COPY
Original Filed

JUL 2 4 2026

TIMOTHY W. FITZGERALD
SPOKANE COUNTY CLERK

STATE OF WASHINGTON
SPOKANE COUNTY SUPERIOR COURT

In re:

HAYDEN HOMES, LLC, and FIRST STORY,

Respondents.

NO. 26203733-32

ASSURANCE OF DISCONTINUANCE

The State of Washington, by its attorneys, Nicholas W. Brown, Attorney General, and Claire McNamara, Joshua Studor, and Robby Staley, Assistant Attorneys General, files this Assurance of Discontinuance (Assurance) pursuant to RCW 19.86.100.

This Assurance of Discontinuance resolves the Attorney General's concerns that Respondents engaged in acts or practices in violation of RCW 19.86.020 with respect to covenants Respondents recorded to run with real property in Washington State.

I. PARTIES

1.1 Petitioner is the State of Washington. The Washington Attorney General (Attorney General) enforces the Consumer Protection Act, RCW 19.86 (CPA) as well as other state law.

1.2 Respondent, Hayden Homes, LLC (Hayden Homes), is an Oregon Limited Liability Company (LLC) with its principal place of business at 250 SE Timber Ave., Redmond, Oregon. Hayden Homes operates in several Washington State counties including Spokane County. It is registered to do business in Washington State as a foreign LLC under Uniform Business Identifier No. 602 668 850.

ATTORNEY GENERAL OF WASHINGTON
Consumer Protection Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104-3188
206-464-7744

1.3 Respondent, First Story, is an Oregon nonprofit corporation with its principal place of business at 963 SW Simpson Ave., Ste 110, Bend, Oregon. It is registered in Washington State as a charitable organization with a registration number of 1130248. First Story's Federal Employer Identification Number is 91-1755886. Collectively, First Story and Hayden Homes are referred to herein as Respondents.

II. ASSURANCE OF DISCONTINUANCE

2.1 Pursuant to the CPA, the Attorney General initiated an investigation into Respondents' practice of recording covenants upon real property in Washington State. The investigation found that:

a. Hayden Homes is a residential homebuilder that builds, markets, and sells new residential homes in this and other states.

b. Between 2006 and 2025, Hayden Homes recorded covenants on 7,627 Washington properties it sold that required sellers to pay to First Story 0.125% of each property's sales price ("Covenant Payment") upon each subsequent transfer ("Covenant").

c. Pursuant to the Covenant, when such a property was first sold Hayden Homes made a payment directly to First Story. If a property was later resold, private home sellers made the Covenant Payment.

d. Over 2,000 consumers made the Covenant Payment in connection with the resale of their homes.

e. First Story distributed the funds collected from the Covenant Payments to charitable organizations located in the counties in which the encumbered properties were located.

2.2 The Attorney General deems that Respondents' practice of recording these Covenants against properties, requiring a Payment upon subsequent transfers, and then distributing the resultant funds in a manner that the Attorney General deems not to directly

ATTORNEY GENERAL OF WASHINGTON
Consumer Protection Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104-3188
206-464-7744

benefit nor touch and concern the encumbered properties violates the Private Transfer Fee Obligation Act (PTFOA), Chapter 64.60 RCW, and the common law of real property covenants.

2.3 The Attorney General further deems the recording, use, and enforcement terms of these Covenants in Washington are an unfair act or practice in trade or commerce in violation of the CPA. RCW 19.86.020.

2.4 Hayden Homes and First Story do not admit the Covenants were prohibited by the PTFOA, common law, or the CPA. Hayden Homes and First Story do not believe the Attorney General's alleged claims have merit and do not admit liability or fault.

2.5 Hayden Homes and First Story believe the recording of these Covenants was authorized under the PTFOA, RCW 64.60.010(3)(h), and that the Covenants were not private transfer fee obligations prohibited under RCW 64.60.020 and .030, but were instead charitable covenants authorized under those statutes.

2.6 Hayden Homes and First Story agree to enter this Assurance of Discontinuance and settlement of contested matters to avoid further controversy and expense, and to provide refunds to all consumers.

III. ASSURANCES

3.1 Respondents shall discontinue:

a. Recording the Covenants or their equivalent against real property situated in Washington State.

b. Collecting and otherwise receiving the Covenant Payments or charges resulting from the Covenants recorded against real property located in Washington State.

c. Marketing, advertising, or otherwise promoting the use of the Covenants or their equivalent in connection with the development and sale of real property located in Washington State.

ATTORNEY GENERAL OF WASHINGTON
Consumer Protection Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104-3188
206-464-7744

3.2 Respondents shall take any necessary steps to cancel all existing Covenants recorded on real property located in Washington State within three months of this Assurance. Respondents shall bear all costs associated with cancelling the Covenants.

3.3 Respondents shall provide the Attorney General's Office, Consumer Protection Division, a report every three months until all existing Covenants are no longer recorded. To the extent the report concludes there are outstanding covenants recorded in Washington State at the time of reporting, the report shall include Respondents' plan for coming into compliance with this Assurance.

IV. PAYMENT

4.1 Pursuant to RCW 19.86.080, within forty-five (45) days after signing this Assurance, Respondents shall pay to the Attorney General's Office a total sum of $343,023.27, to be used by the Attorney General's Office for recovery of its costs and fees in investigating this matter, future monitoring and enforcement of this Assurance, future enforcement of RCW 19.86, or for any lawful purpose in the discharge of the Attorney General's duties at the sole discretion of the Attorney General.

4.2 Any payment to the Attorney General referenced herein shall be payable to: "State of Washington Attorney General's Office," and delivered to the Office of the Attorney General, Attention: Margaret Farmer, at 800 Fifth Avenue, Suite 2000, Seattle, Washington 98104.

V. REIMBURSEMENT PROTOCOL

5.1 Respondents will retain a claims administrator to operate a restitution claims process. Respondents shall pay all costs and fees incurred by the third-party claims administrator.

ATTORNEY GENERAL OF WASHINGTON
Consumer Protection Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104-3188
206-464-7744

5.2 Within forty-five (45) days after signing this Assurance, Respondents must transmit to the claims administrator $1,611,976.73, representing full restitution, plus interest accruing from the date of each payment at a rate of 12% annum, to all Washington consumers who made a Covenant Payment (the "Restitution Fund"), to be held in trust by the claims administrator.

5.3 After the claims administrator's receipt of the Restitution Fund, the Respondents shall provide the Office of the Attorney General, Consumer Protection Division, and the claims administrator with a list of all eligible Washington home sellers entitled to payment from the Restitution Fund, including last known and updated contact information that is reasonably ascertained by the Respondents and amount of restitution and prejudgment interest owed to each home seller (Restitution List).

5.4 For the period of the claims administration and distribution process, the claims administrator shall offer a number that home sellers can call to receive more information regarding their entitlement to relief.

5.5 Within sixty (60) days of verifying all addresses, the claims administrator shall send one mailing to the eligible Washington home sellers. This mailing shall contain (1) a letter in a form satisfactory to the Attorney General's Office and Respondents, in English and Spanish, stating only that the home seller is entitled to restitution from a prior payment made to First Story at the time of selling their home and (2) a check that includes the specific amount of restitution and prejudgment interest owed to each home seller. The envelope containing this mailing shall be designed to distinguish it from "junk mail," including: (1) identifying the Attorney General's Office as the sender; (2) clearly and conspicuously contain the language "IMPORTANT NOTICE REGARDING REFUND;" (3) "call-outs" on the front and back to encourage the

ATTORNEY GENERAL OF WASHINGTON
Consumer Protection Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104-3188
206-464-7744

recipient to open and read the letter once it arrives with other mail; and (4) the call-out on the front must identify what the notice is about and who is affected and the call-out on the back must highlight the restitution enclosed. The time of sixty (60) days for sending these mailings may be extended for good cause.

5.6 In the event a home seller notifies the claims administrator that they have not received the mailing and payment and the home seller is not on the Restitution List, the claims administrator shall request the home seller provide proof of prior payment to First Story specifically as part of their prior property sale. Such proof of payment may include: (1) a copy of a check or money order combined with property sale documents; (2) a money order receipt combined with property sale documents; or (3) any other notes or information that reasonably indicates the home seller submitted payment to First Story in the past as part of a property sale. Upon receipt of acceptable proof of payment, the claims administrator shall determine the payment amount by referencing the Restitution List and may work with the Respondents and the Attorney General's Office to determine the specific amount owed to that home seller.

5.7 In the event there are any mailings that are returned as undeliverable due to an incorrect address, or for any other reason, the claims administrator shall make all reasonable efforts to locate and contact the home seller, which must include a search of commercial and public databases for current addresses and/or contact information. The claims administrator must re-mail the mailing to any newly discovered address.

5.8 All disbursements distributed by the claims administrator shall be made by a check that is valid for ninety (90) days from the date of issuance. If a home seller contacts the claims administrator within forty-five (45) days of the expiration of the 90-day issuance date,

ATTORNEY GENERAL OF WASHINGTON
Consumer Protection Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104-3188
206-464-7744

the claims administrator shall reissue a payment to the home seller, which will be valid for forty-five (45) days from the date of issuance.

5.9 Respondents shall have no interest, right, title, ownership, privilege or incident of ownership, or authority regarding the Restitution Fund and shall have no right to alter, amend, revoke, or terminate the Restitution Fund.

5.10 In the event that any amount of the Restitution Fund remains unpaid to an eligible Washington home seller after (1) reasonable attempts by the claims administrator to locate and provide payment to the home seller as set forth in paragraphs 5.5 through 5.7; and/or (2) a check mailed to a home seller is not cashed before it becomes invalid or expired as set forth in paragraph 5.8, all such unpaid monies from the Restitution Fund shall revert to the Attorney General and be used consistent with paragraph 4.1.

5.11 Every three months on the last day of said month, the claims administrator shall provide a monthly report to Respondents and to the Attorney General that contains the following information:

a. the amount of monies paid into the Restitution Fund;

b. the total number and amount of payments successfully made from the Restitution Fund;

c. the total number of individuals on the Restitution List who have not been paid either because they have not cashed their check or have not been located.

VI. ADDITIONAL PROVISIONS

6.1 By its execution of this Assurance of Discontinuance, the State releases Respondents from all civil claims, causes of action, damages, restitution, fines, costs, and penalties

ATTORNEY GENERAL OF WASHINGTON
Consumer Protection Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104-3188
206-464-7744

it may have under RCW 19.86 and/or RCW 64.60, arising from or related to the conduct and/or practices referenced in this Assurance of Discontinuance, except as specifically set forth herein.

6.2 The Parties understand and agree that this Assurance shall not be construed as an approval or sanction by the Attorney General of Respondents' business practices, nor shall Respondents represent that this Assurance constitutes an approval or sanction of its business practices.

6.3 This Assurance is being entered into by the parties for the sole purpose of compromising disputed claims without the need for protracted and expensive litigation.

6.4 This Assurance shall not be considered an admission or finding that Hayden Homes or First Story violated the CPA, *see* RCW 19.86.100, and/or RCW 64.60. However, failure to comply with this Assurance shall be *prima facie* evidence of violations of RCW 19.86.020, for which the Respondents and their officers, directors, and principals, may be found liable by the Court for injunctions, restitution, civil penalties of up to $7,500.00 per violation, and costs, including reasonable attorneys' fees, incurred by the Attorney General in pursuing such action.

6.5 All terms and conditions of this Assurance shall continue in full force and effect on any successor, assignee, or transferee of Respondents. Respondents shall include in any such successor, assignment, or transfer agreement a provision that binds the successor(s), assignee(s), or transferee(s) to the terms of the Assurance.

6.6 Nothing in this Assurance shall be construed to waive or limit any private rights, causes of action, or remedies.

6.7 Nothing in this Assurance shall be construed to limit the authority or ability of the Attorney General to protect the interests of Washington State or its people. This Assurance shall

ATTORNEY GENERAL OF WASHINGTON
Consumer Protection Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104-3188
206-464-7744

not bar the Attorney General or any other governmental entity from enforcing any laws, regulations, or rules against Respondents. Further, nothing in this Assurance shall be construed to limit the ability of the Attorney General to enforce the obligations that Respondents have under this Assurance.

6.8 Nothing in this Assurance shall be construed as relieving Respondents of the obligation to comply with all state and federal laws, regulations, and rules, nor shall any of the provisions of this assurance be deemed to be permission to engage in any acts or practices prohibited by such laws, regulations, and rules.

6.9 The parties agree that, should any clause, provision, or section of this Assurance, for any reason, be held illegal, invalid, or unenforceable, such illegality, invalidity, or unenforceability shall not affect any other clause, provision, or section of this Assurance, and this Assurance shall be construed and enforced as if such illegal, invalid, or unenforceable clause, section, or provisions had not been contained herein.

6.10 Any failure by the Attorney General's Office to insist upon the strict performance by Respondents of any of the provisions of this Assurance shall not be deemed a waiver of any of the provisions hereof, and the Attorney General, notwithstanding that failure, shall have the right thereafter to insist upon the strict performance of any and all of the provisions of this Assurance to be performed by Respondents.

6.11 This Assurance sets forth the entire agreement between the parties. Respondents represent that they have each fully read and understand this Assurance, accept the legal consequences involved in signing this Assurance, and agree that there are no other representations or agreements between the parties not stated in writing herein.

ATTORNEY GENERAL OF WASHINGTON
Consumer Protection Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104-3188
206-464-7744

6.12 The parties agree that this Assurance shall not be modified or terminated except by written agreement signed by the parties.

6.13 This Assurance may be executed by any number of counterparts and by different signatories on separate counterparts, each of which shall constitute an original counterpart thereof and all of which taken together shall constitute one and the same document. One or more counterparts of this Assurance may be delivered by facsimile or electronic transmission with the intent that it or they shall constitute an original counterpart thereof.

APPROVED THIS ______ day of ____________________________, 2026.

____
JUDGE/COURT COMMISSIONER

Approved for Entry and Presented by:

NICHOLAS W. BROWN
Attorney General

/s/ Claire McNamara
CLAIRE MCNAMARA, WSBA #50097
JOSHUA STUDOR, WSBA #47183
ROBBY STALEY, WSBA #56824
Assistant Attorneys General
Attorneys for State of Washington
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
206-464-7744

Agreed to, Approved for Entry, Notice of Presentation Waived:

MORGAN, LEWIS & BOCKIUS LLP

By: */s/ Darwin P. Roberts*
Darwin P. Roberts, WSBA #32539
1301 Second Avenue, Suite 3000
Seattle, WA 98101
Phone: (206) 274-6400
Email: darwin.roberts@morganlewis.com

Attorneys for Respondent Hayden Homes

Hillis Clark Martin & Peterson P.S.

By: */s/ Zac DeLap*
Zac DeLap, WSBA #56113
999 Third Avenue, Suite 4600
Seattle, WA 98104
Phone: 206.623.1745
Email: zac.delap@hcmp.com

Attorneys for Respondent First Story

COPY
Original Filed

JUL 2 4 2026

TIMOTHY W. FITZGERALD
SPOKANE COUNTY CLERK

STATE OF WASHINGTON
SPOKANE COUNTY SUPERIOR COURT

In re: HAYDEN HOMES, LLC, and FIRST STORY, Respondents.	NO. 26203733-32 PETITION FOR ORDER APPROVING ENTRY OF ASSURANCE OF DISCONTINUANCE **[CLERK'S ACTION REQUIRED]**

COMES NOW, State of Washington, by and through its attorneys, NICHOLAS W. BROWN, Attorney General, CLAIRE MCNAMARA, JOSHUA STUDOR, and ROBBY STALEY, Assistant Attorneys General, and petitions this Court for an Order approving the attached Assurance of Discontinuance. This Petition is made pursuant to RCW 19.86.100, which authorizes the Attorney General to accept an assurance of discontinuance in the enforcement of the Consumer Protection Act.

DATED this 24th day of July, 2026.

Presented By:

NICHOLAS W. BROWN
Attorney General

s/ Claire McNamara
CLAIRE MCNAMARA, WSBA No. 50097
JOSHUA STUDOR, WSBA No. 47183
ROBBY STALEY, WSBA No. 56824
Assistant Attorneys General
Consumer Protection Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104

206-464-7744
claire.mcnamara@atg.wa.gov
joshua.studor@atg.wa.gov
robby.staley@atg.wa.gov
Attorneys for the State of Washington