

Dec. 10. 2012 12:12PM Martineau King PLLC

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STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
10-CVS-019930

BRIAN CECCARELLI and LORI MILLETTE,

Plaintiffs,

v.

TOWN OF CARY,

Defendant.

AFFIDAVIT OF
GENE G. MURR, JR., P.E.

I, Gene G. Murr, Jr., am currently over twenty-one and I am competent to testify to the following facts that are known to me.

1. I am a licensed professional engineer and I have been employed with the North Carolina Department of Transportation since 1984, and have worked with ITS and/or Signals for the majority of my career at NCDOT. My current job title is State Signals Engineer. My current supervisor is Greg Fuller.

2. Part of my responsibilities as the State Signals Engineer for NCDOT include being familiar with the official Signal Plans of Record that dictate, among other items, the Yellow Change Interval for every signalized State-owned intersection.

3. It is the responsibility of NCDOT to approve the official Signal Plan of Record, including the Yellow Change Interval as shown on the Signal Plan of Record for each State-owned intersection.

4. I am familiar with the following intersections located within the Town of Cary, and each is owned by the state of North Carolina:

- a. Maynard Road and Kildaire Farm Road;
- b. Kildaire Farm Road and Cary Parkway;
- c. High House Road and Cary Parkway; and
- d. Walnut Street and Meeting Street.

5. I have reviewed and am familiar with the official NCDOT Signal Plans of Record that were sealed and dated for the time period August 1, 2010 – August 18, 2012 for the above intersections. These Signal Plans are NCDOT business records and are kept in the normal course of NCDOT business.

6. Attached as Exhibit A is the NCDOT official Signal Plan of Record that was sealed and dated for the time period between August 1, 2010 – August 18, 2012 for the intersection of Maynard Road and Kildaire Farm Road and that depicts the Yellow Change Interval for this intersection.

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7. Attached as Exhibit B is the NCDOT official Signal Plan of Record that was sealed and dated for the time period between August 1, 2010 – August 18, 2012 for the intersection of Kildaire Farm Road and Cary Parkway and that depicts the Yellow Change Interval for this intersection.

8. Attached as Exhibits C & D are the NCDOT official Signal Plans of Record that were sealed and dated for the time period between August 1, 2010 – August 18, 2012 for the intersection of High House Road and Cary Parkway and that depicts the Yellow Change Interval for this intersection.

9. Attached as Exhibit E is the NCDOT official Signal Plan of Record that was sealed and dated for the time period between August 1, 2010 – August 18, 2012 for the intersection of Walnut Street and Meeting Street and that depicts the Yellow Change Interval for this intersection.

10. Additionally, part of my responsibilities as the State Signals Engineer for NCDOT includes being familiar with the Clearance Time Sheets that traffic signal engineers use in determining the Yellow Change Interval for each signal plan. These Clearance Time Sheets are NCDOT business records and are kept in the normal course of NCDOT business. I have reviewed and am familiar with the Clearance Time Sheets used by licensed professional traffic signal engineers to calculate the Yellow Change Intervals shown on the official NCDOT Signal Plans of Record for the relevant Signal Plans identified above.

11. Attached as Exhibit F is the Clearance Time Sheet that corresponds to the Yellow Change Interval shown on the attached Signal Plan for Maynard Road and Kildaire Farm Road.

12. Attached as Exhibit G is the Clearance Time Sheet that corresponds to the Yellow Change Interval shown on the attached Signal Plan for Kildaire Farm Road and Cary Parkway.

13. Attached as Exhibits H & I are the Clearance Time Sheets that correspond to the Yellow Change Interval shown on the attached Signal Plans for High House Road and Cary Parkway.

14. Attached as Exhibit J is the Clearance Time Sheet that corresponds to the Yellow Change Interval shown on the attached Signal Plan for Walnut Street and Meeting Street.

15. Additionally, I am familiar with the intersection of Cary Towne Boulevard (formally known as Western Boulevard Ext.) and Convention Drive – Principal Lane, which is located within the Town of Cary and that is owned by the state of North Carolina. I have reviewed and am familiar with the official NCDOT Signal Plan of Record for the intersection of Cary Towne Boulevard and Convention Drive, indicating the Yellow Change Interval for this intersection, that was sealed and dated for the time period between December 2, 2009 - March 19, 2010. I have also reviewed and am familiar with the Clearance Time Sheet used by the licensed professional traffic signal engineer to calculate the Yellow Change Interval shown on the official NCDOT Signal Plan of Record.

16. Attached as Exhibit K is the NCDOT official Signal Plan of Record that was sealed and dated for the time period between December 2, 2009 - March 19, 2010 for the intersection of Cary Towne Boulevard and Convention Drive.

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17. Attached as Exhibit L is the Clearance Time Sheet that corresponds to the Yellow Change Interval shown on the attached Signal Plan for Cary Towne Boulevard and Convention Drive.

18. An additional part of my job as the State Signals Engineer is to be familiar with the contents and use of the NCDOT Traffic Management & Signal Systems Unit Design Manual ("Design Manual"). The purpose of the Design Manual is set forth in the Introduction Section. Attached as Exhibit M is a copy of the Introduction from the 1999 version of the Design Manual. The Design Manuals are business records and are kept in the normal course of NCDOT business.

19. Attached as Exhibit N are copies of the Determination of Yellow Change and Red Clearance Intervals sheets that were in place from 1995 - 2009. 1995 was the first year the Design Manual was produced.

20. Attached as Exhibit O is a copy of the Determination of Yellow Change and Red Clearance Intervals sheet that is currently being used.

21. The Design Manual is an NCDOT document intended for use by traffic signal engineers.

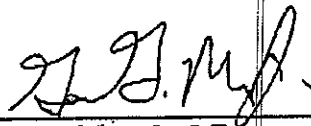
22. As a further and additional part of my job as a State Signals Engineer is to be familiar with contents of NCDOT standard practice guideline documents, including but not limited to the NCDOT, Division of Highways, Traffic Engineering and Safety Systems Branch, Standard Practice for Compliance with Traffic Signal and Electrical/Programming detail Plans. A copy of this Standard Practice document is attached hereto as Exhibit P.

23. Finally, an additional part of my job as a State Signals Engineer is to be familiar with the Manual of Uniform Traffic Control Devices (MUTCD) and the MUTCD stated standards, guidances, and options for Yellow Clearance Times.

24. A copy of 2003 and 2009 MUTCD section governing Yellow Change Intervals is attached hereto as Exhibit Q.

25. I have reviewed the Yellow Clearance Times that are set forth on the Signal Plans of Record described above and all the Yellow Clearance Times shown on these Signal Plans are in full conformance with the requirements of the MUTCD.

26. Further this affiant says naught.


Gene G. Murr, Jr., P.E.

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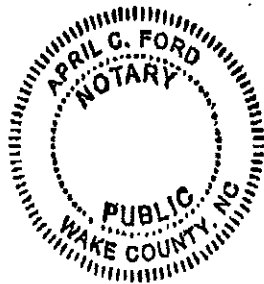
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Wake County, North Carolina

Sworn to and subscribed before me this day by Beth G. Murray.

Date: Dec. 7th 2012

(Seal)



April G. Ford
Notary Public

April G. Ford
Notary Public Printed Name

My Commission Expires: November 12, 2016

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served upon all counsel of Record by fax and by depositing a copy hereof, postage prepaid, in the United States Mail, addressed to the attorney for each said party as follows:

Paul Stam
Caroline Nickel
Stam & Danchi, PLLC
PO Box 1600
Apex, NC 27502
FAX:
Attorneys for Plaintiffs.

B William Peaslee
919 481-2919

This 10 day of December, 2012.

[Signature]
Elizabeth A. Martineau