You can ride bubbles, you can ride dreams, but fundamentally it is end use that creates value (Tr. 6587).

According to Professor Stevenson, an absorption analysis is basically an assessment of the rate at which properties will be placed into an end use (Tr. 6589). The sophistication of absorption analysis varies greatly; the further away the use, the more complex the problem becomes and the more end data must be developed (Tr. 6590). Professor Stevenson emphasized that an investment can be rejected without the necessity of a sophisticated study.

There are a variety of reasons for rejecting an investment. One can be simply the relationship between market demand and the available supply. One must also reject it because of physical conditions, either known physical deficiencies or uncertainty with respect to physical conditions. One might reject it for a variety of legal uncertainties relating to title or zoning or various property interests which may be involved, such as water rights, mineral rights, etc. Also uncertainty as to precisely what legal rights you obtained relating to contract for deed versus deeded property—all of these things and they may be risks that overwhelm any of the other factors:

Organizational problems, when you examine an investment and ask yourself, does the organization which has the capability or has the responsibility for carrying out the investment have the capability. And all of these are reasons where any one of them is sufficient to reject, because ultimately for a successful investment you have to have the right market, the right balance between supply and demand, right physical condition, the right organization and proper legal protection.

So if I have determined that any one of the others has sufficient risk in it to eliminate the investment possibilities of the investment, then I don't need to do a sophisticated absorption study (Tr. 6591–92).

Professor Stevenson stated that representations that land is risk free, or "the nearest to a sure thing," are, without qualification, false. Factors such as price, eventual utilization, changes in legal constraints, the volatility of the real estate market, must be used to qualify such a broad representation (Tr. 6778). [D. A. Lomax, an expert witness who testified for Horizon, stated that "all property does not go up uniformly" (Tr. 15128)]. Professor Stevenson also testified that unimproved land probably should be purchased only when change in use is imminent and when **[199]**the conditions surrounding that change can be examined and verified (Tr. 6592, 6883). [Alan Nevin, an expert witness who testified for Horizon, recognized that the increase in raw land price comes when a change in use is imminent and can be predicted, usually a five to seven year basis (Tr. 16066, 15883–84)]. Professor Stevenson noted that there is increasing recognition of the difficulties of putting together an organization capable of carrying out large scale projects and of bringing them to a successful conclusion (Tr. 6594).

Putting aside risk factors, Professor Stevenson testified that the investment quality of Horizon's lots depends upon (1) the absorption rate, (2) the price paid originally, (3) the future costs of any development expenses to be incurred by the owner, and (4) the cost of carrying the property in the meantime (Tr. 6880–81). Another factor to keep in mind is liquidity. Liquidity, with respect to investment in general, is the ability to turn your asset from a noncash form to a cash form. Undeveloped land, except where there is an immediate use for it, is not very liquid (Tr. 6595).

102. Professor Stevenson's assignment with the Commission was to analyze the investment value and risks, not in an appraisal sense, to determine whether the land in Horizon's properties of Paradise Hills, Rio Communities, Arizona Sunsites, Whispering Ranch and Waterwood was a prudent investment given the information available, and to look at the relative value of different lots or parcels within those projects (Tr. 6606–07). He reviewed much of the material in this record. He studied documents from Horizon, property reports, and planning documents. He interviewed brokers and others and personally visited Paradise Hills, Rio Communities and Waterwood. He also visited other properties in the Albuquerque area and in the area near Waterwood (Tr. 6608–29, 6710–13).

In Professor Stevenson's opinion, the lots in Paradise Hills have proved to be at best a marginal/poor investment. He testified that the lots outside of the development area, even within areas close to the development area, have proved to be a bad investment. The areas currently served by water and sewer have a potential for sale. The remaining lots have little, if any, trading activity. The costs of development and difficulties of development offer little hope for long-term investment potential (Tr. 6629–30, 6735–40).

In Professor Stevenson's opinion the vast, vast majority of Rio Communities lots are bad investments. He based this conclusion on an analysis of the market, the uncertainty regarding physical conditions, the capability both financially and organizationally to develop the lots, and what may be prospective legal uncertainties given the time horizon to development (Tr. 6675–76). Professor Stevenson testified:

The problem of going from a population of 600 or 800 houses, . . . to the size of a population that would be required to fill the Rio Communities, has proved to be difficult at best. It is an exercise which has been carried out over exceedingly long time periods. That requires major financing. (Tr. 6690). [200]

According to Professor Stevenson, the most critical investment factor is the supply and demand relationship (Tr. 6849). He relied on several studies of the supply and demand for undeveloped property in the Albuquerque area, and on his personal investigation (Tr. 6676–79, 6683–88). He named several undeveloped projects in the Albuquerque area and noted in addition that there were large chunks of land not yet subdivided (Tr. 6676). Professor Stevenson testified:

The total of lots available in those sites exceeds the full needs of the community of Albuquerque under the most optimistic projections through--and I have to think back, given what I just included—well beyond the end of the century and depending on which projections you read, perhaps well into the 22nd century (Tr. 6676).

In Rio Communities Professor Stevenson considered the lack of an infrastructure being in place an investment risk (Tr. 6688–93). While there are indications that adequate water is available, Professor Stevenson stated that he is not satisfied without further investigation. He noted the difficulties which Paradise Hills has had with a water supply (Tr. 6690–93). Water and sewerage problems twenty-five years in the future may pose severe problems not now readily apparent (Tr. 6699–6700, 6846–48, 6869–72). Professor Stevenson also foresees risks in the fractionalization of the land. Land divided into small lots with many owners, most of whom are non-resident, raises a question of whether the land can be used effectively at some future date (Tr. 6688–89, 6853). Professor Stevenson noted that if the 1,000 dwellings which had been built in Rio Communities over the past eighteen years, were duplicated each year in the future, it would take 131 years to fill the 131,578 single family lots in Rio Communities (Tr. 6695).

For all the above reasons, the supply and demand situation in the market, the physical condition of the property, the organizational question as to the ability to deliver, and legal uncertainties would make Rio Communities lots bad investments (Tr. 6719, 6748–49). Multi-family property would represent a "very bad" investment because of the higher initial cost of the land and the longer holding period which would be required (Tr. 6719–20, 6749). For these same reasons commercial lots would be even worse investments (Tr. 6720–23, 6749):

The basic objection to all of these lots is founded upon the absorption data, the supply available as recorded in plats and the potential supply which I believe could be brought into existence during the period before the potential absorption. The other factors . . . are simply additional risks which compound the problem of investment value (Tr. 6750). **[201]**

Professor Stevenson recommended defaulting and taking a tax loss where there were substantial payments remaining to be made on Rio Communities lots (Tr. 6752–54). He is of the opinion that there are so many fatal flaws with respect to investment in Rio Communities lots that elimination of one-half the risks would not change his opinion of the investment value of the lots (Tr. 6878).

Professor Stevenson rejected Whispering Ranch as an investment property (Tr. 6741). The prospect of a change in use of the land is slight, in Dr. Stevenson's opinion. There is substantial land available in Arizona, and the fractionalized parcels of Whispering Ranch would make development difficult (Tr. 6742). He classed Whispering Ranch as a very bad investment (Tr. 6743, 6756–57).

Professor Stevenson recommended against an investment in a lot in Arizona Sunsites:

. . . primarily on the basis again of the tremendous oversupply of lots and the potential additional supply of lots that has been alluded to very frequently with respect to Rio Communities, but is perhaps even more severe in the case of the remote subdivisions in Arizona. Cochise County in particular has a major oversupply condition according to the studies which I have read (Tr. 6757).

Fractionalization of the property interests and the oversupply of lots are the basic reasons Professor Stevenson rated Arizona Sunsites as a bad investment (Tr. 6758).

Professor Stevenson also recommended against the purchase of lots in Waterwood as investments:

I would have recommended against the purchase of this property for several reasons. One is in terms of the information I was able to gather there were properties available, fully developed, at prices which on a present value basis, were not totally incomparable. These properties, in many cases, had more proximate location to Houston, they had their facilities in place and were in subdivisions or land developments where the potential total number of lots was known and limited. The information which I have on Waterwood showed the platting [of] roughly 7,000 [acres]; however, the presence of the 25,000 acres, most of which was unplatted, provided a great amount of potential competition within the site itself and I believe would **[202]** effectively serve to limit any up side potential.

Therefore, to recapitulate, I saw a problem of supply and demand, again the same problem but looking at the study of the absorption in the Houston market, one would have to place the potential absorption and use of that lot many decades in the future, obviously depending on specific location and secondly, the unknown of the supply as created by my major competitor, Horizon, and third, in examining other opportunities within the Houston market there seemed to be lots that offered roughly the same up side potential in terms of their price on eventual sale where I would not have to assume the risk of anybody's ability to perform in the future with respect to construction and development (Tr. 6761–62).

JUDGE BARNES: How does he evaluate the lots as an investment?

THE WITNESS: The finished lots within the development core seemed to me to be roughly comparable to the product which I saw in other subdivisions. Those lots which were dependent for future development would be rated by me as bad because of the comparability of their net present value of pricing to the purchase value which one could have in existing subdivisions. Because of the distance of this project from Houston and my judgment as to whether it would really compete well against other major projects such as Woodlands that themselves were projecting 30 and 40 year build outs with less land (Tr. 6763).

Professor Stevenson attributed little value to the Horizon exchange privilege. He observed that an individual desiring to build in Rio Communities could purchase a lot in the open market or at an auction at a price well below Horizon's price, and exchange that lot into the development area (Tr. 6703–04). Professor Stevenson also stated that there was uncertainty as to whether Horizon would honor the exchange privilege for second, third or on down the line purchasers (Tr. 6704). Professor Stevenson testified that it was his understanding that there were no exchange lots available in Paradise Hills (Tr. 6704–05). This understanding was confirmed by William Kelly, a former Horizon employee and presently a realtor in Paradise Hills, who testified that the exchange privilege had not been honored in Paradise Hills for the past few years. Horizon redesignated lots in the Knolls area, where the exchange privilege could be exercised, to Country Club Estates. Thus, no exchange lots were available and Horizon would not have to honor the exchange privilege. **[203]**

(2) *Testimony of Joseph Lusteck*

103. Joseph Lusteck, a real estate planning consultant, testified for complaint counsel as an expert witness. At the time of his testimony, Mr. Lusteck was President of the Real Estate Division of Wortman and Mann, Inc., a real estate and financial services company located in Jackson, Miss. (Tr. 6928). He has been an employee of Wortman and Mann for the past five years. Prior to that time he had been employed, since 1965, first with the Pima County [Tucson, Arizona] Planning Department and later the Jackson [Mississippi] Planning Board (Tr. 6931–32).

As a real estate planning consultant, Mr. Lusteck provides services relative to land development and project planning. He is concerned with property project evaluation, impact analyses, environmental, traffic and transportation studies (Tr. 6928). Mr. Lusteck focuses his activities on real estate, whether from a land use or a development point of view (Tr. 6929). He renders these services to a variety of clients in the business community and in the public sector, including cities, towns, counties, and agencies of the federal government (Tr. 6928–29). He has been responsible for working on three of the New Towns for the Department of Housing and Urban Development.

Mr. Lusteck graduated from the University of Arizona with a Bachelor's Degree in Business Administration, majoring in area development. He has a Masters of Science Degree in Urban Planning from the same school and has done some additional graduate work in Public Administration (Tr. 6929). He is a member of the American Institute of Planners (Tr. 6944).

Mr. Lusteck has made studies or evaluations of several large tracts of land. He did two studies for the Federal Trade Commission, one the 91,000 acre Rio Rancho project near Albuquerque, and the 26,000 acre Rotunda project in Florida. In 1973 he did a study of an 8,000 acre project in New Mexico across the state line from El Paso. He did a study of a 1,575 acre project outside Jackson, Mississippi. He has responsibility for planning about 5,000 acres of shoreline development for the Pearl River Valley Water Supply District near Jackson (Tr. 6941–42). He has worked on over 100 feasibility studies since he has been employed by Wortman and Mann (Tr. 6943).

104. Mr. Lusteck's assignment for the Federal Trade Commission was to prepare an evaluation of the Horizon City project, to include an economic and market analysis, a physical evaluation, a review of the master plan, a look at the investment potential of individual lots, and a survey of the resale market (Tr. 6968). A report of this evaluation was rendered in May 1977 (CX 874; Tr. 6969). Mr. Lusteck wrote the majority of the report and reviewed it in its entirety. He designed the study, visited Horizon City three times, talked with people, and visited other development areas in and around El Paso (Tr. 6969). Mr. Lusteck used a thirty-year period for his study—1975–2005. He concluded that the economic and market conditions and outlook for El Paso would not support the absorption of the large number of lots in the Horizon City project within a thirty-year period (Tr. 6982).

Mr. Lusteck made a specific absorption study of the Horizon City project for the thirty-year period to the year 2005. He studied **[204]** indicators of population, households, employment, income, retail trade and service, industrial development and recreation and tourism. He also studied the supply and demand for property and the price of property in the El Paso area (Tr. 6983–85). He concluded that El Paso will require approximately 195,000 housing units by 2005 [1.5 times the increase in the number of households] (Tr. 7020). This growth will call for a total of about 125,000 acres of land for urban use (Tr. 7020–23, 7042). The City of El Paso and its extra-territorial jurisdiction of five miles beyond the city limits contains approximately 125,000 acres of vacant land (Tr. 7026–27). The Northeast sector surrounding El Paso contains 28 percent of that total, the Northwest sector contains 23 percent and the Southeast sector contains 36 percent of the vacant land (Tr. 7027). The Southeast sector is expected to capture 30 percent of the growth over the next 30 years (Tr. 7032–33, 7154–57, 7167–68).

There is within the City of El Paso and its extraterritorial jurisdiction enough vacant land to accommodate all the projected growth of the area through the year 2005 (Tr. 7043). Mr. Lusteck determined that 2,859 acres of Horizon City will be absorbed by 2005, which he believes will be the maximum possible absorption. This would amount to 3.3 percent of Horizon City's total acreage (Tr. 7039). This acreage is projected to be within El Paso's extraterritorial jurisdiction and would include the present core area and adjoining lands primarily owned by Horizon itself (Tr. 7039–40).

Mr. Lusteck projected a total population capacity for Horizon City of 315,640. He testified that if Horizon City captured all of El Paso's growth until 2005, 98.6 percent of Horizon City would be absorbed. "Obviously no one project is going to do that" (Tr. 7041).

Mr. Lusteck concluded that Horizon City was "grossly excessive," given the market in which it is situated (Tr. 7041):

> Well, I told you that there are certain opportunities for land absorption in this particular geographic area. The problems, the reason that there is a differential there, is that the Horizon project is located outside of the area, or largely located at least outside of the area in which growth could reasonably be expected to occur during this period of time (1975k–2005). The problem is one of scale. The Horizon project is just so large, relative to the size and potential for growth of El Paso, that there is really very little chance within the given time constraint of that land being put into urban use (Tr. 7043).

Mr. Lusteck forsees problems for some lots in Horizon City because of arroyos and a flood plain. Some of the lots might not be buildable (Tr. 7176); there could be construction problems which would detract from the desirability of other lots (Tr. 7047). The lack of an infrastructure and the ultimate expense of acquiring water and utilities could create a substantial financial problem (Tr. 7048–51). Fractionalization of ownership is also viewed as a problem in the future development of the area (Tr. 7051–52, 7213–14). **[205]**

Mr. Lusteck testified that Horizon owns 1,745 acres of land surrounding the present core area of Horizon City, and this land would be the most likely to be developed (Tr. 7057–59).

In a study of the resale market, Mr. Lusteck found 36 possible arms-length sales transactions of deeded Horizon City lots (Tr. 7062). He determined that of about 2,000 listings taken by a real estate broker, Dewitt & Rearick, approximately 45 sales had taken place (Tr. 7062–63). The only lots Dewitt & Rearick would list, at the time of Mr. Lusteck's investigation, were lots near or on a hard surface road, adjacent to the core area, along Horizon Boulevard, or by the lake (Tr. 7063). The records of the El Paso multiple listing service showed 269 listings of Horizon City lots and 16 sales (Tr. 7064). Mr. Lusteck also noted that the Rocky Mountain Land Auction Company offered 450 lots for sale at auction but received no bids (Tr. 7065). The conclusion reached by Mr. Lusteck was that there was a very weak resale market for Horizon City lots (Tr. 7066, 7219).

Mr. Lusteck was very critical of the master plans for the Horizon City project. He observed that the overall development concept appeared to be optimization of the number of lots that could be platted on the available acreage (Tr. 7094, 7135). He stated that there was a physical problem with the generally small size of individual lots, which was inconsistent with the total acreage available. Single family lots are platted three to the acre (Tr. 7169). This small size is particularly a problem in the multi-family and commercial lots, which usually develop in larger tracts (Tr. 7095). A further problem which Mr. Lusteck noted was the unplatted acreage scattered throughout the project. The ultimate use of the unplatted acreage could alter the entire development concept since there is no commitment as to the use of whole sections of land (Tr. 7095).

Mr. Lusteck was of the opinion that Horizon City lots were very poor investments:

> The opportunity for producing a return on an investment in a lot of the outlying portions of Horizon City would be very slim because there is a very small chance of that lot ever being placed in use (Tr. 7078).
>
> * * * * * * *
>
> . . . Making just an investment in one of those lots, it would be a poor choice, because it is not a liquid investment and the chances of taking any appreciation within a reasonable period of time would be very slim. [206]
>
> PRESIDING OFFICIAL BARNES: What is a reasonable period of time?
>
> THE WITNESS: I have used 30 years for this analysis. I think you could make a distinction of core area lots. Now, there could be a possibility to do well on a core area lot.

. . . The vast majority, the 97 percent that I don't think are going to have a chance at being absorbed, I would advise them otherwise. Consequently, if I was asked to advise someone, should I invest a hundred dollars in this, I would say no because your chances of selling it are very slim. (Tr. 7079).

(3) *Testimony of Jack Mann*

105. Jack Mann, Vice President of the Board, Wortman and Mann, Inc., Jackson, Mississippi, testified for complaint counsel. He has been with the company since 1949. He was elected Vice President of the company in 1955 and President in 1967. Until 1976, he was Chief Operating Officer of the firm (Tr. 7553–54). He has been engaged in the real estate business for 28 years. More specifically, he has been responsible for appraising real property for clients and counseling with clients regarding their real estate problems. In the general real estate field he has been involved in buying, selling, leasing, financing developing and promoting real estate. For the past 10–15 years the company has been the managing broker of a 10,000 acre tract of land, with the responsibility to plan and supervise the developing and marketing of the land (Tr. 7554–55).

Mr. Mann has a Bachelor of Science Degree in Business Administration from the University of Missouri. He has also taken special courses from the American Institute of Real Estate Appraisers and the Society of Real Estate Appraisers. He has been an appraiser since 1947. In the last 27 years he has appraised property of virtually all types in areas including Southeastern and Southwestern United States, New York, Illinois, New Jersey, Nevada and Missouri. He appraised the United States Naval Auxiliary Air Station site in Lauderdale County, Mississippi containing some 10,000 acres. He has also appraised five tracts of land in the Barnett Reservoir site in Mississippi containing between 10,000 and 60,000 acres, a portion of the Okefenokee Swamp in Georgia containing 42,000 acres. He has appraised two of the New Towns developments, and numerous other large developments (Tr. 7557).

Mr. Mann's assignment for the Federal Trade Commission was to determine the prices the Horizon City lots would sell for in the open market at the time of the appraisal (Tr. 7578). His instructions were to ignore the Horizon selling price of the lots (Tr. 7576, 7570–71, 7601). Mr. Mann stated that the conditions implicit in market value are: **[207]**

(1) the buyer and seller must be typically motivated;
(2) both parties must be fully informed or well advised;
(3) a reasonable time must be allowed for the transaction to take place;
(4) payment is made in cash or its equivalent;

(5) financing, if utilized, would be the typical terms being utilized in that particular area; and

(6) the price paid is unaffected by the financing or any other external force (Tr. 7578).

Mr. Mann testified that the beginning point of any appraisal is an estimate of the highest and best use of the land (Tr. 7584):

Highest and best use is one of the basic principles. It is defined as that legal reasonable approximate utilization that results in the greatest net return to the land, legal in the sense that it must not be illegal, reasonable in the sense it must be susceptible of achievement and approximate is simply another word for "near," which simply means it is a use which must occur within the reasonably near future (Tr. 7583).

Mr. Mann identified some of the carrying costs involved in the purchase of vacant land, including the taxes and the loss of interest on the dollar amount used in the purchase of the land (Tr. 7584). A major risk in the purchase of vacant land is that the value will not enhance to a point that there would be a profit made in the event of resale. He testified that a purchaser of undeveloped land:

. . . must, first of all, consider what the utilization of it would be, regardless of whether he plans to utilize it or not, for land to have value it must have some utility or some logical use within a reasonable period of time. Secondly, he must keep in mind that it is typically a nonliquid asset. It normally produces no income. The risks of whether or not it will go up in value which will produce him a profit - whether the present worth of this future dollar that he might receive is sufficient in light of other possible investments that he might make—say in stock, bonds, savings accounts, etc. (Tr. 7590). **[208]**

The federal property report would not provide an individual with sufficient information to make a prudent decision about investing in vacant land. Mr. Mann testified:

The HUD report does a very good job in describing the physical portion of development. It talks about the land itself, and it very candidly described the limitations and it talks about the presence or absence of utilities and the obligation on the part of the developer to provide or not to provide. But the one thing it does not provide is any economic data. It does not, of course, go into absorption, probable absorption, these types of things, and the latter in my opinion is necessary for a good decision for investment purposes (Tr. 7589).

Mr. Mann's individual assignment was to appraise 10 "typical" lots in Horizon City (Tr. 7592). For this assignment he used the direct market comparison approach, in which sale of properties similar to the ones being appraised are identified, accumulated, analyzed, adjustments made for any possible dissimilarities between the properties that sold and the property being appraised, and by comparing these actual transactions with the property being appraised an opinion as to the value of the property is determined (Tr. 7595).

Mr. Mann prepared an appraisal of 10 lots in Horizon City (CX 892). He found no evidence the exchange privilege had an effect on the resale value of the lots (Tr. 7599, 7708–09). He found five classifications of lots in Horizon City: (1) developed lots in the central core area; (2) lots adjoining the core area where utilities are to be installed in a short time; (3) lots fronting on a paved road which might or might not have water and electricity (Tr. 7600); (4) lots on a rough graded road with no utilities; and (5) lots not located on any road with no utilities. He estimated 90 percent of the lots would be in category 4 or 5 (Tr. 7600–01). Mr. Mann would recommend against investment in category 4 and 5 lots on the basis of the lack of utilization within any foreseeable future and the large number available with a limited demand (Tr. 7625–26, 7629–30).

Mr. Mann located 20 separate sales transactions which he used as comparables for appraisal purposes (Tr. 7603; CX 892D–E). His appraisals are as follows (CX 892):

Typical No. 1 - zoned Multi-family Lot 19, Block 389, Unit 54 - Mountain Shadow Estates - $250.

Typical No. 2 - Zoned Multi-family [209]Lot 27, Block 15, Unit 19 - Horizon City Estates - $250.

Typical No. 3 Lot 10, Block 38, Unit 44 - Horizon City - $750. (One quarter mile north off Horizon Boulevard)

Typical No. 4 - Zoned single family Lot 152, Block 232, Unit 30, Mountain Shadow Estates - $250

Typical No. 5 - No Zoning Lot 16, Block 69, Unit 19, Sunland Estates - $350. (6/10 mile south of Horizon Boulevard)

Typical No. 6 - Zoned single family Lot 10, Block 687, Unit 82, Horizon City - $500

Typical No. 7 - Zoned single family Lot 47, Block 17, Unit 53, Horizon City Estates - $250

Typical No. 8 - Zoned commercial, Lot 9, Block 1, Unit 32, El Paso East - $1500 (Backs up to lot which fronts on Horizon Boulevard)

Typical No. 9 - Zoned commercial Lot 13, Block 2, Unit 15, Horizon City Estates - $250

Typical No. 10 Lot 19, Block 51, Unit 10, Horizon Heights - $4,500 (Located in development area, has fronting on street with curb and gutter but not paved).

Lots located in close proximity to Horizon Boulevard, which has electric lines and a water main, could be utilized within a reasonable time, according to Mr. Mann (Tr. 7658–59, 7663–64). In Mr.Mann's opinion, once outside the core area and away from Horizon Boulevard, there was no correlation of increased price with decreased distance (Tr. 7677). Mr. Mann stated that his valuations, placed on these lots were estimates (Tr. 7699), and that the margin of error could be as high as 30 percent (Tr. 7700, 7738). In Mr. Mann's opinion, the "highest and best use" for Typicals 1, 2, 4, 5, 6, 7 and 9 would be to discontinue payment of taxes, thereby defaulting and claim the appropriate investment loss as an income tax deduction (CX 892). Typical No. 8 is zoned commercial. Mr. Mann's opinion is that the highest and best use of this lot would be residential (CX 892). The market value which Mr. Mann assigned to the typical lots took into consideration the exchange privilege which Horizon's contracts provide (Tr. 7713, 7738).

(4) *Testimony of Frank Mangin*

106. Frank Mangin, Program Director for Economic Development for the Arizona Governor's Office, Planning Department, since December 1975, testified for complaint counsel (Tr. 3372). His **[210]** duties consist of directing the program of attracting employment-based industries to Arizona (Tr. 3372). Prior to his employment with the Governor's office, Mr. Mangin was Executive Director of the Douglas (Cochise County), Arizona Chamber of Commerce and consultant to the City of Douglas Industrial Development Authority and the Cochise County Industrial Authority, and prior thereto Mr. Mangin was employed by the Valley National Bank as Vice President of Industrial Development. Valley National Bank had 160 offices statewide (Tr. 3433). Mr. Mangin was a real estate broker from 1959 until 1965 (Tr.3374–75).

Mr. Mangin testified that there are almost 73 million acres of land in Arizona, of which approximately 18 percent is privately deeded (Tr. 3379). Twenty years ago only 13 percent of the land was publicly held; the State of Arizona has been selling state-owned land to the public in recent years (Tr. 3380–83). The Indian reservations in Arizona have leased some lands for commercial and industrial purposes (Tr. 3385).

Mr. Mangin testified that housing availability is part of the structure necessary to support any other kind of economic activity, and he is familiar with housing availabilities and potentials in various areas of the state (Tr. 3387–88).

In Mr. Mangin's opinion Whispering Ranch is suitable only for cattle grazing (Tr. 3424). He testified that Whispering Ranch is so far