

STATE OF WISCONSIN

CIRCUIT COURT
CIRCUIT COURT
DANE COUNTY
05 OCT 18 PM 2: 32

RICHARD G. McLELLAN
834 ¼ Tularosa Drive
Los Angeles, California 90026

DANE COUNTY, WI

RICK BOGLE
5133 Maher Avenue
Madison, Wisconsin 53716

THIS IS AN AUTHENTICATED COPY OF THE
ORIGINAL DOCUMENT FILED WITH THE DANE
COUNTY CLERK OF CIRCUIT COURT.

and

PRIMATE FREEDOM PROJECT
P.O. Box 1623
Fayetteville, Georgia 30214

JUDITH A. COLEMAN
CLERK OF CIRCUIT COURT

Plaintiffs,

v.

Case No.: **05CV3412**
Case Classification: 30303
Other Contracts

ROGER L. CHARLY
5212 Harbor Court
Madison, Wisconsin 53705

Defendant.

COMPLAINT

Plaintiffs Richard G. McLellan, Rick Bogle and the Primate Freedom Project (together, "Plaintiffs"), by their attorneys LaFollette Godfrey & Kahn, for their complaint against defendant Roger L. Charly, hereby state as follows:

PARTIES

1. Plaintiff Richard G. McLellan ("McLellan") is a California resident with a mailing address of 834 ¼ Tularosa Drive, Los Angeles, California 90026.
2. Plaintiff Rick Bogle ("Bogle") is a Wisconsin resident with a mailing address of 5133 Maher Avenue, Madison, Wisconsin 53716.

3. Plaintiff Primate Freedom Project is a non-profit organization organized and existing under the laws of Georgia, with a mailing address of P.O. Box 1623, Fayetteville, Georgia 30214.

4. Defendant Roger L. Charly (“Charly”) is a Wisconsin resident with a mailing address of 5212 Harbor Court, Madison, Wisconsin 53705.

BACKGROUND

5. Mr. Bogle is a former middle school teacher.

6. Since 1997, Mr. Bogle has been actively involved with efforts to illuminate and end the inhumane treatment of primates in scientific research. In 1999, he helped found the Primate Freedom Project, an organization dedicated to ending the use of primates in harmful biomedical and behavioral experimentation. Mr. Bogle is currently the organization’s secretary.

7. The University of Wisconsin (“the University”) has two main facilities used in connection with research on primates: 1) the National Institutes of Health’s Wisconsin National Primate Research Center; and 2) a laboratory known as the Harlow Primate Laboratory (together, the “Primate Buildings”). The Primate Buildings are located on Charter Street, in the first and second blocks north of Regent Street, in Madison.

8. In or about June 2004, Mr. Bogle, then a resident of California, was visiting Madison, Wisconsin. During that visit, Mr. Bogle went to see a friend who was protesting outside the Primate Buildings. While there, Mr. Bogle was joined by Zachary Larson, who pointed out a series of warehouses sitting on property located between the Primate Buildings at 26 North Charter Street (the “Property”).

9. The Property's legal description is:

The South ½ of Lot 6 and all of Lot 9 of the Morhoff
Replat, in the City of Madison, Dane County,
Wisconsin.

10. The Property was then, and is now, owned and possessed by Mr. Charly,
owner of Budget Bicycles.

11. Mr. Bogle immediately recognized that, due to its proximity to the Primate
Buildings, the Property provided an absolutely unique space to present a primate research
exhibit illuminating the inhumane practice of using primates in scientific research. Mr.
Bogle had visited the seven other National Primate Research Centers located throughout
the United States and knew that there were no other opportunities for exhibition halls
situated in such close proximity to any similar primate research facility.

12. Mr. Larson told Mr. Bogle that he believed the Property was owned by
Budget Bicycles.

13. Mr. Bogle and Mr. Larson immediately went to Budget Bicycles in search
of Mr. Charly, the owner. They found him there and asked if he was interested in selling
the Property. Mr. Charly initially said that he would not sell the Property and that he was
using the warehouses on the Property to store bikes and bike-related equipment. Mr.
Bogle then explained that he wished to use the Property for a primate research exhibition
hall that would raise awareness of the results of studies on the minds and emotions of
monkeys and apes and illuminate the inhumane practice of using primates in scientific
research.

14. After learning of the use Mr. Bogle would make of the Property, Mr. Charly enthusiastically agreed to sell it to him for \$750,000. At or about this time, the Property had been assessed by the City of Madison for approximately \$140,000.

15. Mr. Bogle told Mr. Charly that he (and his organization) was unable to purchase the Property immediately because they first needed to secure financing from others interested in ending the use of primates in scientific research. Mr. Bogle explained to Mr. Charly that he would first seek financial backing from private donors, without publicly announcing his plans for the Property. Mr. Bogle further stated that, if these initial efforts were unsuccessful, he would begin an open and public national fund-raising campaign, at which point it was likely that a public controversy would ensue and the University and other parties opposed to his and his organization's work would severely pressure Mr. Charly to stop the transaction.

16. In response then, and at later dates when Mr. Bogle expressed similar concerns regarding the actions the University might undertake if it learned of the plans for the Property, Mr. Charly told Mr. Bogle not to worry, that he would never sell the Property to the University.

17. Based on Mr. Charly's representations, Mr. Bogle and his wife, Lynette Pauly, turned down job offers they had received to teach in Florida starting in the 2004-2005 school year, and turned away others inquiring into their availability to teach. Instead, they started preparing to move to Madison, and Mr. Bogle began pouring his energy and efforts into realizing an exhibition hall on the Property.

18. As part of his efforts, Mr. Bogle spent considerable time in the late summer and early fall of 2004 seeking financial backing from private donors for the

purchase of the Property. One of the individuals he contacted was plaintiff Richard McLellan, a retired medical doctor.

19. Like Mr. Bogle, Dr. McLellan has an interest in illuminating and ending the use of primates in scientific research. At a meeting with Mr. Bogle in or around August 2004, Dr. McLellan agreed to mortgage some of his own property in order to provide the necessary funds for the initial purchase of the Property, with the understanding that Mr. Bogle would be personally responsible for making all mortgage payments and, eventually, would buy the Property from him. They further agreed that, as soon as Dr. McLellan purchased the Property, it would be available to Mr. Bogle and the Primate Freedom Project for development of the exhibition hall.

20. During the same period that he was working to raise the funds needed to purchase the Property, Mr. Bogle had a number of phone conversations with Mr. Charly to apprise him of his efforts. In one or more of those conversations, Mr. Bogle told Mr. Charly that he and his wife were preparing to move from California to Madison to start laying the groundwork for the exhibition hall and that, accordingly, they would be buying a house in Madison. Mr. Charly assured Mr. Bogle on more than one occasion that he would sell the Property to him.

21. Based on Mr. Charly's representations, Mr. Bogle moved from California to Madison in or around the end of September 2004, shortly before he and his wife closed on the purchase of a home here. Ms. Pauly joined her husband in or around mid-November 2004, and both have lived in Madison since that time.

22. In October 2004, Dr. McLellan flew from California to Madison to meet with Mr. Bogle and Mr. Charly in connection with the planned purchase of the Property.

23. During the October 2004 meeting in Madison, Mr. Charly, Mr. Bogle and Dr. McLellan negotiated key changes to Mr. Charly's oral agreement with Mr. Bogle. Those changes included: (1) the reduction of the Property's sale price to \$675,000; and (2) the substitution of Dr. McLellan for Mr. Bogle as the purchaser, with the Property's use remaining for the benefit of Mr. Bogle and the Primate Freedom Project in establishing a primate research exhibition hall. Mr. Charly, Dr. McLellan and Mr. Bogle agreed that it would be appropriate to memorialize the terms of the option in written form.

24. In early January 2005, Mr. Bogle and Dr. McLellan hired Pohlkamp & Associates, a Middleton, Wisconsin based appraisal and consulting firm, to conduct an appraisal of the Property's market value. The final report, dated January 17, 2005, estimated the market value to be \$586,600. Mr. Bogle shared the appraisal results with Mr. Charly.

25. Around the same time, and in furtherance of the parties' agreement, Mr. Bogle also hired Murphy Desmond, S.C. to draft the option in written form. Dr. McLellan and Mr. Charly exchanged several drafts of the written contract as they continued to negotiate certain changes. Murphy Desmond prepared each of the drafts, for which Dr. McLellan paid substantial amounts. The parties reached a final agreement as to the terms of the written option in the spring of 2005. Mr. Charly executed the written option to purchase the Property on April 27, 2005, and Dr. McLellan countersigned on May 10, 2005, which is the written option's effective date (the "McLellan Option"). A true and correct copy of the McLellan Option is attached to, and made a part of, this Complaint as Exhibit A.

26. Section 4 of the McLellan Option provides:

4. CONSIDERATION FOR OPTION

The parties acknowledge receipt of adequate consideration for this Option to Purchase. There shall be no payment due Seller for the rights granted hereunder.

27. The McLellan Option provides that it must be exercised on or before one hundred and eighty (180) days from May 10, 2005. That date is November 6, 2005.

Under the express terms of the McLellan Option, Dr. McLellan is required to provide Mr. Charly with written notice that he is exercising the option.

28. Following the effective date of the McLellan Option, and acting on the assurances of Mr. Charly as expressed in that agreement and otherwise, Mr. Bogle initiated a public national fund-raising campaign under the auspices of the Primate Freedom Project to raise the necessary funding to pay back Dr. McLellan and begin initial renovations to the Property. The campaign activities included, among other things, creating a web site (www.PrimateResearch.com); designing and printing over 400,000 fundraising brochures; providing postage for initial mailings to approximately 40,000; and registering and obtaining the necessary fund-raising licenses with the majority of the states in the United States.

29. Mr. Bogle kept Mr. Charly apprised of the Primate Freedom Project's fundraising activities and progress throughout the spring and summer of 2005, as had been Mr. Bogle's practice since he first spoke with Mr. Charly.

30. On June 4, 2005, the Primate Freedom Project put on a public announcement and rally in front of the largest building on the Property, where a sign was unveiled announcing that the Property was the future location of the "National Primate Research Exhibition Hall."

31. Mr. Charly encouraged his employees to attend the Primate Freedom Project's rally, which several did.

32. Following the rally, Mr. Charly contacted Mr. Bogle and expressed his concern that the University would contest the sign and suggested that the Primate Freedom Project seek a permit for the sign from city authorities. The permit application was rejected when the city decided that the sign amounted to outdoor advertising rather than a business sign. As a result, Mr. Bogle removed the sign.

33. Mr. Charly later expressed to Mr. Bogle his disappointment at the sign's removal and, wishing to see it remounted, suggested that he, Mr. Charly, apply for a sign permit as the Property owner.

34. Shortly thereafter, Dr. McLellan received a very surprising letter. The letter was dated July 11, 2005 and was from Jon Manzo, an attorney for Mr. Charly. Mr. Manzo stated in the letter that Mr. Charly believed the written option was not valid or enforceable. A true and correct copy of the July 11, 2005 letter is attached to, and made a part of, this Complaint as Exhibit B.

35. In response to questions posed by Dr. McLellan regarding Mr. Charly's change of position, Mr. Charly's attorney later explained, in a letter dated August 1, 2005, that Mr. Charly had received a \$1,000,000.00 offer to purchase the Property from a third-party. A true and correct copy of the August 1, 2005 letter is attached to, and made a part of, this Complaint as Exhibit C. Included with the letter was an unexecuted option to purchase the Property, the proposed buyer identified as URP Development, LLC (the "URP Option"). A true and correct copy of the URP Option is attached to, and made a part of, this Complaint as Exhibit D. In this same letter, Mr. Charly's counsel again

opined that the McLellan Option was not binding on Mr. Charly and also solicited a “competing offer.”

36. Both letters from Mr. Charly’s counsel were within the 180-day option period contained in the McLellan Option.

37. On August 12, 2005, with the assistance of Murphy Desmond and Mr. Bogle, Dr. McLellan recorded with the Register of Deeds, Dane County, Wisconsin, a Memorandum of Option to Purchase for the purpose of giving notice of the existence of the McLellan Option. A true and correct copy of the Memorandum of Option to Purchase is attached to, and made a part of, this Complaint as Exhibit E.

38. On August 12, 2005, Dr. McLellan executed an Exercise of Option to Purchase and delivered the same, certified mail return receipt requested, to Mr. Charly. A copy also was delivered to Mr. Charly’s counsel. Dr. McLellan indicated in the Exercise to Option to Purchase that he wished to close on the sale by no later than November 1, 2005. A true and correct copy of the Exercise of Option to Purchase is attached to, and made a part of, this Complaint as Exhibit F.

39. The United States Post Office made three attempts to deliver the Exercise of Option to Purchase on Mr. Charly, but he failed to accept delivery. Mr. Charly’s counsel did receive the Exercise of Option to Purchase and, on August 17, 2005, responded with a letter in which he explained, in no uncertain terms, that Mr. Charly would not sell the Property to Dr. McLellan. A true and correct copy of this August 17, 2005 letter is attached to, and made a part of, this Complaint as Exhibit G.

40. To date, the Primate Freedom Project has expended countless hours of labor and incurred fundraising, publicity and related costs of approximately \$23,000.

The overwhelming preponderance of funds in the Primate Freedom Project's accounts stem from donations made by the organization's supporters to further the efforts to establish a primate research exhibition hall situated between the Primate Buildings.

FIRST CLAIM FOR RELIEF – BREACH OF CONTRACT

41. Plaintiffs incorporate by reference paragraphs 1 through 40 of this Complaint.

42. Mr. Charly and Dr. McLellan entered into the McLellan Option. Pursuant to that option, Mr. Charly agreed to convey the Property to Dr. McLellan within ninety (90) days of Dr. McLellan exercising his rights under the McLellan Option.

43. The McLellan Option is a valid and enforceable contract.

44. Mr. Bogle and the Primate Freedom Project are third-party beneficiaries of the McLellan Option.

45. Dr. McLellan has performed all the conditions necessary to properly exercise the McLellan Option, including delivering by written notice to Mr. Charly his Exercise of Option.

46. Dr. McLellan has since, and at all relevant times, been ready, willing and able to pay the full \$675,000 purchase price for the Property.

47. Mr. Charly has breached the McLellan Option by refusing and failing to convey the Property to Dr. McLellan as required by the McLellan Option.

48. Paragraph 14 of the McLellan Option provides for the shifting of legal fees and costs to the prevailing party in an action to enforce the contract as follows:

14. DEFAULT

Seller and Buyer each have the legal duty to use good faith and due diligence in completing the terms and conditions of this Option. A material failure to perform any obligation under this

Option is a default which may subject the defaulting party to liability for damages or other legal remedies.

If Buyer defaults, Seller may terminate the Option and sue for actual damages.

If Seller defaults, Buyer may (1) sue for commercially reasonable specific performance; or (2) terminate the Option and sue for actual damages, or both.

The prevailing party shall be entitled to his legal fees and costs from the non-prevailing party.

SECOND CLAIM FOR RELIEF – PROMISSORY ESTOPPEL

49. Plaintiffs incorporate by reference paragraphs 1 through 48 of this Complaint.

50. Mr. Charly promised to convey the Property to Mr. Bogle, and later to Dr. McLellan for the benefit of Mr. Bogle and the Primate Freedom Project, which promise he knew or should have known would induce the Plaintiffs to take actions of a definite and substantial character in reliance upon that promise.

51. In reliance upon Mr. Charly's promise to convey the Property for his and the Primate Freedom Project's benefit, Mr. Bogle took actions of a definite and substantial character, including, but not limited to, moving himself and his wife from California to Wisconsin and forgoing a job with benefits in Florida to devote his time and resources to preparing an exhibition hall on the Property.

52. The Primate Freedom Project has expended countless hours of labor and incurred significant costs associated with its reliance on Mr. Charly's promise to convey the Property for Mr. Bogle's and its benefit. The change in Mr. Charly's position threatens to unjustly deprive the Primate Freedom Project of a unique exhibition space for furthering its mission in illuminating and ending primate research, has had a

significant impact on its ability to raise funds, and has resulted in the printing of much time-dated and now unusable literature.

53. Dr. McLellan has taken actions of a definite and substantial character in reliance on Mr. Charly's promise to convey the Property for the benefit of Mr. Bogle and the Primate Freedom Project, including, *inter alia*, traveling to Madison and expending considerable additional time, labor and money to be in a position to exercise the option to purchase the Property.

54. Injustice may only be avoided by enforcement of Mr. Charly's promise to convey the Property for the benefit of Mr. Bogle and the Primate Freedom Project.

REQUEST FOR RELIEF

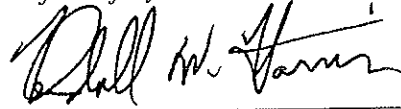
WHEREFORE, Plaintiffs demand judgment against defendant as follows:

- A. On the breach of contract claim, Plaintiffs request specific performance, including an order that defendant Roger Charly immediately sell the Property to Dr. McLellan for \$675,000;
- B. On the promissory estoppel claim, Plaintiffs request specific performance, including an order that defendant Roger Charly immediately sell the Property to Dr. McLellan for \$675,000;
- C. Plaintiffs' costs, disbursements and legal fees; and
- D. Such other relief as this Court deems just.

Dated: October 18, 2005.

LAFOLLETTE GODFREY & KAHN
an office of Godfrey & Kahn, S.C.

By:



Kendall W. Harrison, State Bar No. 1023438
Steven A. Heinzen, State Bar No. 1032278

Attorneys for Plaintiffs

One East Main Street, Suite 500
P.O. Box 2719
Madison, WI 53701-2719
(608) 257-3911

MN251326_1

Newest

OPTION TO PURCHASE

BETWEEN

ROGER L. CHARLY, SELLER

AND

RICHARD G. MCLELLAN, M.D., BUYER

Effective Date: 10 MAY 2005



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OPTION TO PURCHASE

The Option to Purchase (the "Option") between Roger L. Charly (hereinafter referred to as "Seller") and Richard G. McLellan (hereinafter referred to as "Buyer") is dated effective 10 MAY, 2005.

1. GRANT OF OPTION

Roger L. Charly, Seller, hereby grants to Richard G. McLellan, or his assigns, Buyer, an option to purchase the real property located at 26 North Charter Road in the City of Madison, Dane County, Wisconsin, and as more particularly described below, at the price and on the terms and conditions stated in this Option to Purchase:

The South ½ of Lot 6 and all of Lot 9 of the Morhoff Replat, in the City of Madison, Dane County, Wisconsin.

2. OPTION PRICE

The purchase price shall be Six Hundred Seventy-Five Thousand Dollars (\$675,000.00) to be paid in full at closing.

Buyer agrees that unless otherwise specified, Buyer shall, in good faith, pay all costs of securing any financing to the extent permitted by law, and shall perform all acts necessary to expedite such financing.

3. TIME OF ESSENCE

TIME IS OF THE ESSENCE AS TO EXERCISE OF OPTION, LEGAL POSSESSION, OCCUPANCY, DATE OF CLOSING, AND ALL DATES INSERTED IN THIS OPTION.

4. CONSIDERATION FOR OPTION

The parties acknowledge receipt of adequate consideration for this Option to Purchase. There shall be no payment due Seller for the rights granted hereunder.

5. EXERCISE OF OPTION

This Option must be exercised on or before one hundred eighty (180) days from the effective date hereof by Buyer's written notice to Seller of his exercise of the Option pursuant to the Notice provisions of paragraph 15 of this Option, provided that Buyer may elect to extend the Option for an additional ninety (90) days by providing written notice to Seller of his election to extend on or before one hundred eighty (180) days from the effective date hereof.

This transaction is to be closed at the office of Buyer's mortgagee, the title company, or at the office of Buyer's attorney within ninety (90) days after the delivery of Buyer's written notice of the exercise of the Option or at such other time and place as may be agreed in writing by Buyer and Seller.

6. TERMS OF CONVEYANCE

Seller shall, upon payment of the purchase price, convey the Property to Buyer, or his assigns, by warranty deed, free and clear of all liens and encumbrances, excepting: municipal and zoning ordinances, and agreements entered under them, recorded easements for public utilities serving the Property, recorded building and use restrictions and covenants, general taxes levied in the year of closing and none other, provided none of the foregoing prohibit present use. Seller shall complete and execute the documents necessary to record the conveyance.

Buyer may record this Option. Seller agrees at the request of Buyer to execute a recordable memorandum of this Option. This Option is assignable. This Property is not homestead property.

7. POSSESSION AND OCCUPANCY

Legal possession of Property shall be delivered to Buyer on date of closing. Occupancy of the Property shall be given to Buyer on date of closing. It is understood the Property is not subject to any lease at this time, however Buyer and Seller shall enter into a lease agreement at or prior to Closing whereby Seller will leaseback the Property from Buyer on mutually agreeable terms. If the Parties fail to enter into a lease at or prior to Closing, the Buyer may, but shall not be obligated to, declare this Option Agreement null and void, and if declared null and void by Buyer, neither Party shall have any further obligations to the other under this Agreement.

8. PRORATIONS

The following items shall be prorated as of the date of closing: property taxes, water and sewer use charges. All property taxes shall be prorated at the time of closing based on the net property taxes for the current year, if known, otherwise on the latest known mil rate times the latest known assessment. Special assessments, if any, for work on site actually commenced or levied prior to date of Closing shall be paid by Seller. All other special assessments shall be paid by Buyer.

9. WARRANTIES AND REPRESENTATIONS

Seller warrants and represents to Buyer that Seller has no notice or knowledge of any conditions affecting the Property. A condition affecting the Property is defined as follows:

- a. Planned or commenced public improvements which may result in special assessments or otherwise materially affect the Property or the present use of the Property.
- b. Governmental agency or court order requiring repair, alteration or correction of any existing condition;
- c. Completed or pending reassessment of the Property for property tax purposes;
- d. Any land division involving the Property, for which required state or local approvals were not obtained;
- e. Any portion of the Property being in a 100 year floodplain, a wetland or shoreland zoning under local, state or federal regulations;
- f. Material violations of environmental rules or other rules or agreements regulating the use of the Property;
- g. Conditions constituting a significant health or safety hazard for occupants of Property;
- h. Underground storage tanks for storage of flammable or combustible liquids including but not limited to gasoline and heating oil, which were previously located on the Property;
- i. Subsoil conditions which would significantly increase the cost of development, if any, including but not limited to, subsurface foundations, organic or non-organic fill, dumpsites or containers on Property which contained or currently contain toxic or hazardous materials, high groundwater, soil conditions (e.g. low load bearing capacity) or excessive rocks or rock formations on the Property;
- j. A lack of legal vehicular access to the Property from public roads;
- k. Other conditions or occurrences which would significantly increase the cost of development or reduce the value of the Property to a reasonable person with knowledge of the nature and scope of the condition or occurrence;
- l. The Property is in compliance with all federal, state and local laws, rules, regulations, ordinances, codes and orders governing, establishing, limiting or otherwise affecting the discharge or disposal of air pollutants, water pollutants, processed waste water, or solid and hazardous waste, including, but no limited to, all regulations and standards of the Environmental Protection Agency and the Wisconsin Department of Natural Resources. There are no pending or threatened actions or proceedings by the local municipality, the Wisconsin

Department of Natural Resources, United States Environmental Protection Agency or any other government entity, and Seller is not aware that there is any basis for any such action or proceeding. Seller has never disposed of any solid or hazardous waste on the Property and Seller is not aware of any solid or hazardous waste having ever been disposed of on the Property. Seller is not aware of any landfills, hazardous substances, underground storage tanks, PCBs, subterranean tunnels, cavities, wells, mines, sinkholes, springs or concealed fill-ins on or under the Property, and Seller is not aware that either the Property or any part thereof has been used, and prior to closing will not be used, for the manufacture, storage or disposal of any hazardous substance, solid waste or hazardous waste as the same be identified as hazardous by any federal state county or municipal law, statute, ordinance, order or regulation related to protection of the environment and applicable to the Property (including without limitation, any regulations promulgated by the Federal Environmental Protection Agency and the Wisconsin Department of Natural Resources); and

- m. There are no dangerous, toxic, or hazardous materials affecting the Property.

The warranties and representations are made as of the date of the granting of this Option, and are deemed remade as of the date of Closing, and shall survive closing.

If any warranty or representation changes prior to the exercise of this Option, Seller shall notify Buyer in the manner required hereunder, within seventy-two (72) hours of any such change. If Seller provides notice of such change after exercise of Buyer's option rights hereunder, Buyer may elect to rescind Buyer's exercise of this Option and terminate the Option by written notice to Seller and may elect not to close and terminate Option.

10. RIGHT OF ENTRY

Seller grants to Buyer, his agents, representatives, and/or independent contractors, an irrevocable right and license to enter upon the Property at any time during the Option to make such surveys, explorations, environmental, engineering and soils tests, and inspections of the Property as Buyer may deem desirable. Buyer shall hold Seller harmless from and indemnify Seller against any and all damages, claims or liabilities to property or person, arising out of or in any way connected to any such entry upon the Property by Buyer or his agents, representatives and/or independent contractors.

11. TITLE EVIDENCE

Seller shall provide to Buyer at Seller's expense at least twenty (20) business days before closing, a commitment from an ALTA title company licensed in Wisconsin to issue title insurance in the amount of the purchase price on a current ALTA form upon recording of proper documents, showing title to the Property as of a date no more than fifteen (15) days before such title proof is provided to Buyer to be in the condition called for in this Option,

and further subject only to liens which will be paid out of the proceeds of the closing and standard title insurance exceptions or abstract certificate limitations, as appropriate. Buyer shall notify Seller of any valid objection to title in writing by closing. Seller shall have a reasonable time, but not exceeding 30 days, to remove the objections, and closing shall be extended as necessary for this purpose.

In the event the Seller is unable to remove said objection, Buyer shall have five (5) days from receipt of notice thereof to deliver written notice waiving the objections and the time for closing shall be extended accordingly. If Buyer does not waive the objections, Buyer's exercise of this Option shall be null and void and neither party shall have any further obligation to the other.

The commitment for title insurance shall include a gap endorsement commitment insuring the title as of the period between the effective date of the commitment and the recording of the deed. The gap endorsement shall be provided at Seller's expense.

Providing title evidence acceptable for closing does not extinguish Seller's obligation to give merchantable title to Buyer.

12. DAMAGE

If the Property is damaged by fire or elements prior to time of closing in an amount of not more than five percent of the purchase price, Seller shall be obligated to repair the Property and restore it to the same condition that it was on the date of this Option. If such damage shall exceed such sum, this Option may be canceled at the discretion of Buyer by written notice to Seller. Should Buyer elect to carry out the Option despite such damage, Buyer shall be entitled to the insurance proceeds relating to any damage to the Property.

13. REPURCHASE

The parties agree that at any time within the twenty-four (24) months following closing hereunder, the Buyer may elect to provide written notice to Seller requiring Seller to repurchase the Property from Buyer (the "Repurchase") upon the terms provided hereunder. The Repurchase price shall be the original purchase price paid by the Buyer for the Property less the sum of \$40,000 and less the sum of any and all rental payments made by Seller to Buyer as a tenant during the time Buyer owns the Property. Buyer shall convey the Property to Seller free and clear of all liens and encumbrances, excepting: municipal and zoning ordinances, and agreements entered under them, recorded easements for public utilities serving the Property, recorded building and use restrictions and covenants, general taxes levied in the year of closing and none other. The Buyer shall pay all transfer fees and other usual and customary Seller's costs incurred as part of the Repurchase, upon closing of the Repurchase. Closing of the Repurchase shall occur within forty-five (45) days following Buyer's notice to Seller. The parties shall execute an agreement at closing outlining the conditions and terms of this paragraph 13.

14. DEFAULT

Seller and Buyer each have the legal duty to use good faith and due diligence in completing the terms and conditions of this Option. A material failure to perform any obligation under this Option is a default which may subject the defaulting party to liability for damages or other legal remedies.

If Buyer defaults, Seller may terminate the Option and sue for actual damages.

If Seller defaults, Buyer may (1) sue for commercially reasonable specific performance; or (2) terminate the Option and sue for actual damages, or both.

The prevailing party shall be entitled to his legal fees and costs from the non-prevailing party.

15. NOTICES

Any notice, demand or request, required or permitted under this Agreement or by law, shall be deemed given, if in writing and delivered in person or mailed by registered or certified mail, postage prepaid, to the party who is to receive such notice, demand or request at the addresses below or at such address any party shall specify by written notice. When mailed with proper postage, such a notice, demand or request shall be deemed to have been given as of the date it was mailed.

IF TO BUYER:

Richard G. McLellan, MD
2379 Panoma Terrace
Los Angeles, CA 90039

WITH A COPY TO:

Attorney Vernon J. Jesse
Murphy Desmond S.C.
2 E. Mifflin Street, Suite 800
P.O. Box 2038
Madison, WI 53701-2038

IF TO SELLER:

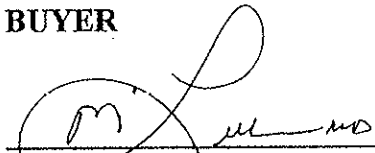
Roger L. Charly
5212 Harbor Court
Madison, WI 53705-1306

16. MISCELLANEOUS

- a. This Option shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, personal representatives, and assigns. This option contains the entire agreement between the parties and is subject to no understandings, conditions or representations other than those expressly stated herein.
- b. This Option shall be governed, construed and enforced in accordance with the laws of the State of Wisconsin.
- c. The failure of either party to insist on strict performance of this Option by the other, according to the terms and understandings herein set forth, shall not be construed as a waiver of the right to insist on such performance and no waiver by either party of any breach by the other of any provision hereof shall be deemed a waiver of any other prior or subsequent breach.
- d. If any provision of this Option is invalid, unenforceable, or not enforced, this Option shall be considered divisible as to such provision and the remainder of the Option valid and binding as though such provision were not included therein.
- e. This Option may be executed in counterparts, each of which shall constitute an original but which when taken together shall constitute one and the same instrument.
- f. Without derogating from the obligations of the Buyer herein, on Closing, Seller shall convey title to the Property to an assignee of Buyer's if one is designated by Buyer in writing prior to Closing.

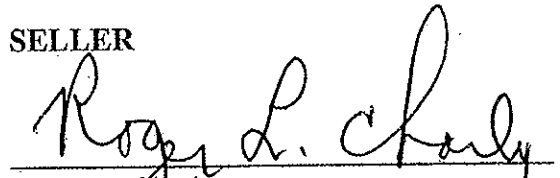
THE WARRANTIES AND REPRESENTATIONS MADE HEREIN SURVIVE THE CLOSING OF THIS TRANSACTION. THE UNDERSIGNED SELLER HEREBY AGREES TO SELL AND CONVEY THE ABOVE-MENTIONED PROPERTY ON THE TERMS AND CONDITIONS AS SET FORTH AND ACKNOWLEDGES RECEIPT OF A COPY OF THIS AGREEMENT.

BUYER



 Richard G. McLellan, MD

SELLER



 Roger L. Charly

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

050236-6hb/vjj-010405has/mem/bjb
Option to Purchase

Benjamin DAUCHEZ,
 Robert PANHARD, Gérard BAFFOY
 Caroline DENEUVILLE, René DALLEE

Le soussigné M^e René DALLEE
 Notaire Associé à Paris certifie
 signature de R.G. McLELLAN
 apposée ci-contre,
 PARIS, le 10/05/2005

11 A

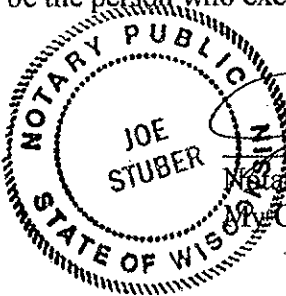
STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

Personally came before me this ____ day of _____, 2005, the above-named Roger G. McLellan, MD, to me known to be the person who executed the foregoing and acknowledged the same.

Notary Public
My Commission: _____

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Personally came before me this 27 day of April, 2005, the above-named Roger L. Charly, to me known to be the person who executed the foregoing and acknowledged the same.



[Signature]

Notary Public, State of Wisconsin
My Commission: Sept 30 2007

JON C. MANZO

Attorney at Law

6808 University Avenue
Suite 125
MIDDLETON, WISCONSIN 53562-2785

(608) 831-2529
FAX (608) 831-2549

July 11, 2005

Certified Mail, Return Receipt Requested

Richard G. McLellan, M.D.
2379 Panoma Terrace
Los Angeles, CA 90039

Re: Option to Purchase Between Roger L. Charly,
Seller, and Richard G. McLellan, Buyer,
Dated May 10, 2005

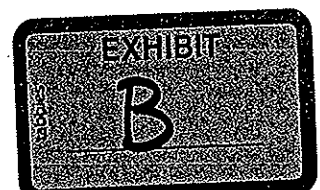
Dear Dr. McLellan:

This office has been retained by Roger Charly with regard to the above listed transaction. After a further review of the Option to Purchase, Mr. Charly began to have concerns and decided to consult with me.

Having had the chance to review the Option to Purchase and having conferred with Atty. Larry Hanson, we are of the opinion that this option is voidable and void due to lack of consideration. Therefore, this is to inform you that Roger Charly hereby states that the Option is void.

However, Mr. Charly is willing to negotiate a valid option, if you are still interested in doing so. Any such option would have to include the following:

1. **Consideration:** There will need to be a non-refundable cash payment for the option, which would be applied to the purchase price if you should choose to exercise the option.
2. **Extension of Option:** If you wish to include the ability to extend the option for ninety (90) days, there will need to be an additional non-refundable cash payment for the extension, which would also be applied to the purchase price if you should choose to exercise the option.
3. **Repurchase:** As Roger Charly desires finality in this transaction, he will not consent to a repurchase provision. Otherwise, this could end up as simply a three-year-long option.



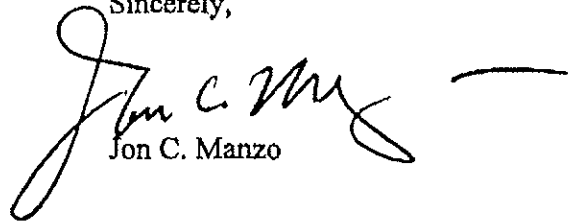
Richard G. McLellan, M.D.

July 11, 2005

Page 2

If you remain interested in executing a valid option, please contact my office with regard to the above. As per your request, a copy of this letter will be sent to Atty. Vernon J. Jesse.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jon C. Manzo", followed by a horizontal line.

Jon C. Manzo

JCM:gm

cc: Atty. Vernon J. Jesse (Murphy & Desmond)
Mr. Roger Charly

JON C. MANZO

Attorney at Law

6808 University Avenue
Suite 125
MIDDLETON, WISCONSIN 53562-2785

(608) 831-2529
FAX (608) 831-2549

August 1, 2005

Atty. Vernon J. Jesse
Murphy Desmond S.C.
Two East Mifflin St., #800
P.O. Box 2038
Madison, WI 53701-2038

Via Fax No. 257-2508

Re: Roger Charly's Property at 26 North Charter St.

Dear Vern:

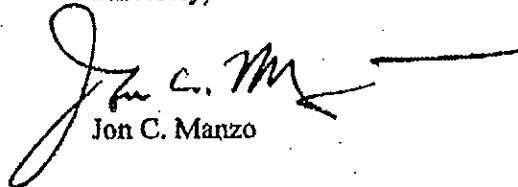
This is to inform you that Roger Charly has received an offer for the property at 26 North Charter Street which significantly surpasses the offer contemplated by Dr. McLellan. The offer, which was received this afternoon, is for \$1,000,000.00 and is contained within a valid option for cash consideration.

While there is no binding contract between Roger Charly and Richard McLellan, Roger is willing to entertain a competing offer from Dr. McLellan as a courtesy.

There is a time limit in this matter; Roger needs to respond to the offer by August 8th. Therefore, if Dr. McLellan wishes to submit a competing offer, please have him submit it to my office before 4:00 p.m. on Friday, August 5th, to give Roger time to consider the offer.

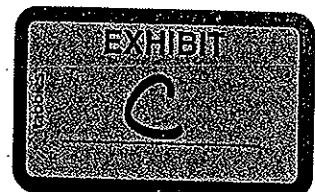
Meanwhile, if you have any questions, please give me a call.

Sincerely,


Jon C. Manzo

JCM:gm

cc: Mr. Roger Charly



OPTION TO PURCHASE

1 **BROKER** DRAFTING THIS OPTION ON _____ (DATE) AS AGENT OF (SELLER) (BUYER) (DUAL AGENT) (STRIKE TWO)
 2 The Seller, Roger Charly, hereby grants to Buyer
 3 URP Development, LLC, or assigns an option to purchase (Option) the Property
 4 known as (Street Address) 26 North Charter Street _____ in the
 5 City of Madison _____ County of Dane _____ Wisconsin.
 6 (If this Option is to be recorded, insert legal description at lines 218-224 or attach as an addendum per line 225) on the following terms:
 7 **DEADLINE FOR GRANT OF OPTION** This Option is void unless a copy of the Option which has been signed by or on behalf of
 8 all Owners is delivered to Buyer on or before August 8, 2005 (Time is of the Essence).
 9 **OPTION TERMS** An option fee of \$ 1,000.00 will be paid by Buyer within 5 days of the granting of this Option, and
 10 shall not be refundable if the Option is not exercised. If the Option is exercised, \$ 1,000.00 of the option fee shall be a credit
 11 against the purchase price at closing. This Option may only be exercised by delivering written notice to Seller no later than
 12 midnight January 31, 2006. Buyer may sign and deliver the notice at lines 247-248, or may deliver any other written notice
 13 which specifically indicates an intent to exercise this Option. This Option shall be extended until June 30, 2006, upon
 14 payment of \$ 1,000.00 in cash or equivalent to Seller on or before January 31, 2006, as an option extension
 15 fee which shall not be refundable if this Option is not exercised. If this Option is exercised, \$ 1,000.00 of the option extension
 16 fee shall be a credit against the purchase price at closing. The option fee and option extension fee shall be (paid directly to Seller)
 17 ~~(paid to selling broker's trust account only)~~

18 _____ **(STRIKE ONE)**
 19 This Option, or a separate instrument evidencing this Option, (may) ~~(may not)~~ **(STRIKE ONE)** be recorded. **CAUTION: FAILURE TO**
 20 **RECORD MAY GIVE PERSONS WITH SUBSEQUENT INTERESTS IN THE PROPERTY PRIORITY OVER THIS OPTION.**
 21 **TERMS OF PURCHASE:** If this Option is exercised per the terms of this Option, the following shall be the terms of purchase:
 22 ■ **PURCHASE PRICE:** One Million and no hundredths
 23 Dollars (\$ 1,000,000.00) will be paid in cash or equivalent at closing unless otherwise provided below.
 24 ■ **ADDITIONAL ITEMS INCLUDED IN PURCHASE PRICE:** Seller shall include in the purchase price and transfer, free and clear of
 25 encumbrances, all fixtures, as defined at lines 172-176 and as may be on the Property on the date of this Option, unless excluded at lines
 26 28-29, and the following additional items: None
 27 _____
 28 ■ **ITEMS NOT INCLUDED IN THE PURCHASE PRICE:** None

29 _____
 30 ■ **CONVEYANCE OF TITLE:** Upon payment of the purchase price, Seller shall convey the Property by warranty deed (or
 31 other conveyance as provided herein) free and clear of all liens and encumbrances, except municipal and zoning ordinances and
 32 agreements entered under them, recorded easements for the distribution of utility and municipal services, recorded building and use
 33 restrictions and covenants, general taxes levied in the year of closing and no others _____
 34 (provided none
 35 of the foregoing prohibit present use of the Property), which constitutes merchantable title for purposes of this transaction. Seller
 36 further agrees to complete and execute the documents necessary to record the conveyance.

37 **PLACE OF CLOSING** This transaction is to be closed at the place designated by Buyer's mortgagee or Buyer's attorneys
 38 within 30 days after the exercise of the Option, unless another date or place is agreed to in writing.
 39 **OCCUPANCY** Occupancy of the entire Property shall be given to Buyer at time of closing unless otherwise provided in this Option
 40 (lines 218-224 or in an addendum per line 225). Occupancy shall be given subject to tenant's rights, if any. **Caution: Consider**
 41 **an agreement which addresses responsibility for clearing the Property of personal property and debris, if applicable.**

42 **LEASED PROPERTY** If Property is currently leased and lease(s) extend beyond closing, Seller shall assign Seller's rights under the
 43 lease(s) and transfer all security deposits and prepaid rents thereunder to Buyer at closing. The terms of the (written) (oral) **(STRIKE ONE)**
 44 lease(s), if any, are No leases

45 **CLOSING PRORATIONS** The following items shall be prorated at closing: real estate taxes, rent, private and municipal charges,
 46 property owner's association assessments, fuel and
 47 _____ Any income, taxes or expenses shall accrue to Seller, and be prorated, through the day prior to closing. Net
 48 general real estate taxes shall be prorated based on (the net general real estate taxes for the current year) (the net
 49 general real estate taxes for the preceding year) (latest known assessment times latest known mill rate)

50 _____ **(STRIKE AND COMPLETE AS APPLICABLE)**
 51 **CAUTION: If proration on the basis of net general real estate taxes is not acceptable (for example, completed/pending**
 52 **assessment, changing mill rate, lottery credits), insert estimated annual tax or other formula for proration.**

53 **ZONING** Seller represents that the property is zoned _____
 54 **REPRESENTATIONS REGARDING PROPERTY AND TRANSACTION** Seller represents to Buyer that as of the date Seller grants this
 55 Option Seller has no notice or knowledge of conditions affecting the Property or transaction (as defined at lines 83 - 88) other than those
 56 identified in Seller's property condition report, dated _____, which was received by Buyer prior to Buyer signing
 57 this Option **COMPLETE DATE OR STRIKE AS APPLICABLE** and _____

Post-It™ brand fax transmittal memo 7671 # of pages 6

To <u>BONNIE B.</u>	From <u>JON C. MANZO</u>
Co. <u>MURPHY DESMOND</u>	Co. <u>HANSUNT-MANZO</u>
Dept. <u>WREN JONES</u>	Phone # <u>831-2529</u>
Fax # <u>257-2508</u>	Fax # <u>831-2549</u>



59 Seller agrees to notify Buyer of any condition affecting the Property or transaction which is materially inconsistent with the above
60 representations, which arises after this Option is granted, but prior to exercise of this Option. Buyer shall have reasonable access to the
61 Property, upon reasonable notice, from the time this Option is granted until the time for closing, for the purpose of inspecting and testing
62 the Property to the extent reasonably necessary to fulfill the inspection and testing provisions of this Option. (See lines 10-124).
63 A "condition affecting the Property or transaction" is defined as follows:
64 (a) planned or commenced public improvements which may result in special assessments or otherwise materially affect the
65 Property or the present use of the Property;
66 (b) completed or pending reassessment of the Property for property tax purposes;
67 (c) government agency or court order requiring repair, alteration or correction of any existing condition;
68 (d) any land division involving the subject Property, for which required state or local approvals had not been obtained;
69 (e) any portion of the Property being in a 100 year floodplain, a wetland or a shoreland zoning area under local, state or federal laws;
70 (f) conditions constituting a significant health or safety hazard for occupants of Property; Note: Possible LBP Diaclosure Requirement.
71 (g) underground or aboveground storage tanks on the Property for storage of flammable or combustible liquids including but not
72 limited to gasoline and heating oil which are currently or which were previously located on the Property. NOTE: Wis. Adm.
73 Code, Chapter Comm 10 contains registration and operation rules for such underground and aboveground storage tanks.
74 (h) material violations of environmental laws or other laws or agreements regulating the use of the Property;
75 (i) high voltage electric (100 KV or greater) or steel natural gas transmission lines located on but not directly serving the Property;
76 (j) any portion of the Property being subject to, or in violation of, a Farmland Preservation Agreement under a County Farmland Preservation
77 Plan or enrolled in, or in violation of, a Forest Crop, Woodland Tax, Managed Forest, Conservation Reserve or comparable program;
78 (k) boundary disputes or material violation of fence laws (Wis. Stats. Chapter 90) which require the erection and maintenance of legal
79 fences between adjoining properties where one or both of the properties is used and occupied for farming or grazing purposes;
80 (l) wells on the Property required to be abandoned under state regulations (Wis. Adm. Code NR 112.26) but which are not abandoned;
81 (m) cisterns or septic tanks on the Property which are currently not serving the Property;
82 (n) subsurface conditions which would significantly increase the cost of building on the property including, but not limited to, subsurface
83 foundations, organic or non-organic fill, dumpsites or containers on Property which contained or currently contain toxic or hazardous
84 materials, high groundwater, soil conditions (e.g. low load bearing capacity) or excessive rocks or rock formations on the Property;
85 (o) a lack of legal vehicular access to the Property from public roads;
86 (p) prior reimbursement for corrective action costs under the Agricultural Chemical Cleanup Program (Wis. Stats. §94.73.);
87 (q) other conditions or occurrences which would reduce the value of the Property to a reasonable person with knowledge of the
88 nature and scope of the condition or occurrence.

89 **PROPERTY DIMENSIONS AND SURVEYS:** Buyer acknowledges that any land dimensions, total square footage/acreage
90 figures, or allocation of acreage information, provided to Buyer by Seller or by a broker, may be approximate because of
91 rounding or other reasons, unless verified by survey or other means. **CAUTION: Buyer should verify land dimensions, total
92 square footage/acreage figures or allocation of acreage information if material to Buyer's decision to purchase.**

93 **PROPERTY DAMAGE BETWEEN EXERCISE OF OPTION AND CLOSING:** Seller shall maintain the Property until the earlier of
94 closing or occupancy of Buyer in materially the same condition as of the date Buyer exercises this Option, except for ordinary wear and
95 tear. If, prior to closing, the Property is damaged in an amount of not more than five per cent (5%) of the purchase price, Seller shall be
96 obligated to repair the Property and restore it to the same condition that it was on the day this Option is exercised. If the damage is greater
97 than 5% of the purchase price, Seller shall promptly notify Buyer in writing of the damage and this Option may be rescinded by Buyer and
98 all Option fees paid by Buyer shall be immediately returned to Buyer. Should Buyer elect to exercise this Option despite such damage,
99 Seller shall either repair the Property and restore it to the same condition that it was on the day of exercise of this Option, except for
100 ordinary wear and tear or Buyer shall be entitled to the insurance proceeds relating to the damage to the Property, plus a credit
101 towards the purchase price equal to the amount of Seller's deductibles on such policy.

102 **BUYER DUE DILIGENCE:** Prior to exercising this Option Buyer may need to perform certain inspections, investigations and testing
103 Buyer is only authorized to do those inspections, investigations and tests which are authorized at lines 196-200 or lines 218-225. In
104 addition to these inspections, investigations and tests, Buyer may need to obtain financing, approvals or other information, including
105 but not limited to building permits, zoning variances, Architectural Control Committee approvals, review of condominium documents,
106 review of business records, estimates for utility hook-up expenses, special assessments, charges for installation of roads or utilities, etc.
107 **WARNING:** If Buyer contemplates developing Property or a use other than the current use, there are a variety of issues which should
108 be addressed in order to determine the feasibility of development of, or a particular use for, a property. Buyer is solely
109 responsible for all expenses relating to financing, inspections, investigations, testing, approvals, permits, estimates, etc.

110 **INSPECTIONS:** An "inspection" is defined as an observation of the Property which does not include testing of the Property, other than
111 testing for leaking LP gas or natural gas used as a fuel source, which are hereby authorized. Seller agrees to allow Buyer's inspectors
112 reasonable access to the Property upon reasonable notice for those inspections authorized at lines 197-198. Buyer agrees to
113 promptly restore the Property to its original condition after Buyer's inspections are completed, unless otherwise agreed in this Option.
114 **TESTING:** Except as otherwise provided, Seller's authorization for inspections does not authorize Buyer to conduct testing of the
115 Property. A "test" is defined as the taking of samples of materials such as soils, water, air or building materials from the Property and
116 the laboratory or other analysis of these materials. Seller agrees to allow Buyer's testers reasonable access to the Property upon
117 reasonable notice for those tests authorized at lines 199-200. Note: The authorization for testing should specify the areas of
118 the Property to be tested, the purpose of the test, (e.g. to determine if environmental contamination is present), any limitations on
119 Buyer's testing and any other material terms of the authorization. Unless otherwise agreed, Buyer shall return the Property to its
120 original condition following testing. Seller acknowledges that certain inspections or tests may detect environmental
121 pollution which may be required to be reported to the Wisconsin Department of Natural Resources.

122 **PRE-CLOSING INSPECTION:** At a reasonable time, pre-approved by Seller or Seller's agent, within 3 days before closing, Buyer
123 shall have the right to inspect the Property to determine that there has been no significant change in the condition of the Property,
124 except for changes approved by Buyer.

125 **CONDOMINIUM DISCLOSURES:** If the Property is a Condominium, Seller agrees to provide Buyer, at Seller's cost (see
126 Wisconsin Statute §703.20(2)), complete, current copies of the disclosure materials (organization and operational documents, plans, financial

195 PROPERTY ADDRESS: 29 North Charter Street

196 AUTHORIZATION FOR INSPECTIONS AND TESTS Buyer is authorized to conduct the following inspections and tests (see lines 110-121).

197 INSPECTIONS: Environmental, survey.

198

199 TESTS: Environmental, soil conditions.

200

201 DELIVERY OF DOCUMENTS AND WRITTEN NOTICES Unless otherwise stated in this Option, delivery of documents and written

202 notices to a Party shall be effective only when accomplished by one of the methods specified at lines 203-212.

203 (1) By depositing the document or written notice postage or fees prepaid in the U.S. Mail or fees prepaid or charged to an account

204 with a commercial delivery service, addressed either to the Party, or to the Party's recipient for delivery designated at lines 206 or 208

205 (if any), for delivery to the Party's delivery address at lines 207 or 209.

206 Seller's recipient for delivery (optional): c/o Attorney John Manzo

207 Seller's delivery address: 8808 University Avenue, Suite 123, Middleton, WI 53562

208 Buyer's recipient for delivery (optional): c/o Attorney Thomas P. Solheim

209 Buyer's delivery address: Solheim Billing & Brimmer S.C., One South Pinckney Street, Madison, WI 53703

210 (2) By giving the document or written notice personally to the Party or the Party's recipient for delivery if an individual is designated at lines 206 or 208.

211 (3) By fax transmission of the document or written notice to the following telephone number

212 Buyer: (608) 262-1218

Seller: (608) 591-2548

213 TIMETS OF THE ESSENCE "Time is of the Essence" as to payment of option fees and extension fee and all other dates and

214 deadlines in this Option except: None If "Time is of the Essence"

215 applies to a date or deadline, failure to perform by the exact date or deadline is a breach of contract. If "Time is of the Essence" does not

216 apply to a date or deadline, then performance within a reasonable time of the date or deadline is allowed before a breach occurs.

217 This Option (is) (is not) STRIKE ONE assignable. This Property (is) (is not) STRIKE ONE homestead property.

218 ADDITIONAL PROVISIONS

219

220

221

222

223

224

225 ADDENDA The attached Addendum is/are made part of this Option.

226 IF GRANTED, THIS OPTION CAN CREATE A LEGALLY ENFORCEABLE CONTRACT. BOTH PARTIES SHOULD READ THIS

227 OPTION AND ALL ATTACHMENTS CAREFULLY. BROKERS MAY PROVIDE A GENERAL EXPLANATION OF THE

228 PROVISIONS OF THE OPTION BUT ARE PROHIBITED BY LAW FROM GIVING ADVICE OR OPINIONS CONCERNING

229 YOUR LEGAL RIGHTS UNDER THIS OPTION OR HOW TITLE SHOULD BE TAKEN AT CLOSING IF THE OPTION

230 IS EXERCISED. AN ATTORNEY SHOULD BE CONSULTED IF LEGAL ADVICE IS NEEDED.

231 This Option was drafted on, Aug. 1, 2006 [date] by [Licensee and firm] Attorney Thomas P. Solheim

232 (X) URP Development, LLC Social Security No. or FEIN (Optional) A Date A

233 Buyer's Signature & Print Name Here: Buyer's Signature & Print Name Here: Mark D. Bughar, Authorized Officer Social Security No. or FEIN (Optional) A Date A

234 (X) By Social Security No. or FEIN (Optional) A Date A

235 Seller's Signature & Print Name Here: Seller's Signature & Print Name Here: Social Security No. or FEIN (Optional) A Date A

236 SELLER GRANTS THIS OPTION. THE WARRANTIES, REPRESENTATIONS AND COVENANTS MADE IN THIS

237 OPTION SURVIVE CLOSING AND THE CONVEYANCE OF THE PROPERTY. THE UNDERSIGNED HEREBY AGREES TO

238 CONVEY THE ABOVE-MENTIONED PROPERTY ON THE TERMS AND CONDITIONS AS SET FORTH HEREIN AND

239 ACKNOWLEDGES RECEIPT OF A COPY OF THIS OPTION.

240 (X) Social Security No. or FEIN (Optional) A Date A

241 Seller's Signature & Print Name Here: Seller's Signature & Print Name Here: Social Security No. or FEIN (Optional) A Date A

242 (X) Social Security No. or FEIN (Optional) A Date A

243 Seller's Signature & Print Name Here: Seller's Signature & Print Name Here: Social Security No. or FEIN (Optional) A Date A

244 This Offer was presented to Seller by on at a.m./p.m.

245 THIS OPTION IS REJECTED THIS OFFER IS COUNTERED [See attached counter; Social Security No. or FEIN (Optional) A Date A

246 Seller's Signature & Print Name Here: Seller's Signature & Print Name Here: Social Security No. or FEIN (Optional) A Date A

247 NOTICE OF EXERCISE OF OPTION By signing below and delivering this notice (see lines 201-212) Buyer exercises the Option to Purchase.

248 (X) (X) Social Security No. or FEIN (Optional) A Date A

249 Buyer's Signature & Print Name Here: Buyer's Signature & Print Name Here: Social Security No. or FEIN (Optional) A Date A

**ADDENDUM A
OPTION TO PURCHASE
SELLER: ROGER CHARLY
BUYER: URP DEVELOPMENT, LLC OR ASSIGNS**

The following terms and provisions are incorporated into and are part of the Option to Purchase submitted by URP Development, LLC, or assigns, as Buyer, for the property described as 26 N. Charter Street in the City of Madison, Dane County, Wisconsin (the "Property"):

1. **Property Description.** The Property to be purchased is the Property described as a lot having dimensions of approximately 142.6 feet by 45.1 feet, located at the northwest corner of the intersection of North Charter Street and Capitol Court, Parcel number 070922114065, City of Madison, Dane County, Wisconsin, as shown on Exhibit I.
2. **Restrictions and Covenants.** Seller shall provide Buyer within thirty (30) days of the signing of this option by both parties, copies of all current subdivision regulations and building and use restrictions and easements and zoning ordinances affecting the Property.
3. **Title Insurance Commitment.** Seller, at its expense, shall furnish and deliver to Buyer for examination within sixty (60) days of the signing of this option by both parties, a current title insurance commitment (including legible copies of all documents identified by the commitment as an exception to coverage) which, upon recording of the deed described in this option, shall insure title to the Property in the amount of the purchase price, and insure title to be in the condition called for this option, subject only to easements, liens, encumbrances or exceptions specifically approved by Buyer and those that shall be discharged by Seller at or before closing. Seller shall pay for the updating of the title insurance commitment, which shall be done no sooner than fifteen (15) days prior to closing. Seller shall also provide and pay for a gap endorsement to the title insurance policy.
4. **Section 1031 Exchange.** The parties agree to cooperate with each other in effectuating the tax-free exchange of the property by Seller, at no cost to the Buyer. The Buyer agrees to execute the documents required by the Internal Revenue Code to treat the sale as a tax-free exchange.
5. **Environmental Assessments/Surveys/Soil Investigations.** Seller shall provide Buyer with copies of any environmental surveys or assessments, land surveys, or soil investigations in its possession covering the Property within thirty (30) days of the signing of this option by both parties.
6. **Environmental Indemnification.** Notwithstanding any investigation conducted by Buyer, Seller will, at closing, warrant and represent that the Property is in full compliance with all environmental laws and permits; there are no claims, disputes, actions or proceedings existing against the Seller or affecting the Property that relate to environmental laws or permits; there are no hazardous substances on the Property and that no releases of hazardous substances on, at, over or from the Property are occurring or have occurred. There is no environmental condition, situation or incident that could in any manner give rise to any action or liability under any environmental law; the Seller is not subject to and are not currently operating under any compliance or consent order, schedule, decree or agreement issued or entered into under any

environmental law and the Property does not contain asbestos or PCBs. Seller agrees to indemnify and hold Buyer harmless against and from any and all damages, claims, losses, liabilities, costs and expenses, including reasonable attorney's fees, which may be imposed upon, incurred by or asserted against Buyer by any party arising out of, in connection with, or relating to Seller's breach of, or any inaccuracy in, any representations or warranties set forth in this paragraph.

7. **Closing Documents.** Buyer's attorneys shall prepare the necessary closing documents. Seller understands that Buyer's attorney is not representing it in the sale of the Property.
8. **Condition of Property at Closing.** All debris and personal property will be removed from the Property by Seller before closing and the Property shall be left in broom clean condition.
9. **Brokers Fees.** Each party shall be responsible for their own broker's fees, if any, in regard to this transaction.
10. **Indemnification.** Except as specifically provided otherwise in this option, Seller shall indemnify and hold Buyer harmless from and against any and all loss, cost, damages, injury or expense, including reasonable attorney's fees, arising out of or in any way related to claims or injury to or death of persons, damage to property or contract liabilities associated with the ownership or operation of the Property, or the business conducted thereon, arising out of events or transactions before the date of closing. Except as specifically provided otherwise in this option, Buyer shall indemnify and hold Seller harmless from and against any and all loss, cost, damages, injury or expenses, including reasonable attorney's fees, arising out of or in any way related to claims for injury to or death of persons, damage to property, or contract liabilities associated with the ownership or operation of the Property or business conducted thereon, arising out of events or transactions after the closing date.
11. **Survival of Conditions.** The provisions of this option shall survive a closing of the transaction and delivery of possession and title of the Property. This option is binding on and inures to the benefit of the parties hereto, and their successors and assigns.
12. **Counterparts/Facsimile Signatures.** This option may be executed simultaneously or in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A facsimile signature appearing on this option shall be given the same effect as if it were an original signature on an original option.

MEMORANDUM OF
OPTION TO PURCHASE

*This is an option not a
conveyance per s. 77.21 (1)*

In re: The South 1/2 of Lot 6 and all of Lot 9 of the
Morhoff Replat, in the City of Madison, Dane
County, Wisconsin.

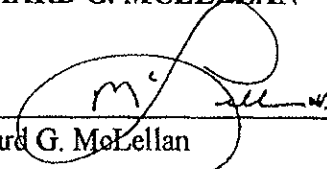
This Memorandum of Option to Purchase (the
"Memorandum") is hereby executed by Richard G.
McLellan ("Buyer"), as Buyer under the Option to
Purchase.

Buyer and Roger L. Charly, as Seller therein, have
entered into an Option to Purchase dated May 10,
2005, granting the Buyer the option to purchase from the
Seller certain real property located in the City of Madison, Dane County, Wisconsin, and
more particularly described above.

This Memorandum of Option to Purchase is executed and recorded for the purpose of
giving notice of the existence of the Option to Purchase.

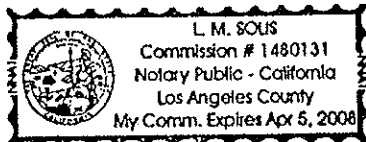
IN WITNESS WHEREOF, the undersigned has executed this Memorandum
August 10, 2005.

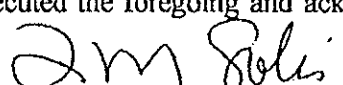
Buyer:
RICHARD G. MCLELLAN


Richard G. McLellan

STATE OF CA
COUNTY OF LA.) ss.

Personally came before me this 10 day of August, 2005, the above-named Richard G.
McLellan to me known to be the person who executed the foregoing and acknowledged the
same.




Notary Public, State of CA
My Commission: 4-5-08

This Instrument was Drafted by:
Attorney Vernon J. Jesse, Murphy Desmond S.C., 2 East Mifflin Street, Suite 800,
P.O. Box 2038, Madison, WI 53701-2038

DANE COUNTY
REGISTER OF DEEDS

DOCUMENT #
4093744

08/12/2005 10:06AM

Trans. Fee:
Exempt #:

Rec. Fee: 11.00
Pages: 1

000489

Attorney Vernon J. Jesse
Murphy Desmond S.C.
P.O. Box 2038
Madison, WI 53701-2038

Tax Parcel No. 251-0709-221-1406-5



1/11

EXERCISE OF OPTION TO PURCHASE

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

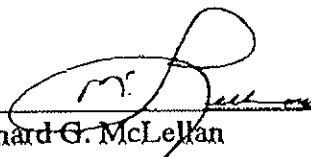
TO: Roger L. Charly
5212 Harbor Court
Madison, WI 53705-1306

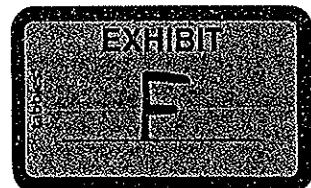
The undersigned, Richard G. McLellan, hereby exercises his option to purchase the real property located at 26 North Charter Road in the City of Madison, Dane County, Wisconsin, under the terms and conditions set forth in the Option to Purchase between the parties dated May 10, 2005. The property subject to the Option is more particularly described as:

The South ½ of Lot 6 and all of Lot 9 of the Morhoff Replat, in the City of Madison, Dane County, Wisconsin.

The undersigned desires to close on the above described purchase on November 1, 2005.

Dated this 12th day of August, 2005.


Richard G. McLellan

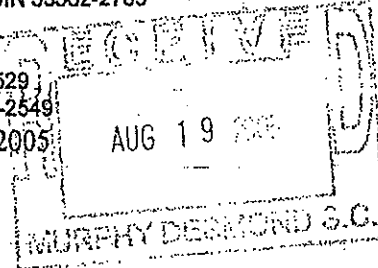


JON C. MANZO

Attorney at Law

6808 University Avenue
Suite 125
MIDDLETON, WISCONSIN 53562-2785

(608) 831-2529
FAX (608) 831-2549
August 17, 2005



Atty. Vernon J. Jesse
Murphy Desmond S.C.
Two East Mifflin St., #800
P.O. Box 2038
Madison, WI 53701-2038

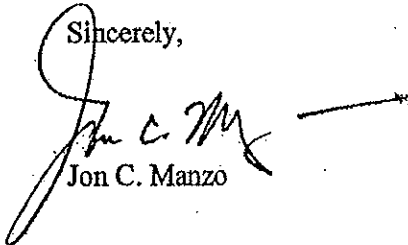
Re: Roger Charly's Property at 26 North Charter St.

Dear Atty. Jesse:

I am in receipt of Atty. Stange's letter of August 16th and the copy of the Exercise of Option to Purchase signed by Richard McLellan. As we have stated on more than one occasion, our position is that the May 10th document is void and voidable.

For the reasons set forth in my previous letters to your office, Roger Charly's position is that there is no valid or enforceable option for Richard McLellan to exercise. Roger Charly, therefore, respectfully declines to sell the property to Richard McLellan on November 1, 2005, or any other date.

Sincerely,



Jon C. Manzo

JCM:gm

cc: Mr. Roger Charly

