

VILLAGE OF MAMARONECK
PUBLIC HEARING IN THE MATTER OF
CYNTHIA GOLDSTEIN

May 27, 2020

10:00 A.M.

REMOTE PROCEEDING

APPEARANCES:

TOM MURPHY, Mayor

ADAM STOLOROW, ESQ.

ALLISON SLOTO, ESQ.

CYNTHIA GOLDSTEIN, Planning Board

STEVEN LEVENTHAL, ESQ.

JEFFREY BLINKOFF, ESQ.

AGOSTINO FUSCO, Village Clerk

SALLY ROBERTS, Deputy Village Clerk

CLIFF CAZES, Village Information Systems

PUBLIC HEARING

1
2 MAYOR MURPHY: We are here today
3 to have a hearing based upon the
4 findings of the ethics board in the
5 matter of Ms. Cindy Goldstein. This
6 hearing is not a retrying of the
7 ethics board decision and opinion;
8 this is a hearing about whether or not
9 under my authority in New York State
10 Law Ms. Goldstein should be or could
11 be removed. I am open to all
12 arguments in this matter. This is a
13 very, very difficult decision. This
14 wasn't in the job description when I
15 ran for mayor but we have to do the
16 tasks that are legally assigned to us.
17 So that being said, I just want to
18 point out we are working off the
19 record here. There are other ways of
20 appealing the record and Ms. Goldstein
21 has availed herself of those and
22 another court will decide -- a court,
23 I'm not a court, but a court will
24 decide whether that decision was
25 appropriate or not based upon Article

PUBLIC HEARING

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2 78 that's been filed. That being
3 said, I want to assure everybody that
4 we are going to do our best to provide
5 a fair and open process here and we
6 want to make sure at the end of this
7 that folks know they can provide
8 comments by e-mail for up to two weeks
9 and we will consider all those
10 comments. And I am assisted today by
11 my lawyer, Mr. Adam Stolorow and Mr.
12 Stolorow is going to go over the
13 ground rules of this proceeding. Mr.
14 Stolorow, please.

15 MR. STOLOROW: Thank you,
16 Mr. Mayor. As the mayor mentioned,
17 this is a public hearing to determine
18 whether or not Cynthia Greer
19 Goldstein, a member of the village
20 planning board, should be removed for
21 cause. This public hearing is being
22 held pursuant to the mayor's authority
23 under New York Village Law Section
24 7-7189. Specifically the law states
25 that the Mayor shall have the power to

PUBLIC HEARING

remove after public hearing any member of the planning board for cause. The board of trustees, which is the appointing authority for the village planning board under the Village of Mamaroneck Code, does not have removal authority for planning board members. We anticipate that individual members of the board of trustees are observing the hearing today via Zoom and may chose to comment individually during the public comment period, but it will ultimately be the mayor's decision whether to adopt the recommendation of the ethics board. Although this public hearing would normally be held in person, Governor Cuomo's executive orders allow public hearings to be held via telephone or video conference. Specifically on April 9, 2020 Governor Cuomo issued Executive Order 202.15 which states that any local official, state official or local government or school which by

PUBLIC HEARING

virtue of the law has a public hearing scheduled or otherwise required to take place in April or May of 2020 shall be postponed until June 1, 2020 without prejudice; however, such hearing may continue if the convening body or official is able to hold the public hearing remotely through the use of telephone conference, video conference, and or other similar service. Executive Order 202.29 which was issued on May 8, 2020 extended the end date in the prior order to June 7, 2020. Like New York and federal courts and many other municipalities, we are doing our best to continue our appointed duties during COVID-19 so we want to thank you for attending today and we ask that you bear with us and have patience for any technical difficulties that may arise. This meeting is being held during the daytime because it was anticipated to be a somewhat lengthy hearing and we

PUBLIC HEARING

wanted to ensure there was sufficient time to complete the hearing in one session without going late into the evening and we wanted to give the opportunity for members of the public to be heard on this matter. This hearing is being live streamed and will be recorded. A recording of the video will be made available through the village website with a link provided on the web page for this hearing. The web page also includes a link to the complete ethics board record in this matter and other materials. A court reporter is transcribing the hearing and a transcript of the hearing will also be made available on the website. Depending on how long the hearing goes today, we will plan on taking one or two scheduled recesses, one at 12:00 to 12:15, and again at 2:30 to 2:45, if needed. Otherwise, we hope to be finished by 2:30 if possible. Members

PUBLIC HEARING

of the public will be able to make comments at today's hearing after the completion of witness testimony. In order to make comments you will need to be connected to Zoom meeting by video, even if you are listening in by phone for the audio portion of the conference. And I'll go over again the specific procedures at the start of the public comments portion of the hearing, but you will need to use the Raise Your Hand function on Zoom in order to be recognized by the village clerk and placed into the cue to comment. Comments today will be limited to five minutes per speaker. In the event that anyone delivering oral comments today veers into the realm of fact testimony, that is presenting facts relating to the matter at hand and not simply opinion about whether the mayor should or should not adopt the recommendation of the ethics board, we'll ask that the

PUBLIC HEARING

1 speaker be sworn in as a witness under
2 oath and that the mayor and counsel
3 for Ms. Goldstein be given an
4 opportunity to ask questions of the
5 witness. In addition to the oral
6 comment period at today's hearing,
7 members of the public can send written
8 comments to the mayor through June 10,
9 2020 by e-mailing them to
10 goldsteincomments@vomny.org and the
11 record of the hearing will be closed
12 after June 10.
13

14 I next wanted to provide a
15 summary of the background from the
16 ethics board. The mayor is
17 considering whether to adopt the
18 recommendation of the ethics board
19 based on the findings of the ethics
20 board that Ms. Goldstein violated
21 Sections 21-4C and 21-4N of the
22 Village Code of Ethics. The mayor's
23 decision will be based in significant
24 part on the administrative record
25 compiled by the ethics board during

PUBLIC HEARING

its inquiry, investigation and hearing. A copy of the full record, as I mentioned, is available on the village's website on the web page for this hearing along with the decision and recommendation of the ethics board and other materials, including the memorandum of law that was filed in the Article 78 that was brought by Ms. Goldstein challenging the ethics board's decision.

So rather than read the entire ethics board decision and their recommendation which is available, I did want to summarize the background before we get into testimony.

This matter involved two applications before the planning board in which Ms. Goldstein actively participated. The first, Hampshire Recreations, LLC, with respect to Hampshire Country Club and the application of Hampshire Recreation, LLC, to the planning board. The

PUBLIC HEARING

1
2 recommendation of the ethics board
3 contained the following summary of the
4 factual and procedural background:

5 On December 10, 2018,
6 Ms. Goldstein was appointed to the
7 planning board. Ms. Goldstein owns
8 and resides at 5 Oak Lane purchased in
9 June 2017 which is located either next
10 to or very close to Hampshire Country
11 Club and has winter views of the golf
12 course and year round open views from
13 the lower rear yard towards the
14 Hampshire property and the tidal pond
15 that touches both Ms. Goldstein's and
16 Hampshire's property. Since her
17 appointment, Ms. Goldstein has
18 actively participated in each planning
19 board meeting that addressed the
20 application of Hampshire Recreation,
21 LLC. In January 2019 the ethics board
22 received information suggesting that
23 Ms. Goldstein may have violated the
24 disclosure and recusal requirements of
25 the Code of Ethics when she

PUBLIC HEARING

1 participated in the consideration of
2 the Hampshire application before the
3 planning board. After the ethics
4 board contacted Ms. Goldstein
5 regarding the issue that her
6 participation in the application of
7 Hampshire Recreation, LLC, could be an
8 issue, two members of the ethics board
9 met informally with Ms. Goldstein on
10 March 12, 2019 to discuss the
11 potential that recusal could be
12 required. At that meeting those
13 ethics board members were seeking her
14 input and to gather information from
15 Ms. Goldstein to determine if there
16 were any factors in addition to the
17 location to her property relative to
18 Hampshire that were relevant for the
19 ethics board's consideration. While
20 the ethics board had not been
21 concluded, hence this date has not had
22 to conclude, that proximity could
23 alone be a factor requiring recusal
24 under the Code of Ethics, it did deem
25

PUBLIC HEARING

proximity and participation as appropriately giving rise to the question. Contrary to her assertion, the members of the ethics board that met with her provided assurance that her conduct did not violate the Code of Ethics, rather the meeting was for the purpose of gathering facts and letting her know that no conclusions had been reached. In any event, as of the March 12, 2019, Ms. Goldstein dismissed the boards' concerns out of hand, arguing that her property did not abut the Hampshire property. Later at the hearing the village engineer who has expertise in reading surveys testified that a survey previously filed with the village by the Goldsteins showed that the northerly boundary of the Goldstein property indeed abuts the Hampshire property. The ethics board also found as detailed on the decision, that the testimony by Ms. Goldstein's expert

PUBLIC HEARING

witness did not controvert this testimony by the village engineer. The ethics board found that Ms. Goldstein's property does abut Hampshire or is so close as to make a finding of boundary adjacency not determinative in the ethics board's decision or recommendations. To be clear, the ethics board did not base its decision solely on the proximity of Ms. Goldstein's property to Hampshire, but on the totality of the evidence presented.

The second matter involves Last Home, LLC, and with respect to 203 Hommocks Road and the application of Last Home, LLC, to the planning board. The recommendation of the ethics board contained the following summary of the factual and procedural background:

Shortly after the planning board met on March 27, 2019 the ethics board received information suggesting that Ms. Goldstein may have violated the

PUBLIC HEARING

disclosures and recusal requirements of the Code of Ethics when she participated at that meeting in the planning board's consideration of an application to demolish and replace the house at 203 Hommocks Road. In connection with the proposed work, the owner planned to extend a public sewer line down Hommocks Road from a manhole near Hommocks school to approximately the intersection Hommocks Road and Oak Lane to allow the applicant to connect his home to public sewer lines.

Extending the sewer line would make it substantially less expensive to add service to nearby residents, whatever the source of funding, and specifically to Oak Lane where the Goldstein's live. As of the March 27, 2019 planning board meeting, Ms. Goldstein knew that her husband Steve Goldstein had been working for many months get to his neighbors and the board of trustees to support his

PUBLIC HEARING

1 efforts to get a sewer line extended
2 down Hommocks Road to Oak Lane. In
3 e-mails to his neighbors and three
4 appearances before the board of
5 trustees and in letters to the Village
6 Mr. Goldstein consistently touted the
7 economic and environmental benefits of
8 adding the sewer line. In fact, after
9 hearing the news of the outcome of the
10 March 27th planning board meeting in
11 which his spouse participated,
12 Mr. Goldstein wrote the village on
13 March 31, 2019 encouraging the Village
14 to support extension of the sewer to
15 include Oak Lane. Mr. Goldstein's
16 efforts are discussed in detail in the
17 decision. The ethics board contacted
18 and met with Ms. Goldstein and her
19 counsel after it received information
20 that Ms. Goldstein may have violated
21 her disclosure and recusal obligations
22 at the March 27, 2019 planning board
23 meeting. She again dismissed the
24 ethics board's concerns that her
25

PUBLIC HEARING

actions were inconsistent with the Code of Ethics.

The specific charges that were filed by the ethics board against Ms. Goldstein are as follows:

With respect to Last Home, LLC, the charges against Ms. Goldstein allege that she violated the Code of Ethics by failing to recuse herself from acting on that application at the planning board meeting on March 27, 2019 and by failing to disclose her direct or indirect interest in the outcome of the application. The specific charges as previously provided to Ms. Goldstein by notice on July 31, 2019 are as follows:

Building Code Section 21-4C. Village Code Section 21-4C(1) requires that every member of a village board recuse himself or herself from acting on a matter before the village when acting on the matter or failing to act on the matter may benefit the person listed

PUBLIC HEARING

in Section 21-4A financially or otherwise, or give the reasonable appearance of a conflict of interest or propriety. Among the persons listed in 21-4A are the board member and member of his or her household. On or about February 28, 2019, Last Home, LLC, applied to the planning board of the village for a wetlands permit with respect to premises located at 203 Hommocks Road in the Village of Mamaroneck. The application included the construction of a sewer line to be constructed in Hommocks Road to serve the premises at 203 Hommocks Road. If the sewer line were extended, it would also have the capacity to serve Ms. Goldstein's residence at 5 Oak Lane in the Village of Mamaroneck. At or prior to that time, Ms. Goldstein's husband, Mr. Stephen Goldstein, had discussed with the principal of Last Home, LLC, constructing the sewer line so that

PUBLIC HEARING

1 the sewer line could also serve the
2 Goldstein residence and the residences
3 of other neighbors. Mr. Goldstein
4 appeared before and sent letters to
5 the board of trustees of the village
6 in or about that time to advocate for
7 a special improvement district to
8 construct a sewer line. Ms. Goldstein
9 is a member of the planning board on
10 or about March 27, 2019. Last Home,
11 LLC, appeared before the planning
12 board in connection with its
13 application for a wetlands permit.
14 Ms. Goldstein was aware of the
15 proposed sewer line prior to that
16 meeting, was aware of Mr. Goldstein's
17 appearances before and letters to the
18 board of trustees with respect to the
19 proposed sewer line and was aware that
20 if the proposed sewer were built at
21 the expense of Last Home, LLC, as a
22 condition of its wetland permit, Mr.
23 and Mrs. Goldstein would benefit from
24 the construction of this sewer line
25

PUBLIC HEARING

1 because it would reduce the cost of
2 providing public sewer service to the
3 residents and might enhance the value
4 of their property. Ms. Goldstein was
5 also aware at the March 27, 2019
6 meeting as a result of statements made
7 at that meeting that the sewer line
8 project would continue. Despite this
9 knowledge, Ms. Goldstein did not
10 recuse herself with respect to the
11 application of Last Home, LLC,
12 participating in the consideration of
13 and acted on the Last Home, LLC,
14 application as a member of the
15 planning board at the March 27, 2019
16 meeting. By failing to recuse herself
17 or acting on the application of Last
18 Home, LLC, (inaudible) planning board
19 and acting on the matter as a member
20 of the planning board, Ms. Goldstein
21 violated Village Code Section
22 21-4C(1).
23

24 There are also charges under the
25 Section 21-5C of the Code of Ethics.

PUBLIC HEARING

I won't read them here because ultimately the ethics board did not reach a decision as to those charges. The second charge with respect to Last Home, LLC, was under Village Code 21-4N which provides that to the extent that he or she knows thereof any village officer/board member with respect to matters in which she or he participates or in which her/his board is involved in the decision making process, shall specifically and fully disclose on the official record of the board of trustees at a regular public meeting thereof the nature and extent of any direct or indirect interest in legislation or official action pending before the Village. For the reasons stated above, Ms. Goldstein had a direct or indirect private interest in the application of Last Home, LLC, before the planning board and participated as a member of the planning board in the decision making

PUBLIC HEARING

1 process with respect to that
2 application. Ms. Goldstein did not
3 specifically and fully disclose the
4 nature and extent of that interest on
5 the official record of the board of
6 trustees at a regular public meeting
7 of the board of trustees by failing to
8 specifically and fully disclose the
9 nature and extent of her interest in
10 the application of Last Home, LLC, on
11 the official record of the board of
12 trustees at a regular public meeting
13 of the board of trustees Ms. Goldstein
14 violated Village Code Section 21-4N.
15

16 So those were the charges by the
17 ethics board related to Last Home,
18 LLC. The ethics board went on to
19 state in its decision that the
20 village's Code of Ethics is not
21 identical to the state Code of Ethics
22 as it relates to its conflict of
23 interest provisions. The village code
24 specifically provides that to the
25 extent this chapter is inconsistent

PUBLIC HEARING

with the provision of Section 808 of General Municipal Law, the more restrictive provision applies. The state ethics code defines interest as only a direct or indirect pecuniary or material benefit and unlike the village's Code of Ethics does not mandate recusal for the reasonable appearance of a conflict of interest or impropriety. The Code of Ethics requires more of its member -- more of members of the village boards and commission than that they not take discretionary actions with respect to applications in which they are interested. It requires that they avoid the reasonable appearance of impropriety. That requirement is not imposed by the Common Law or by the conflict of interest provisions of General Municipal Law Article 18 where it did appear until recently within Canon 9 of New York's Canons of Professional Ethics for Attorneys.

PUBLIC HEARING

The Court of Appeals has construed that standard as meaning that a lawyer may not place himself in a position where a conflicting interest may inadvertently affect or give the appearance of affecting the obligations of the profession (inaudible). The standard still generally applies to judges applying this judicial standard in New Jersey Supreme Court defined the application of the standard this way: Would a reasonable, fully-informed person have doubts about the judge's impartiality.

With respect to the charges as relates to Hampshire Recreation, LLC, on September 16, 2019 the ethics were provided notice to Ms. Goldstein that it was bringing charges against her with respect to the application of Hampshire Recreation, LLC. Those charges are that she violated the Code of Ethics by failing to recuse herself from acting on the application and by

PUBLIC HEARING

1
2 failing to disclose her direct or
3 indirect interest in the outcome of
4 that application. The specific
5 charges related to Hampshire
6 Recreation, LLC, are as follows:

7 The Village Code Section 21-4C(1)
8 requires that every member of the
9 village board recuse himself or
10 herself from acting on a matter before
11 the village when acting on the matter
12 or failing to act may benefit the
13 persons listed Section 21-4A,
14 financially or otherwise or give the
15 reasonable appearance of a conflict of
16 interest or impropriety. Among the
17 the persons listed in 21-4A are the
18 board member and a member of his or
19 her household. Hampshire Recreation,
20 LLC, has applied to the planning board
21 of the Village of Mamaroneck for
22 subdivision approval and various other
23 approvals with respect to the premises
24 at 1025 Cove Road in the village. The
25 application proposes the construction

PUBLIC HEARING

1 of 105 residences. Ms. Goldstein
2 resides at 5 Oak Lane in the Village
3 of Mamaroneck. A reasonable person
4 could perceive that the location of
5 Ms. Goldstein's property at 5 Oak Lane
6 in relation to the proposed
7 development of the Hampshire
8 Recreation, LLC, property is such that
9 the construction of proposed Hampshire
10 subdivision will necessarily impact
11 Ms. Goldstein and the value, use
12 and/or enjoyment of her property and
13 therefore gives the reasonable
14 appearance of a conflict of interest
15 or impropriety. Ms. Goldstein may
16 also benefit financial or otherwise
17 from acting or not acting on that
18 application. Ms. Goldstein has
19 participated and continues to
20 participate as a member of the
21 planning board in consideration of the
22 Hampshire Recreation, LLC,
23 application. By failing to recuse
24 herself from acting on the application
25

PUBLIC HEARING

1
2 of Hampshire Recreation, LLC, before
3 the planning board, Ms. Goldstein
4 violated Village Code Section
5 21-4C(1). As with Last Home, LLC,
6 there were also charges under Section
7 21-5C however because the ethics board
8 did not reach a decision on those
9 charges I will not read them here.

10 The final charge was related to
11 Hampshire Recreation, LLC, and it
12 related to Village Code Section 21-4N
13 and those charges were as follows:

14 Village Code Section 21-4N
15 provides that to the extent that he or
16 she knows thereof any village officer
17 or member or employee with respect to
18 matters in which he or she
19 participates or in which her or his
20 board is involved in the decision
21 making process shall specifically and
22 fully disclose on the official record
23 of the board of trustees at a regular
24 public meeting thereof, the nature and
25 extent of any direct or indirect

PUBLIC HEARING

1 interest in legislation or official
2 action pending before the village.
3 For the reasons stated above,
4 Ms. Goldstein had a direct or indirect
5 private interest in the application of
6 Last Home, LLC, before the planning
7 board and participated as a member of
8 the planning board in the decision
9 making process with respect to that
10 application. Ms. Goldstein did not
11 specifically and fully disclose the
12 nature and extent of that interest on
13 the official record of the board of
14 trustees at a regular public meeting
15 of the board of trustees by failing to
16 specifically and fully disclose the
17 nature and extent of her interest in
18 the application of Last Home, LLC, on
19 the official record of the board of
20 trustees at a regular public meeting
21 of the board of trustees.
22 Ms. Goldstein violated village Code
23 Section 21-4N.
24

25 Following the service of charges

PUBLIC HEARING

1
2 against Ms. Goldstein, the ethics
3 board conducted a hearing. After
4 conducting its informal inquiries and
5 investigations, including meeting with
6 Ms. Goldstein on multiple occasions,
7 the ethics board voted to hold a
8 hearing to determine whether or not
9 Ms. Goldstein violated the disclosure
10 and recusal requirements of the Code
11 of Ethics with respect to both
12 matters. The hearing was held over
13 four days in October and November of
14 2019. Ms. Goldstein was represented
15 by counsel at the village's expense
16 throughout the four day hearing.
17 Ms. Goldstein was provided the full
18 opportunity to call witnesses, to
19 examine witnesses called by the ethics
20 board, to submit evidence and present
21 arguments. Following the hearing on
22 November 29, 2019 the ethics board
23 submitted a decision and
24 recommendation to the mayor and board
25 of trustees. As detailed in its

PUBLIC HEARING

1 decision, the ethics board unanimously
2 found that Ms. Goldstein's
3 participation as a member of the
4 planning board in the consideration of
5 the application of Hampshire
6 Recreation, LLC, regarding the
7 development of Hampshire Country Club
8 and Last Home, LLC, regarding the
9 property at 203 Hommocks Road
10 constituted multiple violations of the
11 Code of Ethics. The ethics board
12 concluded in its decision overwhelming
13 evidence was adduced at the hearing
14 and Ms. Goldstein committed each of
15 the charged violations of the recusal
16 requirements of Section 21-4C and the
17 disclosure requirements of Section
18 21-4N of the Code of Ethics. Having
19 reached a decision on the charges
20 under these sections, the ethics board
21 concluded that it did not need to
22 reach a decision as to whether
23 Ms. Goldstein had violated Section
24 21-5C. In light of all the facts and
25

PUBLIC HEARING

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2 circumstances surrounding these
3 violations, the ethics board
4 recommended that Ms. Goldstein be
5 removed from the planning board.

6 Before we hear from
7 Ms. Goldstein's attorney, I want to
8 make clear that as the mayor said,
9 this hearing is not about ruling on
10 the constitutionality of the village
11 Code of Ethics or an appeal of the
12 decision of the ethics board. The
13 mayor does not have the power to
14 overturn the decision of the ethics
15 board or to rewrite sections of the
16 Code of Ethics that Ms. Goldstein was
17 found to have violated. She has
18 brought an Article 78 proceeding in
19 state court raising those claims and
20 that will be for the court to decide.
21 Today the mayor is considering whether
22 to adopt the recommendation of the
23 ethics board based on the record that
24 was created through the ethics board
25 process. Today's hearing is

PUBLIC HEARING

specifically not meant to repeat the hearing of the ethics board and today's witness testimony and public comments are meant to supplement the record of the ethics board in order to assist the mayor in reaching his determination about whether to take disciplinary action. To the extent that we can try and stay focused on this question of whether removal is warranted given the decision of the ethics board, it will help us have a productive hearing. We will now hear from Mr. Steven Leventhal on behalf of Ms. Goldstein.

MR. LEVENTHAL: Thank you very much. I would like to begin by saying that I hope that all those who are participating, all those who are listening and their loved ones are safe and well in this very difficult time that we are going through.

Mr. Stolorow, I have a question for you. Both you and the mayor have

PUBLIC HEARING

1
2 said more than once, that the mayor --
3 this is not an appeal of the ethics
4 board's decision, nor is it a
5 challenge to the ethics board's
6 decision. By that, do you mean to say
7 that in considering what weight to
8 place on the decision and in
9 considering whether to take the
10 recommendation of the ethics board,
11 the mayor will not consider arguments
12 as to why that decision may be
13 invalid?

14 MR. STOLOROW: The answer is I
15 think that those arguments, I mean,
16 obviously we expect that you are going
17 to make arguments about why the ethics
18 board's decision was not warranted and
19 I expect that you also may make
20 arguments about whether the Code of
21 Ethics is clear enough or is too vague
22 to be followed and I think that those
23 arguments are appropriate in the sense
24 that they may be a mitigating factor
25 that the mayor can consider. But I

PUBLIC HEARING

1 want people watching, and to remind
2 the participants, the limits of the
3 mayor's power at this hearing, which
4 is really whether to impose
5 disciplinary action or not. It's
6 not -- the mayor doesn't have the
7 ability to overturn what the ethics
8 board has done.

9
10 MR. LEVENTHAL: Thank you.

11 Good morning, Mr. Mayor. Good
12 morning all those who are
13 participating and listening. I would
14 like to begin by renewing the request
15 that we made on February 10th for the
16 mayor's recusal and I will provide two
17 reasons for that request but first I
18 would like to have the first exhibit
19 -- we'll call it Respondent's Exhibit
20 1 deemed to be the witness list
21 prepared by the board of ethics for
22 its hearing. And I will -- since we
23 are conducting this hearing remotely,
24 at the conclusion of the hearing today
25 or tomorrow, I will transmit all of my

PUBLIC HEARING

1
2 exhibits to Mr. Stolorow but the first
3 exhibit that I now introduce is the
4 board of ethics witness list. The
5 mayor appeared on the list of
6 witnesses that the board of ethics
7 indicated it intended to call. The
8 board of ethics did not call the mayor
9 as a witness at the hearing but then
10 planning board chair Mr. John Verni
11 testified that he received a call from
12 the mayor informing him that the
13 village attorney, Mr. Robert Spolzino,
14 would be calling him for the purpose
15 of discussing whether Ms. Goldstein
16 should recuse herself. So the mayor
17 now is in the role of a judge. It is
18 incompatible to be both a judge and a
19 witness. The mayor has personal
20 knowledge of the events that underlie
21 this hearing. He should recuse
22 himself. And the fact that he
23 appeared on the witness list prepared
24 by the board of ethics certainly at a
25 very minimum creates the appearance

PUBLIC HEARING

that he does, whether he now disavows that knowledge or not. So that is the first reason. And you'll hear momentarily that there is another person on the board of ethics witness list that the board has communicated with to indicate their opinion that he should not participate in this matter in any way and he is not acting in the role of the judge. More about that in a moment. But there is a second reason that the mayor should not serve as the judge in this matter. In 2017 the board of trustees, after a referendum of the voters exercised the power of the Village under the Municipal Home Rule Law, to supercede Village Law Section 7-718 and transferred the power to appoint village board members from the mayor to the board of trustees. The Appellate Division with jurisdiction over the County of Westchester has repeatedly ruled that the power to

PUBLIC HEARING

1 appoint is also the power to remove.
2 It ruled that way in Macomb vs. Wisner
3 (phonetic) in 2006, Correia vs.
4 Village of Northport in 2004 and
5 Winters vs. Glen Cove in 1992. In
6 addition, the Supreme Court of Nassau
7 County similarly ruled in the Village
8 of Manor Haven vs. Toner in 2016.
9 Therefore, in the Village of
10 Mamaroneck the mayor lacks the
11 authority to remove a member of the
12 planning board. We ask that the mayor
13 recuse himself in this matter.
14

15 MR. STOLOROW: So we did receive
16 your request that the mayor recuse
17 himself in this matter and I want to
18 respond to both of you, your
19 arguments, but the mayor is not
20 required to recuse himself. We looked
21 at both of these issues carefully.
22 With respect to the question of
23 whether the mayor could be a witness,
24 the mayor did appear on the list of
25 witnesses from the ethics board. He

PUBLIC HEARING

1 was not called either by the ethics
2 board or by Ms. Goldstein at the
3 ethics board hearing and has not been
4 called as a witness in this hearing.
5 The case law on this regarding even
6 when judges are -- may appear as
7 witnesses speaks to the question of
8 whether they will be a material
9 witness, not even just a witness. So
10 the question is could the mayor be a
11 material witness; that is, could his
12 testimony be material, you know, in
13 one way or the other as to whether
14 Ms. Goldstein violated the Code of
15 Ethics, and our decision is that it
16 does not. So in terms of him
17 appearing on a list of witnesses, it
18 does not create a basis for recusal.

20 The question about who has the
21 removal authority for planning board
22 members, this issue is crystal clear,
23 based on our research, that although
24 the 2017 board -- Village referendum
25 that gave the appointing authority to

PUBLIC HEARING

1
2 the board of trustees, that referendum
3 did not speak at all of the removal
4 authority which remains with the mayor
5 under New York Village Law 7-718(9)
6 so the request for the mayor's recusal
7 is denied.

8 MR. LEVENTHAL: Thank you.

9 Removal in this case is not warranted
10 and the reason is that there is no
11 legal cause for removal. The legal
12 cause involves specific elements. In
13 the case of Gershon vs. Tuckahoe
14 decided by the Appellate Division in
15 are 1965 the court said the cause,
16 that is the cause for removal, must
17 not be a mere whim or a caprice of the
18 one cloaked with the power of removal,
19 a mere subterfuge to get rid of person
20 holding the position. On the
21 contrary, it must be of substance
22 relating to the character, neglect of
23 duty, or the fitness of the person
24 removed to properly discharge the
25 duties of her position. So this

PUBLIC HEARING

1 morning I am going to focus on
2 Ms. Goldstein's character, the
3 question of whether there was a
4 neglect of duty by Ms. Goldstein, her
5 fitness for the position that she
6 holds, that is member of the planning
7 board. As to character -- oh, and
8 finally, I will address, I will
9 address the reasoning of the board of
10 ethics and discuss that in some
11 detail. As to Ms. Goldstein's
12 character, you will hear, the evidence
13 will indicate that throughout her
14 career Ms. Goldstein has dedicated
15 herself to volunteerism and civic
16 activities and that she has a long
17 history of active participation in
18 village government. The evidence will
19 be unambiguous that Ms. Goldstein's
20 character is beyond reproach. Here
21 there was no neglect of duty.
22 Ms. Goldstein is a dedicated and
23 conscientious planning board member.
24 In one of the two matters that we are
25

PUBLIC HEARING

here to discuss, Ms. Goldstein recused herself before any charges were brought against her after participating in only one meeting where the only actions taken were ministerial and involved no exercise of discretion by the planning board. In the other matter, the evidence will show that the project would not have had a significant impact on Ms. Goldstein. Furthermore, Ms. Goldstein is accused of violating a recusal requirement that the board of ethics admits is vague and has itself recommended that the board of trustees clarify. As to Ms. Goldstein's fitness for office, you will hear from the current chair of the planning board that Ms. Goldstein is a highly committed, knowledgeable and energetic member of the planning board and that her removal from office would be a great loss to the village.

As to the faulty reasoning of the

PUBLIC HEARING

board of ethics here, the board of ethics claimed that there was a pattern of conduct when there was none. Two matters do not a pattern make, particularly when Ms. Goldstein recused herself in one of them. The only pattern was Ms. Goldstein's complete cooperation with the board of ethics before and after they charged her with an ethics violation. The board of ethics also based it's recommendations on what it somehow concluded was Ms. Goldstein's unwillingness to consider the board's point of view but this conclusion flies in the face of the fact that Ms. Goldstein was persuaded to recuse herself in one of the two applications that we are here to discuss. The board of ethics also based its recommendation on Ms. Goldstein's attitude and the spirit of the law applying the member's own personal opinions and implicit biases. The

PUBLIC HEARING

evidence will show that the board of ethics has gone off the rails. The board's recommendation is expressed with inappropriate anger directed at a conscientious village volunteer who dared to disagree with its interpretation of the code. In what can only be described as neglect of its own duty, the board of ethics made its decision and recommendation before a motion to disqualify one of its members for bias was resolved. What are village residents to make of this hypocrisy?

Finally, not content to let its decision and recommendation speak for itself, the board of ethics has attempted to influence the outcome of this hearing by intimidating a potential witness. At this time I introduce correspondence from the board of ethics to Trustee Dan Natchez dated February 21st. Mr. Stolorow's letter to the board of ethics serving

PUBLIC HEARING

1 as counsel to Mr. Natchez dated
2 May 18th, and the board of ethics'
3 response to Mr. Stolorow dated May 22.
4 More about that later, but as a result
5 Mr. Natchez -- but Mr. Natchez
6 appeared on the board of ethics
7 witness list and was interviewed by
8 the board. In their letter of
9 February 21st the board of ethics
10 stated that it believed that the
11 history strongly indicates that's Mr.
12 Natchez should consider recusal from
13 participating in any issue, any issue,
14 regarding Ms. Goldstein. The board of
15 ethics reiterated its position on
16 May 22 in a letter to Mr. Natchez'
17 attorney.

19 So that is the background. We
20 intend to flesh out all of those
21 issues as we go through the testimony
22 and the documentary evidence. Thank
23 you for your patience in hearing my
24 opening statement. We now call
25 Ms. Kathy Savolt, chairperson of the

1 PUBLIC HEARING

2 Village of Mamaroneck planning board.

3 MAYOR MURPHY: Has she been sworn
4 in?

5 MR. STOLOROW: We need her to
6 raise her hand in order for Auggie to
7 have her appear as a witness.

8 MAYOR MURPHY: Give us a second.

9 MR. LEVENTHAL: Will the protocol
10 be the witnesses are visible on screen
11 or only that their names will be seen?

12 MR. STOLOROW: It depends on
13 whether they are joining by video or
14 not. So if Ms. Savolt has her video,
15 she just has to turn her video on I
16 believe.

17 MR. LEVENTHAL: Ms. Savolt, that
18 is entirely up to you --

19 MS. SAVOLT: I don't have that
20 capability. It says not authorized by
21 the host to be on video.

22 MR. LEVENTHAL: I didn't hear
23 that last statement.

24 MS. SAVOLT: I'm not authorized
25 by host to be on video, I've only been

1 PUBLIC HEARING

2 given rights to be on audio.

3 MAYOR MURPHY: Hold on, we'll fix
4 that for you. We are fixing it as we
5 speak.

6 MS. SAVOLT: I just got promoted.

7

8 K A T H L E E N S A V O L T,

9 having been duly sworn by a Notary

10 Public of the State of New York,

11 was examined and testified as follows:

12 EXAMINATION BY

13 MR. LEVENTHAL:

14 Q. Ms. Savolt, as you know, I am
15 counsel to Cindy Goldstein in matter.
16 Would you please describe your current and
17 past village positions, positions you held
18 in the village government?

19 A. Yes. I was a trustee from 2000
20 to 2002. I was the mayor from 2007 to
21 2009. I've been on the planning board
22 since 2017 and this past December I was
23 appointed chair.

24 Q. Thank you. What is the role of
25 the planning board in village government?

PUBLIC HEARING

1
2 A. Basically the planning board
3 reviews and adjudicates applications
4 related to building projects as spelled
5 out in the Village Code. For example, we
6 review projects requiring subdivision,
7 site plan reviews, permits, special;
8 permits as defined in the code and
9 variances from certain requirements
10 pertaining to building and flood.

11 Q. Thank you. Are planning board
12 members compensated?

13 A. No, we are strictly volunteers.

14 Q. How often does the planning board
15 meet?

16 A. Generally twice a month, except
17 for August, but it can depend on where
18 holidays fall and our work load.

19 Q. Is preparation for planning board
20 meetings required by members?

21 A. I would say yes. Some members do
22 a great deal of preparation.

23 Q. Does Ms. Goldstein prepare in
24 advance for planning board meetings?

25 A. I would say yes. It's apparent

PUBLIC HEARING

1
2 to anyone watching the meetings that she
3 is well prepared.

4 Q. Has the village provided ethics
5 training, guidance or educational
6 materials to planning board members while
7 you have been a member of the board?

8 A. We did have a basic training
9 session last December 2019. I don't
10 believe it was mandatory. Other than
11 that, I can't recall any other training
12 sessions.

13 Q. Other than the session in 2017,
14 are you aware of any ethics training that
15 was conducted for officers and employees
16 of the Village of Mamaroneck at any time?

17 A. I believe it was 2019, I said.

18 Q. I'm sorry, 2019. Thank you.

19 A. I believe back when I was mayor
20 when the law was first enacted we had a
21 training session for everyone affected by
22 the law, which would be all village
23 employees, certain volunteers, that goes
24 back to 2008, 2009.

25 Q. What approval, if any, did the

PUBLIC HEARING

owner of 203 Hommocks Road seek from the planning board in March of last year?

A. They applied for a wetlands permit from the planning board. That was the extent of their application to the planning board.

Q. Now just to be clear, Mr. Stolorow in reading from the board of ethics' opinion, referred to Last Home, LLC. Just to be clear, Last Home, LLC, is the applicant with respect to 203 Hommocks Road; is that correct?

A. Correct.

Q. What is a wetlands permit?

A. It's an approval to build or otherwise disturb the earth in a wetlands buffer, which is 100 feet from any wetlands.

Q. Did the planning board conduct a hearing in the matter?

A. Yes, we did.

Q. Why?

A. It's required by the Village Code.

PUBLIC HEARING

1
2 Q. What is required by the Village
3 Code?

4 A. A public hearing on the matter.

5 Q. Does the planning board decide
6 what applications it will hear?

7 A. No, we have no discretion in
8 that.

9 Q. How is that decided?

10 A. Any action requiring a public
11 hearing is spelled out in the Village
12 Code.

13 Q. And who schedules the hearings?

14 A. I believe the land view
15 coordinator in conjunction with the
16 planning director and legal team.

17 Q. But not the planning board?

18 A. No. We get the agenda pretty
19 much when it's made public to the public;
20 find out what's going on at our meetings.

21 Q. How does the planning board go
22 about opening a hearing?

23 A. Pretty standard. One member will
24 make a motion to open the hearing, a
25 second member will second the motion, then

1 PUBLIC HEARING

2 there is a voice vote usually by every
3 planning board member.

4 Q. Does the planning board consider
5 the environmental impacts of the
6 applications that it hears?

7 A. Yes.

8 Q. How does it go about doing that?

9 A. Each applicant completes a form
10 that the planning board then reviews with
11 the staff and the board determines the
12 type of action, if a review is required,
13 and if a review is required, at what level
14 that review would be.

15 Q. Do you know what a Type II action
16 is?

17 A. Yes. A Type II action is an
18 action that does not require any
19 environmental review.

20 Q. How does the planning board
21 classify an action as a Type II action?

22 A. We follow the state Environment
23 Quality Review Act which has a list within
24 it of projects that are automatically Type
25 II projects. Two family homes are on that

1 PUBLIC HEARING

2 list and are always Type II.

3 Q. What notices are sent to the
4 owners of property surrounding a
5 development site?

6 A. I believe, since the planning
7 board is not really involved in this, that
8 the code specifies notice provisions for
9 the different types of actions and the
10 applicants need to follow -- the
11 applicants send out the notice and need to
12 follow the instructions for their
13 particular application type.

14 Q. To whom are the notices sent?

15 A. Well it depends on the action.
16 Some are 100 feet, the neighbors within
17 100 feet of the property boundary, some
18 are within 400 it, it depends on what the
19 applicant wants to do.

20 Q. What if any village office did
21 you hold at the time the Code of Ethics
22 was adopted?

23 A. I'm almost sorry to say that I
24 was the mayor.

25 Q. At the time the Code of Ethics

PUBLIC HEARING

1
2 was adopted, was it your understanding
3 that a member of the land use board would
4 be required to recuse herself simply
5 because she lived in the notice area?

6 A. No, not at all. It was not even
7 part of the discussion. None of what is
8 going on here was intended, in my opinion,
9 or within the spirit of the law.

10 Q. Are you aware of a proposal by
11 the board of ethics that would require a
12 member of the land use board to recuse
13 herself simply because she lived in the
14 notice area?

15 A. Yes, I'm aware of that.

16 Q. Do you have an opinion of that
17 proposal?

18 A. I do.

19 Q. What is your opinion?

20 A. I think it's unnecessary and not
21 part of the intent of the law.

22 Q. Is the planning board -- I'm
23 sorry.

24 A. I mean, having been involved in
25 public hearings on all sorts of matters in

PUBLIC HEARING

1 both my capacity as a board member and as
2 planning board member, just because you
3 live within a certain radius of a property
4 doesn't automatically mean you have a bias
5 or a conflict of interest or you can't be
6 objective. And I think we are a small
7 village. It's just not practical to
8 codify that requirement.

10 Q. Does the planning board have an
11 attorney?

12 A. Yes, the Village of Mamaroneck
13 provides us with an attorney.

14 Q. Does the planning board's
15 attorney attend the board meetings?

16 A. Either the village attorney or
17 the deputy attorney is usually present.

18 Q. To your knowledge has the
19 planning board's attorney ever told
20 members of the planning board that they
21 must recuse themselves if they live in the
22 notice area?

23 A. No, not to my knowledge at all.

24 Q. In the period since December
25 2017, how many members have served on

1 PUBLIC HEARING

2 village land use boards, if you know?

3 A. I looked into this because I was
4 curious. There have been 24 individuals
5 who have served and/or are currently
6 serving on the three land use boards.

7 Q. And how many land use board
8 members have been men and how many have
9 been women?

10 A. There have been 14 men and 10
11 women.

12 Q. To your knowledge how many of
13 those land use board members have been
14 subject to inquiries by the board of
15 ethics?

16 A. I believe there have been five
17 women over the past couple of years who
18 have been the subject of inquiry by the
19 board of ethics.

20 Q. How about men?

21 A. I haven't heard of any.

22 Q. What is the source of your
23 information?

24 A. Well the number and the names of
25 people and how they identify gender wise

PUBLIC HEARING

1 is available in public records. Minutes
2 are posted from every meeting. So I went
3 back and looked at minutes throughout the
4 years to see who are on each of the boards
5 and the information about the ethics
6 inquiries are not public but we are a
7 small town, people talk. And I've been
8 around the village for a while now.

10 Q. What background if any do you
11 have in the investigation of
12 discrimination complaints?

13 A. Very early in my career I was an
14 analyst for the Office of Civil Rights at
15 the U.S. Department of Education. This
16 office investigated discrimination
17 complaints in educational institutions.

18 Q. What conclusion if any have you
19 reached about the relative treatment of
20 male and female land use board members by
21 the board of ethics?

22 A. Well when I started hearing about
23 this it sort of jogged my memory about my
24 training that I had years ago and first
25 thing that you do is run some numbers and

PUBLIC HEARING

1
2 look to see if there is a pattern and
3 practice that would then lead to an
4 investigation, so it's simple data which
5 wasn't complicated to figure out.
6 Certainly it creates the appearance of
7 such a pattern. And I was going to
8 recommend or say that I thought the board
9 of trustees should look into it further
10 but in light of the mayor's comment at
11 last night's board of trustees meeting
12 where he referred to the two female
13 trustees as chicks, I don't recommend that
14 any investigation would be conducted by an
15 external person.

16 Q. How long have you known
17 Ms. Goldstein?

18 A. I've known her for 20 years.

19 Q. How would you describe your
20 relationship with her?

21 A. We're friends. It's friendly.

22 Q. Have you formed an opinion as to
23 Ms. Goldstein's character?

24 A. Yes, I have.

25 Q. What is your opinion?

PUBLIC HEARING

1
2 A. Over the years I've seen
3 Ms. Goldstein on so many different issues
4 and ways that she's helped this community.
5 I would say she is of the highest
6 character. In fact early on, after I got
7 to know her and heard about everything
8 that she's done for this village, I
9 publicly referred to her and tell people
10 that she should be called the Mother
11 Theresa of Mamaroneck. Several people
12 have heard me say that.

13 Q. Has Ms. Goldstein provided you
14 with any professional services?

15 A. Yes. She is my accountant and
16 she does me and my husband's taxes
17 annually.

18 Q. Anything other than that?

19 A. My family, after my parents died,
20 we were left some property so we have a
21 very small family trust and she is also
22 the accountant for my family's trust, as
23 selected by the other members of my family
24 and myself.

25 Q. In your opinion what makes

PUBLIC HEARING

someone a good planning board member?

A. Well I had the opportunity to think about this and I used to write a lot of job descriptions in my administrative work. If I were to write a job description for a planning board member I would say the qualifications would be common sense, a willingness to do the work and put in the time, critical thinking, reading comprehension, ability to look beyond what is presented and someone who will spark and promote discussion with the other members.

Q. Do you believe that Ms. Goldstein possesses those characteristics?

A. Absolutely. Of the highest order.

Q. How would you describe her participation as a planning board member generally?

A. She is one of the most -- highest participation. I mean, there is no application that comes before us that she hasn't reviewed thoroughly.

PUBLIC HEARING

1
2 Q. Forgive me for asking questions
3 which may seem to you to be obvious, but
4 have you formed an opinion as to
5 Ms. Goldstein's fitness as a member of
6 planning board?

7 A. Absolutely. I find her of the
8 highest caliber. I'm proud to serve with
9 her.

10 Q. How would you characterize her
11 level of preparation in her service as
12 planning board member?

13 A. Very prepared at every meeting,
14 reviews every identified issue and
15 uncovers things that are between the lines
16 as well.

17 Q. Is the Hampshire application
18 typical of applications to the planning
19 board?

20 A. Not really. The scope of it was
21 much, much larger than what we normally
22 see. It was a large development that
23 required a full review under the SEQOR Law
24 and all of our various planning board --
25 that review lasted five years. Neither

PUBLIC HEARING

one of us were involved for the entire five years on the planning board. We were there at the end.

Q. Did you observe any difference between Ms. Goldstein's level of preparation in the Hampshire matter and her level of preparation in other matters?

A. No. She was just as thoroughly prepared for Hampshire as she is for anything, even review of the minutes. She's just thorough. And Hampshire is just larger, it took a lot more time and it was a lot more complicated.

Q. How would you characterize Ms. Goldstein's objectivity in her service as member of the planning board?

A. I would say she's completely objective.

Q. And did you observe any difference between Ms. Goldstein's objectivity in the Hampshire matter and her objectivity in other matters?

A. No, I have not witnessed any difference.

1 PUBLIC HEARING

2 Q. How would you rate Ms.
3 Goldstein's performance as planning board
4 member generally?

5 A. I would give her the highest
6 rating. She puts in the work and her
7 input is relevant and she doesn't speak
8 just to hear herself talk, she speaks
9 because she has something to add to the
10 application.

11 Q. And how would you rate
12 Ms. Goldstein's performance in the
13 planning board's review of the Hampshire
14 application?

15 A. Highest level of involvement,
16 spot on with the issues. It was obvious
17 to anybody watching the proceedings that
18 review of that application would have been
19 much less review if she weren't involved
20 with it.

21 Q. What in your opinion would be the
22 affect upon the planning board of
23 Ms. Goldstein's removal from the board?

24 A. As you mentioned in your opening
25 statement, it would be a huge loss for the

1 PUBLIC HEARING

2 people of the Village of Mamaroneck. Her
3 removal isn't in the best interest of the
4 Village if Mamaroneck.

5 MR. LEVENTHAL: Thank you very
6 much. I have no further questions.

7 MAYOR MURPHY: Adam, you want to
8 go? Any follow up?

9 MR. STOLOROW: Yes, I have a few
10 questions on behalf of the mayor.

11 MR. LEVENTHAL: Mr. Stolorow, you
12 indicated to me that the mayor would
13 be conducting an examination of
14 witnesses and not you.

15 MR. STOLOROW: The mayor does
16 have a few questions for the witness
17 and based on her testimony, so do I.

18 MR. LEVENTHAL: So then both you
19 and the mayor intend to examine
20 witnesses on behalf of the mayor?

21 MR. STOLOROW: I intend for my
22 examination to be relatively short.

23 MR. LEVENTHAL: And you agree
24 that neither you nor the mayor are in
25 the role in this proceeding of

PUBLIC HEARING

adversaries to Ms. Goldstein?

MR. STOLOROW: That's correct.

We are just trying to determine whether the mayor should adopt the recommendation of the ethics board.

MR. LEVENTHAL: So your questions are not in the nature of a cross examination, they are in the nature of eliciting information that you think might be helpful for the mayor to make the decision; is that right?

MR. STOLOROW: Yes.

MR. LEVENTHAL: Thank you.

EXAMINATION BY

MR. STOLOROW:

Q. Ms. Savolt, you mentioned that you knew about five different inquiries or investigations that the ethics board had conducted of female members of land use boards in the last few years; is that correct?

A. Yes.

Q. Can you tell me the names of those board members?

PUBLIC HEARING

1
2 A. I don't think it's appropriate
3 for me to give names. They have spoken to
4 other people about their involvement. I
5 mean, I look to Mr. Leventhal for
6 direction for the names which -- but it
7 confounds me because my very appearance
8 here today makes me -- and my service on a
9 land use board, makes me uncomfortable
10 that I might be a future target of the
11 board of ethics for some reason or another
12 so that's why I looked into this. I was
13 extremely concerned that I would have a
14 target on my back or forehead or whatever.
15 I don't know whether I should name the
16 names. Obviously Ms. Goldstein is one of
17 them.

18 Q. And you don't feel comfortable
19 naming any of the other four names?

20 A. I didn't ask their permission to
21 name them although like I said, they have
22 discussed this with other people, which is
23 how it got out there. They are not
24 denying it but no, I don't feel
25 comfortable naming names.

1 PUBLIC HEARING

2 Q. Have you discussed this directly
3 with any of those other four land use
4 board members?

5 A. No, I have not.

6 Q. How did you learn about --
7 without their names I don't know how to
8 refer to them, but if Ms. Goldstein is
9 land use board member number one, how did
10 you learn about land use board member
11 number two?

12 A. As I mentioned, the Village of
13 Mamaroneck is a very small town. We
14 become involved in various activities
15 related to public service or the local
16 politics, all know one another and
17 everybody talks. Just like any other
18 town, small or large.

19 Q. For any of the these other four
20 land use board members, did you hear
21 directly from a member of the ethics board
22 that there was an investigation or inquiry
23 into any of those four people?

24 A. No, that would be inappropriate
25 because they are required to preserve the

PUBLIC HEARING

1 person's confidentiality. But since the
2 person involved spoke of it, they
3 obviously released confidentiality because
4 they told other people that they had come
5 under investigation.
6

7 Q. Do you have in your possession
8 any documents that confirm that any of
9 these four individuals were under inquiry
10 or investigation?

11 A. Well as I said, I just ran some
12 numbers to see if there was an appearance
13 of a pattern and a practice of the issues.
14 The next step would be to do a more
15 thorough investigation and to speak to the
16 people involved and gather documents and
17 see if there is indeed something that is
18 happening here in the Village of
19 Mamaroneck that people should be aware of
20 and it should be remedied.

21 Q. So just so I understand, you do
22 not have any documents related to any of
23 those four land use members that indicated
24 that there was an inquiry or investigation
25 by the ethics board?

1 PUBLIC HEARING

2 A. I do not.

3 Q. What boards do you consider
4 falling under the land use board category?
5 So you mentioned there were 24 board
6 members --

7 A. Twenty-four individuals because
8 people serve more than one term and they
9 move from board to board. So I took that
10 all into consideration in the analysis.
11 The zoning board, the planning board and
12 HCZM, harbor coastal zone management.

13 Q. How do you know that there are no
14 male board members who have been the
15 subject of inquiry or investigation by the
16 ethics board during this time period?

17 A. I don't know. That would, again,
18 come under a further investigation. I
19 just gave you the information that I had.

20 Q. Are you aware of any inquiries or
21 investigations by the ethics board into
22 male board members other than the land use
23 boards that you mentioned?

24 A. The only thing I've heard is what
25 Mr. Leventhal mentioned about Mr. Natchez.

PUBLIC HEARING

1
2 Other than that, I haven't heard anything.
3 I read the testimony with regards to
4 Ms. Goldstein about how other members of
5 the board did similar things to what she's
6 accused of doing and recommended removal
7 but they were never investigated by the
8 ethics board for the exact same behavior,
9 living close by to somebody who was
10 applying for -- has something before the
11 planning board. So I can use that as an
12 example because that's already in the
13 record.

14 Q. Did you have a meeting or a call
15 with Mr. Leventhal in preparation for
16 today's testimony?

17 A. He did speak to me about some of
18 the questions that he was going to ask.

19 Q. Did he provide you with a copy of
20 the questions that you would be asked
21 today?

22 A. Yes, he did.

23 Q. Did you draft responses to those
24 questions?

25 A. I prepared myself by going

PUBLIC HEARING

1
2 through the questions and making sure I
3 did my homework and had the answers ready,
4 yes.

5 Q. Were you referring to written
6 notes during your testimony today?

7 A. I wrote down some bullet points
8 to make sure that I said what I wanted to
9 say.

10 MR. STOLOROW: We would request
11 that anything, written questions that
12 you received and your notes that you
13 used in your testimony today be sent
14 to the mayor.

15 MR. LEVENTHAL: Objection. You
16 are not a party to this proceeding.
17 The parties decide what evidence to
18 introduce. This is not a roving
19 inquisition in which the Fact Finder
20 goes around the village demanding
21 information and conducting
22 investigation. This is not an
23 investigation by the mayor, this is a
24 public hearing.

25 MAYOR MURPHY: Yes, there was

PUBLIC HEARING

1
2 testimony in a public hearing that has
3 basis in research that we would
4 appreciate having that research.

5 MR. LEVENTHAL: So it's in the
6 nature of a request, not a demand.

7 MR. STOLOROW: It is in the
8 nature of demand and if you want I
9 could issue a subpoena duces tecum,
10 which is what we received from you on
11 Friday with respect Mr. Natchez, and
12 we complied by giving you the
13 documents. We can go through that
14 process but I'm requesting that she
15 provide those notes.

16 MR. LEVENTHAL: Well I think you
17 are going to have to go through that
18 process and we will determine whether
19 the tribunal, whether a subpoena
20 issued by the tribunal, and not at the
21 request of a party before the
22 tribunal, is an appropriate exercise
23 of the subpoena power.

24 MAYOR MURPHY: Your objection is
25 noted.

1 PUBLIC HEARING

2 Adam, please go ahead with the
3 questions.

4 MR. STOLOROW: Those are all of
5 my questions. I yield to you, Mr.
6 Mayor.

7 EXAMINATION BY

8 MAYOR MURPHY:

9 Q. Ms. Savolt, how are you?

10 A. I'm fine, Mr. Mayor. It's not in
11 job description either, not what I thought
12 I signed up for either.

13 MR. LEVENTHAL: Let me just state
14 for the record, Mr. Mayor, I apologize
15 for interrupting, I just want to state
16 my objection to witnesses being
17 questioned by both --

18 MAYOR MURPHY: Noted --

19 MR. LEVENTHAL: -- counsel and
20 the mayor.

21 MAYOR MURPHY: Your objection is
22 noted. Thank you.

23 BY MR. MURPHY:

24 Q. I just have a couple questions,
25 Kathy -- Ms. Savolt, I'm sorry.

1 PUBLIC HEARING

2 If a person lives in an area in
3 close proximity and receives notice, if
4 you don't think that requires recusal
5 would you think it at least requires
6 disclosure?

7 A. I would -- I'm not on the board
8 of ethics and I'm not here really to --

9 Q. I've served with you when we
10 passed this ethics code.

11 A. I know, I know, the two of us
12 worked very hard on that together. I
13 would say that yes, it would require
14 disclosure. But when we received the
15 paper for the Hommocks Road project, there
16 was nothing in any of the documents we
17 received that mentioned that the applicant
18 was putting in a sewer line. They applied
19 strictly --

20 Q. (Inaudible)?

21 A. -- planning board meeting where
22 they mentioned they were going to be
23 putting in a sewer line.

24 Q. I was thinking more about
25 Hommocks -- not Hommocks, I'm sorry,

1 PUBLIC HEARING

2 Hampshire.

3 A. Oh, Hampshire? Hampshire is so
4 big I can't imagine, you know, it would
5 disqualify anybody that was within 400
6 feet of its perimeters in all directions,
7 you certainly disqualify a lot of people
8 from participating in a lot of things. I
9 would not. I would say that that was -- I
10 mean I thought you were talking about
11 Hommocks.

12 Q. Last question. In your research
13 about land use board members and their
14 makeup, since I've been mayor what would
15 be the makeup of the appointments to
16 planning board and zoning board?

17 A. Let's see -- I didn't look at
18 before you were mayor but I was going to
19 give you kudos there's a lot more women.

20 Q. Let me answer it for you, it's
21 100 percent woman.

22 MR. LEVENTHAL: Objection.

23 Objection. Is the mayor going to be
24 testifying at this hearing?

25 MAYOR MURPHY: Okay, thank you.

1 PUBLIC HEARING

2 I withdraw.

3 MR. LEVENTHAL: Mr. Stolorow, is
4 the mayor going to be testifying at
5 this hearing? If so, I want him sworn
6 in and I want him disqualified as the
7 arbiter.

8 MR. STOLOROW: The mayor is not
9 going to be testifying at the hearing.

10 THE WITNESS: I can say however
11 that the ratio has gone down this
12 year. It used to be almost 50
13 percent, half and half, but in 2020 we
14 lost a few women. Just pointing it
15 out.

16 MR. LEVENTHAL: If the mayor is
17 finished I have a follow up question
18 for Ms. Savolt.

19 MAYOR MURPHY: Yes, I'm finished.
20 Go ahead.

21 EXAMINATION BY

22 MR. LEVENTHAL:

23 Q. You answered a question what you
24 thought about disclosure by a board member
25 of the fact they live in the notice area.

1 PUBLIC HEARING

2 If the circumstances were that there were
3 no significant impacts on the individual
4 from the project and they did not disclose
5 publicly that they lived in the notice
6 area, would you consider that circumstance
7 that would warrant removal from the board?

8 A. Removal from the board,
9 absolutely not.

10 MR. LEVENTHAL: Thank you. No
11 further questions.

12 MAYOR MURPHY: I think we are
13 done with Ms. Savolt.

14 MR. LEVENTHAL: Ms. Savolt, thank
15 you very much for your willingness to
16 participate.

17 THE WITNESS: Thank you. And do
18 the right thing for the Village of
19 Mamaroneck.

20 MR. LEVENTHAL: My next witness
21 is Cindy Goldstein.

22 MR. LEVENTHAL: Good morning, Ms.
23 Goldstein.

24 THE WITNESS: Good morning,
25 Mr. Leventhal, Mr. Stolorow and Mr.

1 PUBLIC HEARING

2 Mayor.

3 MAYOR MURPHY: I don't mean to
4 stop you. Let's make sure she gets
5 sworn in, firstly.

6 C Y N T H I A G O L D S T E I N,
7 having been duly sworn by a Notary
8 Public of the State of New York, was
9 examined and testified as follows:

10 EXAMINATION BY

11 MR. LEVENTHAL:

12 Q. Ms. Goldstein, would you please
13 describe your professional background.

14 A. I am a lawyer and a CPA licensed
15 in New York State and I maintain a busy
16 tax practice.

17 Q. I'm going to put up a -- I'm
18 going to introduce your current résumé.
19 Your résumé was a part of the record
20 before the ethics board but you've updated
21 it and I'm putting it up on the screen so
22 it will assist you in the next question
23 that I'm going to ask.

24 A. I got it.

25 Q. So Ms. Goldstein, I put this up

PUBLIC HEARING

as a memory aid for you. I'm going to ask you to please describe your history of volunteerism.

A. So for approximately 26 years I have done pro bono legal and tax work for local individuals and also charitable organizations. I do filings with New York State to get incorporation for not-for-profits or organizations and I follow that through the IRS process. I've been a Village of Mamaroneck planning board member since December of 2018.

Prior to that I spent six years on the Village of Mamaroneck Harbor Coastal Zone Management Commission, five years of that as the chairperson. I was the honoree in 2018 of the At Home on the Sound Spring Gala, and in 2001 I was awarded the Tri-Municipal Martin Luther King Junior award for community service and in 2003 I also received the Daughters of the American Revolution Community Service Award. I've spent 30 years on the board of Pace University where I served as

PUBLIC HEARING

1
2 secretary to the board and vice chair on
3 the executive committee. I spent three
4 years on the village's flood mitigation
5 advisory committee and 13 years on the
6 board as an Executive Board Member and
7 treasurer of the Washingtonville Housing
8 Alliance. It's a not-for-profit
9 corporation that builds, manages
10 residential properties for affordable
11 housing. I spent six years as the
12 president and founder of Employment For
13 Larchmont and Mamaroneck to help people
14 find gainful employment by supporting them
15 with résumé preparation and interview
16 techniques and networking. I was the
17 president of Mamaroneck-Larchmont PT
18 counsel and for six years I was a
19 treasurer of the Larchmont-Mamaroneck
20 hunger task force where I was also a
21 founder and I did all of their legal work
22 and tax work pro bono. I was the
23 president of the Hommocks School PTA and
24 the Central School PTA. I was also for
25 eight years the Village of Mamaroneck

PUBLIC HEARING

1 Democratic Committee chair. I was chair
2 when then Mayor Chapin appointed now Mayor
3 Murphy as a trustee. I spent five years
4 on the village budget committee and I was
5 a girl scout leader.
6

7 Q. Thank you, Ms. Goldstein.

8 Have you ever been accused of an
9 ethics violation before this incident?

10 A. No, never.

11 Q. How does it make you feel to be
12 accused of an ethics violation?

13 A. It felt like a gut punch and I
14 felt there had to have been some mistake.

15 Q. Have you missed any meetings as a
16 member of the land use boards? By that I
17 mean both the planning board and the
18 harbor coastal zone management committee.

19 A. Over the seven years I served on
20 both those boards, I was excused for a
21 prior commitment once.

22 Q. How did you prepare for meetings
23 with the planning board?

24 A. I review the materials that were
25 provided. I research the law if that's

PUBLIC HEARING

1 something that's required or I have
2 questions about. I read all the reports
3 from the consultants and from the public
4 and from the applicant and I speak with
5 village building department staff if I
6 have additional questions.
7

8 Q. On average, how much time do you
9 spend on planning board business?

10 A. Well as Ms. Savolt said, we have
11 a minimum of 20 meetings a year because we
12 meet twice a month almost every month.
13 Twenty meetings a year, I probably spend
14 10 to 15 hours of preparation time for
15 each meeting, but that's on average, that
16 can vary either way.

17 Q. What if any training are planning
18 board members required to complete?

19 A. We have to do four hours of
20 training in land use every year.

21 Q. Have you completed your required
22 training?

23 A. Yes, I have.

24 Q. I'm going to introduce a
25 certificate indicating that for viewing.

1 PUBLIC HEARING

2 Is that the certificate that you received
3 for completing four hours of planning
4 board training?

5 A. Yes.

6 Q. That can come down now.

7 Let's talk about the Hommocks
8 Road application. What approval if any
9 did the owners of the Hommocks Road
10 property seek from the planning board in
11 March last year?

12 A. They were looking to demolish and
13 rebuild their house so they were looking
14 for a wetlands permit from the planning
15 board.

16 Q. I've just posted an exhibit which
17 I will introduce after you identify it.
18 Do you recognize this document?

19 A. Yes, I do.

20 Q. What do you recognize it to be?

21 A. This is the notification to
22 neighbors of 203 Hommocks Road.

23 Q. I will now introduce this exhibit
24 and I'll ask you, Ms. Goldstein, to please
25 read the description of the application

1 PUBLIC HEARING

2 that appears on that notice.

3 A. The subject project consists of
 4 the demolition of an existing
 5 single-family residence and the
 6 construction of a new dwelling in the same
 7 general vicinity located in the southern
 8 portion of the project site. In
 9 combination with the proposed house
 10 construction the owner/applicant is also
 11 proposing a new outdoor tennis court as
 12 well as other ancillary site improvements
 13 to the existing driveway and hard scape
 14 features.

15 Q. Does the applicant also plan to
 16 extend the existing sewer line?

17 A. Yes. But that's not within the
 18 purview of the planning board.

19 Q. How many times did you
 20 participate in the planning board's
 21 consideration of the Hommocks Road
 22 application?

23 A. Once at the meeting on March 27,
 24 2019.

25 Q. And what actions of the planning

1 PUBLIC HEARING

2 board -- in what actions of the planning
3 board did you participate?

4 A. I participated in the only two
5 actions we took that night. The first was
6 to open the public hearing and the second
7 was to type the action under SEQRA.

8 Q. Why did the planning board
9 opening the hearing?

10 A. It's the code, we have to open
11 the hearing.

12 Q. How did the planning board
13 classify the action for SEQRA purposes?

14 A. We voted that it was a Type II
15 action under SEQRA.

16 Q. What is a Type II action?

17 A. Type II action appears on the
18 state regulations list of Type II actions.
19 There are many things that are on that
20 list and a single-family home is one of
21 them.

22 Q. What is the significance of an
23 action appearing on the Type II list?

24 A. That means there are no
25 significant environmental issues and that

1 PUBLIC HEARING

2 the SEQRA process stands.

3 MR. LEVENTHAL: Let's put up the
4 Type II list, please.

5

6 BY MR. LEVENTHAL:

7 Q. Ms. Goldstein, do you recognize
8 this document?

9 A. Yes, it's the regulations from
10 the State of New York.

11 Q. And in particular what is this
12 document?

13 A. It's describing and listing all
14 of the different actions that must be
15 classified as Type II actions.

16 Q. Would you please read item number
17 11.

18 A. Construction or expansion of a
19 single-family, a two-family or
20 three-family residence or an approved lot
21 including provision of necessary utility
22 connections as provided in paragraph 13 of
23 this subdivision, and the installation,
24 maintenance or upgrade of a drinking water
25 well or septic system or both, and

1 PUBLIC HEARING

2 conveyances of land in connection
3 therewith.

4 Q. To be clear, is this the Type II
5 list that the planning board uses to
6 classify action?

7 A. Yes.

8 Q. Where does this list come from?

9 A. It's the New York State Code.

10 Q. Now please take another look at
11 the hearing notice.

12 A. Yes.

13 Q. Did the Hommocks Road application
14 involve construction of a single-family
15 residence on an approved lot including
16 provision of necessary utility
17 connections?

18 A. Yes, exactly.

19 Q. Now look again at the Type II
20 list, please. Does the Hommocks Road
21 application match the criteria in item 11?

22 A. Yes, directly.

23 Q. Even with the extended sewer
24 line?

25 A. Yes. Utilities are covered by

1 PUBLIC HEARING

2 this definition.

3 Q. What does that mean?

4 A. It means that the planning board
5 must classify this action in accordance
6 with this list. There is no choice.

7 Q. Did the planning board take any
8 other action on the Hommocks Road
9 application at that March 27th meeting?

10 A. No, there were only the two
11 votes.

12 Q. Have you read the Village Code of
13 Ethics?

14 A. I have.

15 Q. I'm going to show you Section
16 21-4A and ask you to read it aloud. I'm
17 sorry. I apologize for interrupting. I
18 have excerpted the provision. The list of
19 persons who might potentially benefit is
20 longer. I've reduced the except to the
21 portion that's relevant to this matter so
22 please read the excerpt.

23 A. Standards of conduct. General
24 prohibition. A village officer, board
25 member or employee shall not use his or

PUBLIC HEARING

her official position or office or take or fail to take any discretionary action in a matter in which he or she knows or has reason to know may result in a personal financial benefit for any of the following persons: The village employee or officer or a member of his or her household.

Q. So what types of actions is the officer or employee prohibited from taking if the action will benefit themselves or a family member?

A. Anything that requires judgement or discretion.

Q. Now please take a look at the definition of discretionary actions that appears in Code of Ethics Section 21-3, which is also on the screen. It's just above 21-4.

A. Discretionary action. Any act involving the exercise of judgement or discretion by a village officer or employee either individually or as a member of any board, body and --

Q. It's cut off. I thinks it's on

1 PUBLIC HEARING

2 another slide.

3 Did anybody speak to you --
4 before we go there let me ask you, did
5 opening the meeting, the vote by the
6 planning board to open the meeting on the
7 Hommocks Road application involve the
8 exercising of discretion by the planning
9 board?

10 A. No, it was mandated by law.

11 Q. Did classifying the action as a
12 Type II action under SEQRA regulations
13 involve any exercise of discretion by the
14 planning board?

15 A. None whatsoever.

16 Q. Why not?

17 A. Because under New York State Law
18 if the action appears on the list we must
19 use the list to type it and it was a Type
20 II action. No discussion.

21 Q. Did anyone speak to you about
22 recusing yourself from participating in
23 the planning board's consideration of the
24 Hommocks Road application?

25 A. Yes, Mr. John Verni, the planning

1 PUBLIC HEARING

2 board chair at the time.

3 Q. When did that occur?

4 A. Well in our testimony we have a
5 difference in our recollections. He
6 stated under oath that it was before the
7 March 27th meeting. I stated under oath I
8 believed it was after the March 27th
9 meeting.

10 Q. What did Mr. Verni say to you?

11 A. Mr. Verni called me and said that
12 he had been asked by -- he had been
13 informed by the mayor that the village
14 attorney Bob Spolzino who is also our land
15 use counsel, would be contacting him, Mr.
16 Verni to discuss an issue on 203 Hommocks
17 Road that related to me and my potential
18 recusal on that.

19 Q. Did Mr. Spolzino speak to you
20 about recusing yourself?

21 A. No.

22 Q. Did the planning board have a
23 lawyer at the March 27th meeting?

24 A. Yes.

25 Q. Who was that lawyer?

1 PUBLIC HEARING

2 A. I believe it was Krista Halpin,
3 an associate of Mr. Spolzino.

4 Q. Did Ms. Halpin or whatever other
5 lawyer may have been representing the
6 planning board that evening advise you
7 that you should recuse yourself?

8 A. No one on the village legal staff
9 at any time spoke to me, approached me,
10 sent me an e-mail, nothing.

11 Q. What if anything did you do after
12 the March 27th meeting at which those two
13 votes, one to open the meeting and the
14 other to classify the action, were taken
15 by the planning board?

16 A. I recused myself on that
17 application.

18 Q. Do you recognize this document?

19 A. I do.

20 Q. What do you recognize it to be?

21 A. That's my letter of recusal on
22 203 Hommocks Road.

23 MR. LEVENTHAL: Mr. Stolorow,
24 just to be clear, any documents that I
25 display, if they are not already in

PUBLIC HEARING

the record, I am offering into evidence so that I don't need to keep saying that.

BY MR. LEVENTHAL:

Q. Ms. Goldstein, please read your recusal letter. Well before you read it, who did you send this letter to?

A. I sent it by e-mail to the mayor and the board of trustees, the village manager, the planning board chair, the board of ethics chair and Mr. Spolzino in his capacity as village attorney and land use counsel.

Q. Please read the letter.

A. June 14, 2019. On March 27th an application for a wetlands permit for the demolition of existing structures and construction of a new home at 203 Hommocks Road appeared on the planning board agenda for the first time. When the matter was called, I stated on the record that I own a home within the notification radius. The board opened the hearing and classified the action for SEQRA purposes.

PUBLIC HEARING

1
2 No other action was taken. After the
3 meeting it was suggested that I recuse
4 myself from the matter based on the
5 speculation that I might benefit in the
6 event a sewer line is approved and
7 installed at the property. As you may be
8 aware, the proposed sewer line does not
9 extend to my property where I could tie in
10 without considerable cost that I would
11 have to pay for. On May 14th I received a
12 letter from the board of ethics informing
13 me that the board of ethics had opened an
14 investigation regarding my participation
15 in the matter. Because I am committed to
16 highest standards of ethics in village
17 government, I consulted a prominent legal
18 expert in the field of local government
19 ethics. Based on his advice I believe
20 that my participation in this matter did
21 not give rise to a conflict of interest or
22 a reasonable appearance of impropriety.
23 Nevertheless, in order to avoid even the
24 speculation that I might benefit from this
25 application, as well as any appearance of

PUBLIC HEARING

1
2 impropriety whether deemed reasonable or
3 not, and to put the matter to rest, I've
4 decided to recuse myself. Therefore I
5 will not participate in the discussions,
6 deliberations or vote in connection with
7 the application for a wetlands permit at
8 203 Hommocks Road.

9 Q. Thank you. Why did you think
10 that you did not have a conflict of
11 interest in 203 Hommocks Road road
12 application?

13 A. Well it's certainly no secret
14 that my husband publicly advocated on many
15 occasions for the sewer line extension
16 that would service not just my house but
17 all of the houses on Oak Lane. And I
18 certainly understand that some people
19 could think that would look like a benefit
20 to me. So I consulted Mr. Leventhal, a
21 prominent expert in government ethics, and
22 while I didn't believe there was a
23 conflict or an appearance because I knew
24 that my husband was unsuccessful in
25 persuading the neighbors to join in the

PUBLIC HEARING

1
2 special district to extend the sewer line
3 and because we were certainly unwilling to
4 pay for the entire cost ourselves, I
5 decided the best course of action was to
6 recuse on the application.

7 Q. Ms. Goldstein, just to be clear
8 because those who are listening to this
9 proceeding today are not familiar with all
10 a facts of the case and the background, so
11 just to be clear what difference if any is
12 there to the point at which the owner of
13 203 Hommocks Road intended to extend the
14 sewer line and the point to which it would
15 need to be extended even more to service
16 your home?

17 A. If my recollection is correct, it
18 was at least 100, 120 feet that the line
19 would have to be extended underground,
20 through the road, possibly through rock,
21 to get to a point where I could then hook
22 up to it.

23 Q. Was it the cost of that further
24 extension beyond the point at which the
25 owner of 203 Hommocks Road intended to

PUBLIC HEARING

1
2 extend the line, the work, the cost of
3 which you felt would be prohibitive
4 because the neighbors declined to share in
5 it; is that correct?

6 A. That's correct. The cost was
7 estimated at about \$120,000 and if the
8 neighbors were not willing to chip in, and
9 the village had indicated they weren't
10 interested in working on that sewer
11 district, so that we would all contribute
12 to the cost, that wasn't happening. So we
13 weren't going to be out of pocket for that
14 enormous amount of expense.

15 Q. So then if you didn't believe
16 that you had a conflict of interest, why
17 did you recuse yourself?

18 A. Just to put the matter to rest.

19 Q. Now the letter you said, you
20 testified that the letter was sent to the
21 addressees; is that right?

22 A. Yes, by e-mail.

23 Q. Did you personally appear before
24 the board of trustees to announce your
25 recusal?

1 PUBLIC HEARING

2 A. No, I did not.

3 Q. Why not?

4 A. In all the years I've lived in
5 this village I've never seen anybody
6 appear in front of the board of trustees
7 to announce a recusal on any application
8 and certainly my e-mail would have
9 sufficed to let them know what I had done.

10 Q. So after you recused yourself,
11 did you have any participation in the
12 planning board's consideration of the
13 Hommocks Road application?

14 A. No. At every subsequent meeting
15 I mentioned I was recused and I left the
16 room.

17 Q. Were you present during any
18 further consideration by the planning
19 board of the Hommocks Road application?

20 A. No.

21 Q. Did you ever participate in a
22 vote to approve or disapprove the Hommocks
23 Road application?

24 A. No, I did not vote.

25 Q. Do you recognize this document?

1 PUBLIC HEARING

2 A. Yes, I do.

3 Q. What do you recognize it to be?

4 A. It's the decision and
5 recommendation of the board of ethics.

6 Q. Let's take a look at page 4.
7 Would you please read the highlighted
8 portion?

9 A. Ms. Goldstein at all times
10 rejected out of hand the concerns raised
11 in writing and in person by the ethics
12 board and others with not even a
13 suggestion she would consider them.

14 Q. Did you reject out of hand the
15 concerns of the ethics board?

16 A. No.

17 Q. Let's go to the next one, page 4.
18 Please read the highlighted material,
19 Ms. Goldstein?

20 A. In every setting in which the
21 ethics board met with Ms. Goldstein she
22 refused to even consider the ethics
23 board's view that her conduct could be in
24 violation of the disclosure requirements
25 and recusal provision of the Code of

1 PUBLIC HEARING

2 Ethics.

3 Q. Did you refuse to consider the
4 ethics board's views?

5 A. Considering all the amount of
6 time that I spent speaking to them,
7 producing documents, meeting with them,
8 no, that's not true.

9 Q. Still on page 4 of the decision,
10 please read the highlighted material.

11 A. Ms. Goldstein's conduct
12 surrounding the Last Home, LLC,
13 application blatantly flouted the language
14 and spirit of the Code of Ethics. In the
15 case of Last Home, LLC, matter
16 Ms. Goldstein ignored the concerns of the
17 chair of the planning board.

18 Q. Is that the matter that you
19 recused yourself on?

20 A. It is.

21 Q. Did you blatantly flout the
22 language and spirit of the Code of Ethics?

23 A. No, I did not.

24 Q. Did you ignore the concerns of
25 the planning board chair?

PUBLIC HEARING

1
2 A. No, I recused.

3 Q. Did the planning board chair even
4 express any concerns to you?

5 A. No, after I had a phone
6 conversation with him he said he didn't
7 think that I needed to recuse and I said I
8 would seriously consider it.

9 Q. Now let's go to page 6 of the
10 ethics board decision. Please read the
11 highlighted material.

12 A. Similarly, the ethics board finds
13 that Ms. Goldstein's June 14, 2019 letter
14 recusing herself from Last Home, LLC, and
15 her subsequent disclosure of that recusal
16 at a planning board meeting only acted to
17 further the board's recommendation. Far
18 from acknowledging that her participation
19 in the Last Home, LLC, might have been
20 improper, Ms. Goldstein asserted she was
21 not required to recuse herself and made
22 misrepresentations.

23 Q. Why didn't you acknowledge that
24 your participation in the Hommocks Road
25 matter might have been improper?

PUBLIC HEARING

1
2 A. I didn't agree.

3 Q. Did you make any
4 misrepresentations in your recusal letter?

5 A. I did not.

6 Q. So let's go to page 2 of the
7 ethics board's decision. Please read the
8 highlighted material.

9 A. Although she ultimately recused
10 herself in that matter, after meeting with
11 the ethics board Ms. Goldstein's letter of
12 June 14, 2019 by which she announced her
13 recusal disingenuously, failed to address
14 the actual conflict of interest or explain
15 why she did not acknowledge the conflict
16 and recused herself on March 27, 2019 when
17 the matter was before the planning board
18 and the conflict was readily apparent on
19 the record.

20 Q. Did your recusal letter state the
21 basis on which it was asserted by some
22 that you had a conflict of interest on the
23 application?

24 A. Yes, it discussed the sewer line
25 and the fact that some might think of that

1 PUBLIC HEARING

2 as a benefit to me.

3 Q. What did you identify as the
4 reason for your recusal in the letter?

5 A. In order to avoid even the
6 speculation that there was a conflict, to
7 clear up the matter.

8 Q. Conflict arising from what?

9 A. Perceived speculative benefit
10 that the sewer line would be extended,
11 which I knew it wasn't going to be.

12 Q. Now the board of ethics claims
13 that you recused yourself after meeting
14 with the board. Did you meet with the
15 board of ethics on the Hommocks Road
16 matter before recusing yourself?

17 A. No, I did not.

18 Q. What had you meet with the board
19 of ethics about?

20 A. I met with two members of the
21 board of ethics on March 14th about the
22 Hampshire matter.

23 Q. Thank you. So now let's turn to
24 the Hampshire matter.

25 How did you learn that the board

PUBLIC HEARING

1
2 of ethics was looking into your
3 participation in the planning board's
4 review of the Hampshire subdivision
5 application?

6 A. I received an e-mail transmitted
7 from the village attorney's office from
8 the board of ethics.

9 Q. And did the e-mail transmit to
10 you the document that is currently on the
11 screen?

12 A. Yes, it did.

13 Q. And that was your first notice or
14 notification that the planning board was
15 looking into your participation in the
16 Hampshire matter?

17 A. Yes.

18 Q. What did you do when you first
19 learned that the board of ethics was
20 looking into your participation in the
21 Hampshire matter?

22 A. Well, this e-mail was transmitted
23 to me late on a Friday afternoon so I
24 called Mr. Spolzino on his cell phone and
25 I asked what was going on.

PUBLIC HEARING

1
2 Q. I'm putting up another exhibit
3 which is a demonstrative exhibit which I
4 created based upon discussions and it's up
5 on the screen, it's memory aid 2 because
6 I'm now going to ask you about a series of
7 dates and events. So what does this
8 demonstrative exhibit represent?

9 A. These are all the various times
10 of contact that I had with the ethics
11 board before they filed charges against
12 me.

13 Q. Would you please go through them
14 so that the mayor understands the extent
15 to which you cooperated with the ethics
16 board in this investigation?

17 A. So January 25th was the day that
18 I received the e-mail and I called
19 Mr. Spolzino to try to understand what was
20 happening. I e-mailed the next day a
21 letter explaining my proximity with
22 Hampshire, why I did not about the
23 property. I include several maps --

24 Q. Let's stop there for a second,
25 Ms. Goldstein, what does that mean, why

PUBLIC HEARING

1
2 did you say that you didn't about the
3 property.

4 A. When I spoke to Mr. Spolzino he
5 said that the board of ethics was
6 wrestling with the idea that people who
7 share lot lines with applicants should
8 automatically recuse on those application
9 so I wanted to make sure they understood
10 the record, that I do not share a lot line
11 with the Hampshire County Club property.

12 Q. Why is it that you do not share a
13 lot line with the Hampshire County Club
14 property?

15 A. There is a very large tidal water
16 body owned by New York State called
17 Prickly Pear Inlet that separates my
18 property from the Hampshire property.

19 Q. Do you know the extent or the
20 point to which the state owns the tidal
21 water body, is it to the high water mark?

22 A. I'm not positive. I'm a tax
23 lawyer, not a real estate lawyer. But I
24 believe New York State controls the entire
25 water body and I suspect New York State

PUBLIC HEARING

would believe that too.

Q. I will address the evidence deduced at the planning board hearing on that point later. Please continue.

A. So I sent them the explanatory materials and they replied to me on January 30th and invited me to meet with them. We set up an appointment for February 6th but they were unable to make it. At that point they were expecting the hearings to be with all the members and properly noticed and it would be informal but it would be with everybody. So there were a bunch of e-mails back and forth February 7th. February 19th we're still trying to figure out a time. I'm getting into tax season and I wanted it sooner rather than later because I was getting busy and finally on February 25th we scheduled a meeting for March 12th which I then found out was going to be unofficial, not a quorum of the board of ethics, and I would be meeting with two members.

Q. Let's stop there for a second.

1 PUBLIC HEARING

2 Let's put up the next exhibit, please.

3 What do you recognize this to be?

4 A. This is a transcript of that
5 March 12th meeting between myself and two
6 ethics board members.

7 Q. How did this transcript come to
8 be created?

9 A. I asked the ethics board members
10 and they gave permission for me to audio
11 tape the session and then I had a
12 professional create a transcript.

13 Q. So please read the highlighted
14 material.

15 A. "Ms. Goldstein: I mean, I guess
16 how does a board member move forward
17 through trying to figure out what would be
18 reasonable or unreasonable? I mean, I
19 thought about it but I'm far enough away,
20 I'm fine, I've got no ax to grind on this.
21 So with merely in some proximity to a
22 project or an applicant, I don't know how
23 that should be an automatic trigger for
24 some kind of review. And if it is, it
25 needs to go in the Code because I suspect

PUBLIC HEARING

there are a lot of people out there that don't have any idea that they should be thinking about recusing based on proximity."

Q. Next slide please. As you can tell, I've highlighted portions. Some of them are not consecutive in the transcript so please continue.

A. "Ms. Goldstein: Proximity where it would matter to you. I mean, the traffic won't even be coming down my street. I will be completely unaffected.

Mr. Meighan: Yeah, you will."

Q. Who is Mr. Meighan?

A. Mr. Meighan is a member of the board of ethics.

Q. Please continue.

A. The next page:

"Mr. Meighan: You probably already have an indication how I feel but in any event.

"Mr. Newgaard: And probably how I feel too."

Q. Who is Mr. Newgaard?

1 PUBLIC HEARING

2 A. The other member of the board of
3 ethics.

4 "Ms. Goldstein: Okay, and if
5 there's some -- maybe there are other
6 questions by other board members.

7 "Mr. Meighan: Yeah, listen --

8 "Ms. Goldstein: Then I'd be
9 contacted and the next step would be
10 somebody filing a formal complaint?"

11 Q. Please continue reading even
12 though it's not highlighted.

13 A. "Mr. Meighan: I would -- if
14 there's -- I think either Mike or I would
15 be the ones to contact you in the case.
16 The appropriate --

17 "Ms. Goldstein: Okay, because
18 the lawyers write really nasty
19 letters.

20 "Mr. Newgaard: I can't see where
21 there'd be a formal complaint out of
22 this, though.

23 "Mr. Meighan: No.

24 "Mr. Newgaard: Absolutely not.

25 "Ms. Goldstein: Okay."

1 PUBLIC HEARING

2 Q. Okay, thank you. You can stop
3 reading.

4 What did you take that
5 conversation to mean?

6 A. That they understood that my
7 proximity was not determinative of any
8 reason to recuse and they did not feel at
9 the time that there was any reason to move
10 forward and in fact I did not hear from
11 the board of ethics for two months.

12 Q. So what did you believe to be
13 status of the board of ethics'
14 investigation at that time?

15 A. That it didn't exist, there were
16 no more inquiries.

17 Q. Please let's go back to the
18 timeline. We just discussed March 12th.
19 Please continue.

20 A. So I heard nothing for two months
21 but on May 14th I received a notice of
22 investigation on two matters, Hommocks
23 Road and the Hampshire County Club. And
24 on May 18th I retained Mr. Leventhal, an
25 expert in municipal ethics law in the

PUBLIC HEARING

1 State of New York. June 4th I e-mailed
2 everybody, informed the board of ethics of
3 my intention to recuse on Hommocks and
4 forwarded the actual letter of recusal on
5 June 14th to everyone mentioned. And on
6 June 26, which was the next time Last
7 Home, LLC, appeared on the planning board
8 agenda, I ready my recusal letter and left
9 the room.
10

11 Q. Was that publicly, on the record
12 that you read your recusal letter?

13 A. On the planning board minutes?

14 Q. Yes.

15 A. I'd have to check the planning
16 board minutes.

17 Q. Did you read the letter in
18 public?

19 A. I read the entire letter in
20 public. I did.

21 Q. Thank you.

22 A. On July 2nd we met with the board
23 of ethics and produced a whole bunch of
24 documents that they wanted e-mails, memos,
25 surveys, certificates of septic

PUBLIC HEARING

1 compliance. And on July 15th
2 Mr. Leventhal submitted a memo explaining
3 why there was no conflict. On July
4 31st --

5
6 Q. I'm sorry. Stop there on July
7 15th. What was submitted to the board of
8 ethics on July 15th?

9 A. A legal memorandum explaining why
10 there was no conflict.

11 Q. So was that an effort by -- why
12 was that memorandum submitted to the board
13 of ethics?

14 A. To hopefully let them know that
15 there was no issue with my participation.

16 Q. So continue.

17 A. So July 31st they evidently voted
18 and charged me with an ethics violation
19 with regard to Hommocks. I did not
20 receive the notice of that until September
21 16th.

22 Q. So Ms. Goldstein you heard
23 Mr. Stolorow at the outset read a portion
24 of the board of ethics' decision in which
25 the board of ethics said that they

PUBLIC HEARING

1 notified you on July 31st that you had
2 been charged in the Hommocks matter. Did
3 the board of ethics notify you on July
4 31st that you had been charged in the
5 Hommocks matter?
6

7 A. No, they did not, until September
8 16th.

9 Q. Please continue.

10 A. On August 12th we had another
11 meeting with, I believe it was the chair
12 of the ethics board, Mr. Ettinger, myself,
13 Mr. Spolzino and Mr. Leventhal to discuss
14 the proceedings.

15 Q. And finally?

16 A. Finally on September 16 of 2019 I
17 received the formal charges of the ethics
18 violations.

19 Q. So let's go back to the board of
20 ethics recommendations, page 4. Would you
21 please read the highlighted portion?

22 A. "This attitude prevailed from the
23 very first informal --

24 Q. I'm sorry. I'm sorry to
25 interrupt you, Ms. Goldstein, but start at

PUBLIC HEARING

the beginning of that paragraph.

A. In every setting in which the ethics board met with Ms. Goldstein she refused to even consider the ethics board's view that her conduct could be in violation of the disclosure requirements and recusal provision of the Code of Ethics. This attitude prevailed from the very first informal meeting with her on March 12, 2019 to a subsequent informal meeting during which the ethics board sought a negotiated resolution as contemplated by the Code of Ethics and throughout the investigation and hearing process.

Q. Now, the March 12th meeting was referred to here. What meeting was that?

A. That was with Mr. Newgaard and Mr. Meighan, that was the transcript that I read from just about the Hampshire matter.

Q. Have you reviewed that transcript yourself?

A. Yes.

PUBLIC HEARING

Q. You read the transcript?

A. Yes.

Q. Is there anything about the discussion that took place on March 12 that reveals any attitude on your part?

A. No, there isn't. I don't know Mr. Newgaard. I know Mr. Meighan quite well. And I conducted myself in a professional way and they were professional and friendly and it was just information gathering.

Q. What was your purpose of meeting with those two board members on that day?

A. They were looking for more information about the Hampshire application and my proximity and what the issues were and I thought I could give them information.

Q. We are all in new territory, handling these hearings on a remote basis.

A. They were talking about another subsequent informal meeting?

Q. Yes, I think so.

MR. STOLOROW: Would this be a

1 PUBLIC HEARING

2 good opportunity to take our recess?

3 You need to take a minute to find
4 that.

5 MAYOR MURPHY: The hearing is
6 going to be in recess until 12:30.

7 MR. STOLOROW: Mr. Mayor, why
8 don't we take a 15-minute break and
9 resume it at 12:10, if that's okay.

10 MR. LEVENTHAL: How about we
11 compromise and go to 12:15.

12 MAYOR MURPHY: Why don't we
13 compromise and go to 12:20. The mayor
14 has a couple things he needs to do.

15 MR. LEVENTHAL: I'll see you at
16 12:20.

17 (Off the record 11:56 A.M. to
18 12:20 P.M.)

19 MAYOR MURPHY: Welcome back. We
20 are going to continue with Mr.
21 Leventhal's questioning of Ms.
22 Goldstein.

23 EXAMINATION BY

24 MR. LEVENTHAL:

25 Q. Mr. Goldstein, did you and I

1 PUBLIC HEARING

2 speak during the break?

3 A. Yes.

4 Q. What did I say to you and what
5 did you say to me?

6 A. You asked me how I was and I said
7 I'm fine.

8 Q. Is there anything else that we
9 discussed?

10 A. No.

11 Q. Okay, thank you. Now let's go
12 back to that exhibit. The reason I wasn't
13 able to find what I was looking for before
14 is because it's starring me right in the
15 face, it's right in the highlighted
16 portion. The highlighted portion which
17 you've already read said, "This attitude
18 prevailed from the very first informal
19 meeting with her on March 12th to a
20 subsequent informal meeting during which
21 the ethics board sought a negotiated
22 resolution as contemplated by the Code of
23 Ethics and throughout the investigation
24 and hearing process."

25 What negotiated resolution did

PUBLIC HEARING

1
2 the ethics board seek at that subsequent
3 meeting?

4 A. They suggested to me that to
5 preserve my reputation and stay as a
6 member of the planning board, if I recuse
7 from the Hampshire application they would
8 go easy on me on the Hommocks charges.

9 Q. Now we are still on page 4 of the
10 board of ethics recommendation and
11 decision. Actually, in case anybody is
12 confused by this let me say that the
13 recommendation and decision are two
14 separate documents. They are compiled
15 together but the pagination is separate on
16 the two documents. And we are looking now
17 at page 4 of the recommendation, which is
18 the earlier portion of the lengthy
19 document. So please read the highlighted
20 portion, Ms. Goldstein.

21 A. "This was amplified by her
22 unrelenting hostile attitude towards the
23 ethics board, village attorney and later
24 towards the village engineer and
25 ultimately directed at the Code of Ethics

PUBLIC HEARING

itself.

Q. I'm going to ask the obvious question, first generally and then specifically. Generally how do you interact with officers and employees of the village?

A. Respectfully and professionally.

Q. And now specifically, how did you interact -- let's take them one at a time. How did you interact with the ethics board?

A. I was always responsive promptly to their request for meetings, for information, and when I was with them in informal or formal settings I was always respectful and professional.

Q. Were you polite?

A. Always.

Q. Were you civil?

A. Yes.

Q. What interactions have you had with the village attorney, how did you interact with him?

A. Well the village attorney is also

PUBLIC HEARING

1
2 our planning board counsel but I don't
3 believe I had any interactions with him
4 except in context and meetings with ethics
5 board members or at the hearing and I was
6 always polite, respectful and
7 professional.

8 Q. I think you've already testified
9 you had correspondence with Mr. Spolzino
10 as well; is that right?

11 A. Right, there have been some
12 emails. There were initial e-mails back
13 and forth.

14 Q. Did the village attorney ever
15 give you any indication that he had any
16 issue whatever with the manner in which
17 you interacted with him?

18 A. No, never.

19 Q. Same question with the village
20 engineer, how did you interact with him?

21 A. Always professionally. We had
22 met on some occasions with some members of
23 harbor coastal management commission to
24 try to work out issues with applications
25 but I'm always respectful of village

1 PUBLIC HEARING

2 employees.

3 Q. Have you ever had any harsh words
4 with any of these people?

5 A. I've always defended myself but
6 I've never had harsh words that are
7 targeted to anybody.

8 Q. Do you have any idea what could
9 have given rise to the phrase unrelenting
10 hostile attitude in this opinion by the
11 board?

12 A. No. It doesn't make any sense to
13 me because that would require a lot of
14 energy because the hearings themselves
15 were almost 12 hours.

16 Q. What, if any, relationship have
17 you had with board of ethics member
18 Deborah Chapin?

19 A. Deborah Chapin and I were very
20 close friends at one time. Our children
21 are the -- our youngest children are the
22 same age. We worked on PTA projects
23 together, we were social friends, we
24 belonged to the same club --

25 Q. I'm sorry. I apologize for

PUBLIC HEARING

1
2 interrupting you, but what time frame are
3 you talking about?

4 A. This was about 20 years ago.

5 Q. Did you request that Ms. Chapin
6 refrain from participating in the
7 investigation and hearing of the charges
8 the board of ethics brought against you?

9 A. Yes, I did.

10 Q. Why?

11 A. There was a difficult falling
12 out. I was the party chair when she ran
13 for re-election and she failed in that bid
14 to be re-elected and she hasn't spoken to
15 me since so I had good reason to question
16 her judgment and fairness and impartiality
17 on anything that had to do with me.

18 Q. Even with Ms. Chapin, have you
19 ever had harsh words with her?

20 A. No, never.

21 Q. What was the outcome of your
22 request that Ms. Chapin be disqualified?

23 A. She did not recuse herself and
24 the paperwork was forward to the village
25 manager.

PUBLIC HEARING

MR. LEVENTHAL: Just for the record to be clear, Ms. Goldstein's motion to disqualify Ms. Chapin is part of the record before the board of ethics. The Village Code provides that when a complaint is made against a member of the ethics board, that the ethics board forward that to the village manager which they did in this case.

BY MR. LEVENTHAL:

Q. What if anything did the village manager do with that motion to disqualify?

A. Did nothing with it until many months later he responded and said the law did not require him to do anything except receive it.

Q. Okay. Let's put that next exhibit up. What do you recognize this letter to be, if anything?

A. That's the letter from Mr. Barberio, the village manager, discussing his action or no action on my complaint.

PUBLIC HEARING

Q. Would you please read it?

A. "Dear Mr. Leventhal, I am in receipt of your letter dated February 10, 2020. On October 10, 2019 I received a copy of the complaint by Ms. Goldstein against a member of the ethics board. Unfortunately the code of the Village of Mamaroneck does not provided me with any obligations or responsibilities to act on the complaint therefore the requirements of Section 21-13E were met on October 10, 2019 when the ethics board provide me with a copy of the complaint.

Q. Thank you. So just to summarize this point, you made a motion to disqualify Ms. Chapin because of bias against you; is that correct?

A. Yes.

Q. And you made that motion prior to the board of ethics hearing; is that right?

A. Yes.

Q. And that motion was never ruled upon; is that correct?

1 PUBLIC HEARING

2 A. Correct.

3 Q. And Ms. Chapin continued to serve
4 as a member of the ethics board in its
5 investigation of you?

6 A. Not just the investigation, the
7 hearing, the vote, if you look at the
8 minutes on the board of ethics she
9 participated in multiple votes. I didn't
10 see any evidence that she didn't
11 participate fully.

12 Q. And you heard that the --
13 withdrawn. Let's put up the next exhibit.

14 Ms. Goldstein, what do you
15 recognize this to be?

16 A. This is the real estate appraisal
17 report from Carol Vergara and Associates,
18 a licensed real estate appraiser that I
19 retained to evaluate my property.

20 Q. What was the reason for retaining
21 an appraiser to evaluate your property?

22 A. In order to have a professional
23 analysis of whatever impact the Hampshire
24 project would have on the value of my
25 property.

1 PUBLIC HEARING

2 Q. Did you obtain this before or
3 after the board of ethics made inquiry
4 about your participation in the Hampshire
5 matter?

6 A. It was after.

7 Q. Would you please read the
8 appraiser's report?

9 A. The whole thing? I can do it.

10 Q. Why don't you read the last --
11 second to last sentence, considering the
12 distance.

13 A. Second to last sentence of the?

14 Q. Of the report.

15 A. "Considering the distance from
16 the development site and the density and
17 type of the buffering vegetation, the
18 effect on the subject value now, during
19 the construction phase and at completion
20 is minimal to nil. Please see the
21 attached photos and exhibits.

22 Q. Did you provided a copy of this
23 appraisal report to the board of ethics?

24 A. Yes.

25 Q. What is the distance from your

PUBLIC HEARING

home to the nearest development site?

A. Approximately 800 feet.

Q. Do you know the length of a football field?

A. Approximately 120 yards.

Q. And that is 360 feet?

A. Put me on the spot with the math, but yes.

Q. So the distance from your home to the development site is probably two and a half football fields; is that right?

A. Yes. But unlike a football field the subject terrain is not flat and without trees and vegetation.

Q. By the way, was there any appraisal report submitted by anyone to the board of ethics in the hearing of this matter?

A. No.

Q. Was the appraiser's opinion of the impact that the project would have on the value of your house contradicted by any other valuation expert?

A. No.

PUBLIC HEARING

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2 Q. In preparing for the board of
3 ethics hearing, did you take any steps to
4 determine how many homes are as close or
5 closer to the development site than the
6 distance from the development site to your
7 home on Oak Lane?

8 A. Yes, I hired a land use expert,
9 Andrew Tong.

10 Q. Let's put the next exhibit up.
11 Can I ask you what do you recognize this
12 to be?

13 A. This is a radius of approximately
14 850 feet from the proposed Hampshire
15 development to -- into the neighborhood
16 all around it.

17 Q. And this shows that your home on
18 Oak Lane is 850 feet from the development
19 site; is that right?

20 A. Yes, that's at the bottom of the
21 exhibit.

22 Q. And this is 800 feet to the limit
23 of the building construction, right?

24 A. Yes.

25 Q. So the nearest building that was

PUBLIC HEARING

proposed to be constructed was 800 feet from your home; is that right?

A. 850 feet, yes.

Q. 850 feet, I'm sorry, 850 feet. Actually -- so what does this analysis indicate are the number of homes, houses, that are within 850 foot radius from the Hampshire construction site?

A. It's approximately 169 houses.

Q. So let's go to the next slide. What does this depict?

A. So --

Q. Let me make it easier for you. Does this depict the radius determined by the distance from your house to the limit of site work?

A. Yes.

Q. So what is the difference between the limit of site work on one hand and building construction on the other?

A. Well just because something is built within an area doesn't mean that it's visible from that other area, so this is the site work -- when they move the

PUBLIC HEARING

1
2 dirt and construct the residences, this is
3 the number of house, 210, that are within
4 765 feet of that.

5 Q. Is that the distance also from
6 your home to the limit of site work?

7 A. Yes.

8 Q. Now let's go to board of ethics
9 decision, page 52. The board of ethics
10 identified five particular impacts that it
11 claimed the Hampshire project would have
12 upon your home. The board of ethics said
13 that it was not making its determination
14 on proximity alone but claimed that there
15 would be particular impacts that would
16 affect your property; is that correct?

17 A. Yes.

18 Q. So just tick off without going
19 into too much detail now because we will
20 come back to each one individually, what
21 are the five impacts that the board of
22 ethics claimed would occur with respect to
23 your home?

24 A. So the first one deals with
25 visual impacts, whether or not the site is

PUBLIC HEARING

1
2 visible from my home. The second deals
3 with flooding that -- they are saying
4 would be increased as a result of the
5 project. The third is dealing with truck
6 traffic during construction. They also
7 talk about rock removal and construction
8 noise. And then the final item was
9 chemicals in the soils at the site.

10 Q. To what extent is the development
11 site visible from your home?

12 A. It's not visible from my home
13 except in the dead of winter for a few
14 months when the leaves are off the trees
15 and the vegetation dies back. But even
16 then I have 30 to 40 hundred foot oak
17 trees in my back yard and the trunks of
18 those trees break up the view of the back
19 of the tennis house, which is as close as
20 they would be building any residence.

21 Q. So let's go to the next slide.
22 That's the distance from your home to the
23 subject -- to the existing tennis court;
24 is that right.

25 A. Yes.

PUBLIC HEARING

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Q. What is the distance?

A. 792 feet.

Q. Do you know where this exhibit comes from? Is this from Carol Vergara?

A. Yes, it's from the appraiser's report.

Q. What do you recognize this to be?

A. These are also exhibits to the appraiser's report showing the view to and from my home.

Q. Just to help the mayor and those who are watching, why don't you take us through these four photographs and tell us what each one depicts.

A. So the first one is the view from the rear of the house looking towards the tennis court is a photograph from my house. My property slopes down very dramatically in the backyard, which is what this is looking at, and so clearly it's in the summertime, there is lots of vegetation and leaves on the trees that you can see. There is no visibility of anything --

PUBLIC HEARING

1
2 Q. I'm sorry, when you say it slopes
3 down dramatically, you have a backyard at
4 the edge of the backyard where the trees
5 are planted, on the other side of the
6 trees there's a dramatic slope?

7 A. No, the slope is from my house.
8 The house is elevated about 20 feet above
9 sea level so the back of my house is
10 higher up so this is sort of looking down
11 into the backyard which is already sloped
12 dramatically, then it's a softer slope
13 down to the water body that's down there.

14 Q. So the first photo -- obviously
15 that first photograph on the upper
16 left-hand corner is not taken, to use your
17 words, the dead of winter, is it?

18 A. Correct, it was taken last
19 summer.

20 Q. What is the second photo, the one
21 to the right of that one?

22 A. So if you were to walk down
23 through my backyard heading towards the
24 Hampshire County Club and you stood down
25 there and you looked across, you'll see

PUBLIC HEARING

one fairway and the tennis facility. And the tennis facility is where they were proposing a few townhouses.

Q. So this is taken from the perspective of the edge of your property farthest from where your home is?

A. Yes, I have a lot of property and I don't go down there very much but that's what you could see if you go through the woods.

Q. Forgive me for asking, how much property do you have?

A. 1.8 acres.

Q. So the upper right-hand corner is a view of the roof of the tennis court from your property in the summertime, right?

A. Yes, but not from my house, it's just from the edge of my property if you were to walk down there.

Q. When you and your husband use your backyard for recreation or your property for recreation, where does that occur?

PUBLIC HEARING

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2 A. It's really at the front door of
3 the house, which is the opposite side of
4 this. We have property there that we use
5 for our pets and gardening and things like
6 that.

7 Q. Even at the back of your house,
8 that's a different elevation than what's
9 depicted in this photograph; is that
10 right?

11 A. Oh, absolutely. It's 20 feet
12 higher.

13 Q. And some lateral distance away?

14 A. Yes.

15 Q. In fact, the distance to the
16 tennis facility, was that the 795 feet?

17 A. Yes.

18 Q. So now the view across the lower
19 left, what does that depict?

20 A. So that's the opposites view.
21 That's the road in the Hampshire property
22 looking back towards my house, the
23 opposite direction. And in the summer
24 time you can't tell that my house is
25 there.

1 PUBLIC HEARING

2 Q. And the corner on the right side?

3 A. That is a telephoto view, that
4 looks like it's a same basic direction.
5 You can see the fragmites (phonetic) and
6 the water body there, Prickly Pear Inlet,
7 and one fairway on the golf course.

8 Q. And if it were the wintertime
9 what would I see?

10 A. Fragmites is usually still there.
11 You would see less trees at the upper
12 level but it's still very difficult to
13 spot my house from Hampshire, even in the
14 winter.

15 Q. Do these photographs accurately
16 depict the view from and to your home?

17 A. Yes, they do.

18 Q. Does your property flood during
19 heavy storms?

20 A. No, no, we are 20 feet above sea
21 level, we do not flood.

22 Q. What does this depict?

23 A. So this is a map that my husband
24 and I as part of our due diligence before
25 we bought the house a few years ago, we

PUBLIC HEARING

wanted to make sure it didn't flood. So the blue area is where Hurricane Sandy actually flooded to and you'll see right in the center of what still looks like ground, is my home. So that's my house. You can see the house to my left and the house to my right have serious flooding issues.

Q. What is the address of the house that the cursor is on now?

A. That's 3 Oak Lane.

Q. And unfortunately the other house is partly hidden by -- oh, no it's not. What house is that?

A. That's 11 Oak Lane.

Q. And it looks like, please correct me if I'm wrong, that part of the property of 11 Oak Lane and part of the property of 3 Oak Lane are under water; is that right?

A. Yes, they are submerged.

Q. In your memory do you recall flooding as severe as occurred in Super Storm Sandy?

A. Coastal flooding, not to my

PUBLIC HEARING

recollection. But this was the most available map so -- this is pretty dramatic.

Q. So once again, your house is the one the cursor is on now; is that right?

A. Exactly.

Q. And there was no flooding at your house?

A. No. And the map shows that.

Q. And the reason for that again?

A. 20 feet above sea level.

Q. What is the relative height above sea level of your home versus 3 and 11 Oak Lane?

A. They are some number of feet above sea level. I'm thinking in the 5 to 7 range for 3 Oak and probably the same for 11. They are significantly lower. Our sight lines look over their roofs.

Q. What is the source of this exhibit, where does it come from?

A. We found this map online. It's a FEMA map. We found it through Westchester County GIS. I don't believe it's

PUBLIC HEARING

1
2 available any longer because I think the
3 Feds took down a lot of these maps but
4 again, we did this as part of our due
5 diligence before we purchased the house in
6 2017.

7 Q. Are you familiar with the truck
8 route that was proposed to bring fill to
9 the Hampshire development site?

10 A. Yes.

11 Q. Did the truck route pass your
12 home?

13 A. No, I live on a dead end street.

14 Q. So do you believe that the
15 trucking activities would interfere with
16 your access to your property?

17 A. No, definitely not.

18 Q. The board of ethics said that
19 because the truck traffic would be on
20 Hommocks Road and you need to take
21 Hommocks Road to get to and from Oak Lane,
22 that it would interfere with your access
23 to your home. Do you agree or disagree
24 with that conclusion?

25 A. No, I don't agree with that

PUBLIC HEARING

1 conclusion. There is already a school
2 there so there is always some amount of
3 traffic but during the construction of the
4 project they would have had construction
5 measures, traffic control measures. They
6 would have people directing the traffic,
7 they were restricting their hours of truck
8 traffic. So I did not feel in any way
9 that my access would be impeded.
10

11 Q. And the board of ethics decision
12 also talks about noise impacts. Do you
13 believe that the chipping, blasting and
14 other construction noise would interfere
15 with the quiet enjoyment of your home?

16 A. I don't. The major -- 95 percent
17 of the construction is much farther away
18 from me and I do not think there would be
19 any impact, or any significant impact on
20 my home.

21 Q. When the board of ethics talks
22 about proximity, they are talking about
23 the proximity of your house to the
24 boundary line of the Hampshire property
25 that's closest to your home; is that

1 PUBLIC HEARING

2 right?

3 A. Yes, that's right.

4 Q. Is that the location on the
5 Hampshire property where this construction
6 is proposed to take place?

7 A. There are a few townhouses to
8 replace the current tennis facility but
9 the bulk of the hundred units that were
10 proposed is further away on the other side
11 of Eagle Nose Road from me.

12 Q. So the nearest construction would
13 be where the tennis facility is,
14 approximately 795 feet; is that right?

15 A. Yes. And that's only a handful
16 of townhouses.

17 Q. Actually I think 850 feet from
18 the building construction site.

19 A. Okay.

20 Q. So now I would like you to take a
21 look at the next exhibit. Now, do you
22 know what this is?

23 A. Yes, this is the VHV Consulting
24 Group's noise study as part of the
25 Hampshire Country Club materials that they

1 PUBLIC HEARING

2 submitted for review.

3 Q. Okay. So just to be clear once
4 again, the board of ethics said there
5 would be an impact to you enough to
6 warrant your recusal because there would
7 be noise from chipping, blasting and --
8 what was the phrase, chipping, blasting
9 and other construction noise; is that
10 right?

11 A. That's what they said.

12 Q. Did the engineer's project, VHV,
13 conduct any testing at your property at
14 5 Oak Lane?

15 A. No.

16 Q. Did it conduct testing at the
17 homes nearest your property?

18 A. Yes, at 3 Oak Lane and 11 Oak
19 Lane.

20 Q. So let's take a look at this
21 chart. Do you see where 11 Oak Lane and 3
22 Oak Lane appear?

23 A. Yes.

24 Q. They are highlighted; is that
25 right?

1 PUBLIC HEARING

2 A. They are.

3 Q. So now let's look at -- first of
4 all, let's look at the second column from
5 the right. What is the title of that
6 column?

7 A. Increase over ambient.

8 Q. What does that mean?

9 A. Well that's the increased
10 decibels that construction would give rise
11 to over what currently exists.

12 Q. So ambient noise means what?

13 A. Just general noise, traffic. I
14 can hear Interstate 95, I can hear Metro
15 North.

16 Q. So ambient noise is the already
17 existing noise, right?

18 A. Yes.

19 Q. So this column is indicating the
20 amount of noise that the construction at
21 the site will create above the ambient
22 noise, right?

23 A. Yes.

24 Q. And what is that noise measured
25 in?

1 PUBLIC HEARING

2 A. It's in decibels.

3 Q. Is that what D-B-A signifies here
4 in this title of this second to last
5 column?

6 A. Yes.

7 Q. So now let's go down to 11 Oak
8 Lane and 3 Oak Lane. How many decibels
9 above existing noise, ambient noise was
10 projected for 11 Oak Lane from the
11 chipping, blasting and construction?

12 A. 5 decibels.

13 Q. And how many decibels over
14 ambient noise would occur at 3 Oak Lane
15 from chipping, blasting and construction?

16 A. That would be four.

17 Q. And take a look at the column to
18 the left of that one.

19 A. Future existing and construction
20 noise levels.

21 Q. Right. So now let's go down to
22 11 Oak Lane and 3 Oak Lane.

23 A. They are both at 52.

24 Q. So what does this column
25 represent?

PUBLIC HEARING

1
2 A. That would be the noise from --
3 after construction is done, the noise
4 level coming out of the buildings.

5 Q. So it would be factoring if the
6 increased noise and the ambient noise; is
7 that right?

8 A. Yes.

9 Q. So during construction, during
10 blasting, during chipping, during
11 construction, the noise projected for the
12 two properties nearest to you on Oak Lane
13 would be 52 decibels; is that right?

14 A. Yes.

15 Q. I'm going to ask you to keep that
16 number in mind as we go to the next chart,
17 the next exhibit. Do you recognize this?

18 A. This is the Center For Disease
19 Control Common Sources of Noise in
20 Decibels.

21 Q. So please read the highlighted
22 material on the lower left inside this
23 document.

24 A. Sound is measured in decibel, dB.
25 A whisper is about 30 decibels. Normal

PUBLIC HEARING

1 conversation is about 60 decibels. And a
2 motor cycle engine running is about 95
3 decibels. Noise over 70 decibels over a
4 prolonged period of time may start to
5 damage your hearing. Loud noise above 120
6 decibels can cause immediate harm to your
7 ears.
8

9 Q. Wait a minute. Did I just here
10 you say that normal conversation is about
11 60 decibels?

12 A. Yes.

13 Q. Did you keep in mind as I asked
14 you to what the VHV projected the ambient
15 plus additional noise to be at the
16 properties closest to you on Oak Lane
17 during construction?

18 A. That was 52 decibels.

19 Q. And normal conversation is how
20 many decibels?

21 A. 60.

22 Q. So now let's look at the column
23 on the right of this document. How much
24 is normal breathing?

25 A. 10 decibels.

1 PUBLIC HEARING

2 Q. Do you remember what the increase
3 over ambient noise was at the two
4 properties closest to your home?

5 A. One was four and one was five.

6 Q. And normal breathing is 10?

7 A. Yes.

8 Q. So what is the decibel level of a
9 soft whisper according to the Center for
10 Disease Control?

11 A. That would be 30 decibels.

12 Q. And finally, once again, not to
13 belabor the point, normal conversation?

14 A. 60 decibels.

15 Q. Now let's talk about the
16 disturbance -- I think we've hit the first
17 four of those bullet points in the board
18 of ethics decision. The only impacts, the
19 only impacts that they identified that are
20 particular to your property they claim,
21 are the bullet points that we're
22 discussing now?

23 A. Yes.

24 Q. Other than that, it's just purely
25 your proximity to the property they

PUBLIC HEARING

1 focused on. These are the five bullet
2 points mentioned in the board of ethics
3 decision. Let's talk about the last one,
4 soil disturbance. Do you believe that
5 disturbance of the soil at the Hampshire
6 construction would cause chemicals to pose
7 a health risk to your home?
8

9 A. No.

10 Q. Why not?

11 A. The applicant already had
12 approval from New York State DEC for
13 moving the soils around, they qualified
14 for an exemption of the soils, and there's
15 been some significant testing and there
16 was a soil mitigation plan in the FEIS
17 that would make sure that toxic chemicals
18 were not released.

19 Q. Okay. Let's put up the VHV soil
20 management report. Now again, this is not
21 the entire document but the relevant
22 portion. Would you please read the
23 highlighted material?

24 A. The FEIS demonstrates --

25 Q. I'm sorry. Let me interrupt you

1 PUBLIC HEARING

2 right there. What is a FEIS?

3 A. It's a final environment impact
4 statement that the planning board when
5 it's a type I action, going back to SEQRA,
6 has to develop with the applicant to lay
7 out all of the environmental concerns and
8 mitigations for the project.

9 Q. So if someone -- rather than
10 finding that an action is type II, as
11 occurred in the Hommocks application, the
12 board worked to determine that it was a
13 type I action based upon the list produced
14 by the (inaudible) type I action the
15 applicant is required to prepare an impact
16 statement, environment impact statement,
17 right?

18 A. Correct.

19 Q. And it goes through various
20 drafts, the drafts are called DEIS or
21 draft environment impact statement, and
22 finally we arrive at a final impact
23 statement which is the FEIS; is that
24 right?

25 A. That's correct.

PUBLIC HEARING

1
2 Q. Now please continue and just
3 remember that there are many people
4 listening who aren't members of land use
5 boards and may not recognize some of this
6 terminology.

7 A. A lot of alphabet soup here. So
8 the final environmental impact statement
9 demonstrates that with the mitigation
10 measures outlined in SWP, which is the
11 storm water management plan, and the CWP,
12 which is a construction work plan, and
13 considering the approval from New York
14 State Department of Environmental
15 Conservation for material reuse, there
16 would be no significant adverse impacts
17 related to soil management.

18 Q. Okay. Thank you. Page 52 of the
19 board of ethics' decision states -- you
20 can take this exhibit down. Page 52 of
21 the board of ethics' decision states that
22 you raised questions about several of
23 these issues as a member of the harbor
24 coastal zone management committee and as a
25 member of the planning board; is that

PUBLIC HEARING

right?

A. Yes, that's right.

Q. Why did you raise questions about these concerns?

A. That's my job as a member of a land use board.

Q. And why did the planning board deny the Hampshire application?

A. It wasn't consistent with the SEQRA regulations insofar that it had significant environmental impacts that could not and were not going to be mitigated.

Q. By the way, you heard the discussion earlier about the fact that the mayor is an impartial arbiter at this hearing and nevertheless he is asking questions. Do you remember that conversation?

A. I do.

Q. So when you sit as a member of the planning board and you ask questions, does that alter the fact that you are an impartial arbiter? In other words, would

1 PUBLIC HEARING

2 it be reasonable to conclude that because
3 you asked a question, that that reflects
4 any opinion or belief on your part?

5 A. No, of course not, we are trying
6 to get the facts out. So sometimes you
7 have to ask a question.

8 Q. So are --

9 MAYOR MURPHY: Is that conceding
10 my impartiality?

11 MR. LEVENTHAL: We will deal with
12 all issues in their time.

13 BY MR. LEVENTHAL:

14 Q. What is the status of the
15 Hampshire application?

16 A. It was denied by the planning
17 board.

18 Q. Why is that?

19 A. Because it did not meet the
20 standards of SEQRA. They still had
21 significant unmitigated environmental
22 impacts. And environmental doesn't just
23 mean trees and rabbits, there are a lot of
24 other factors; social, economic,
25 community, demographics, there are other

1 PUBLIC HEARING

2 factors that fall under the catchall of
3 environmental.

4 Q. Did you participate in the vote
5 to deny the Hampshire application?

6 A. Yes, I did.

7 Q. What was the vote?

8 A. It was 4-0 to deny the
9 application.

10 Q. Did any member of the planning
11 board recuse himself or herself in the
12 Hampshire application?

13 A. Yes, Mr. John Verni was recused
14 on that application.

15 Q. Did Mr. Verni participate in any
16 of the votes before recusing himself?

17 A. I think Ms. Savolt mentioned this
18 application started five years ago but I
19 believe that before Mr. Verni recused he
20 did participate in a few votes in the
21 early stages of the application.

22 Q. You say you believe. Have you
23 had the opportunity to review minutes of
24 the planning board meetings?

25 A. Yes. If they are accurate, he

PUBLIC HEARING

1
2 did vote for the first six months are so
3 when it appeared on the planning board
4 agenda.

5 Q. So you say if they are accurate.
6 Let me phrase the question differently so
7 there is no lack of clarity or ambiguity
8 here. Are you saying you reviewed the
9 minutes of the planning board meetings and
10 they reflect the fact that Mr. Verni voted
11 on the matter?

12 A. Yes.

13 Q. Did Mr. Verni disclose the reason
14 for his recusal at a meeting of the
15 planning board?

16 A. No.

17 Q. Did Mr. Verni disclose the reason
18 for his recusal at a meeting of the board
19 of trustees?

20 A. Not to my knowledge.

21 Q. When Mr. Verni recused himself,
22 was he replaced by an alternate member?

23 A. No.

24 Q. Why not?

25 A. Our law doesn't provide for that.

1 PUBLIC HEARING

2 Q. You are saying that the planning
3 board has no alternate members?

4 A. Correct.

5 Q. If you recused yourself from
6 participating in the planning board's
7 consideration of the Hampshire
8 application, would your place have been
9 taken by an alternate member?

10 A. No.

11 Q. Let's take another look at Code
12 of Ethics Section 21-4C(1). Would you
13 please read the highlighted material?

14 A. Recusal, (1) a village officer or
15 employee or board or committee member
16 shall promptly recuse himself/herself from
17 acting on a matter before the Village when
18 acting on the matter or failing to act on
19 the matter, may benefit the persons listed
20 in Section 21-4A financially or give the
21 reasonable appearance of a conflict of
22 interest or impropriety.

23 Q. What do you understand the phrase
24 reasonable appearance of a conflict of
25 interest or impropriety to mean?

1 PUBLIC HEARING

2 A. Honestly, I have no idea. Does
3 it mean my reading of reasonable or the
4 board of ethics's appearance or the
5 mayor's reading of it? It's very
6 subjective and I don't see any clarity in
7 that.

8 Q. Are you aware of any proposal by
9 the board of ethics for amendment of the
10 Code of Ethics?

11 A. Yes.

12 Q. What do you recognize this
13 document to be?

14 A. This is a memo from the board of
15 ethics to the board of trustees last
16 summer asking them to consider changes to
17 the ethics law.

18 Q. This is while it was conducting
19 its investigation of you?

20 A. Yes, that's correct.

21 Q. This is after it had charged you
22 with violating the Code of Ethics in a
23 particular provision that uses the phrase
24 reasonable appearance of impropriety?

25 A. Yes.

1 PUBLIC HEARING

2 Q. Okay. So please read the
3 highlighted material.

4 A. The applicable recusal section,
5 Village Code 21-4C(1) currently requires
6 that a board member recuse when
7 participation in the consideration of an
8 application would, quote, give the
9 reasonable appearance of a conflict of
10 interest or impropriety, unquote, but does
11 not provide any bright line rule.

12 Q. You might as well read the
13 sentences not highlighted and continue
14 reading.

15 A. One land use board member had
16 even argued before the board of ethics
17 that the reasonable appearance standard is
18 unconstitutionally vague and therefore
19 unenforceable.

20 Q. Do you know who that one land use
21 board member might be?

22 A. I don't know for sure but I have
23 my suspicions it's me.

24 Q. Continue please.

25 A. Without addressing the validity

PUBLIC HEARING

1 of the, quote, void for vagueness,
2 unquote, argument the board of ethics
3 believes the best way to provide great
4 clarity for land use board members living
5 near properties that are the subject of
6 applications before their boards and at
7 the same time promote public confidence in
8 the land use approval process, would be
9 for the board of trustees to adopt an
10 objective recusal standard for board and
11 commission members who reside near a
12 property that is the subject of an
13 application.
14

15 Q. Did the board of trustees adopt
16 the amendment proposed by the board of
17 ethics?

18 A. No, they didn't.

19 Q. Was this memo accompanied by a
20 proposed law?

21 A. I believe there was a proposed
22 law attached to it, yes.

23 Q. Did the board of trustees adopt
24 that proposed law?

25 A. No.

1 PUBLIC HEARING

2 Q. Did the board of trustees adopt
3 any variation of what the board of ethics
4 proposed?

5 A. As far as I know there have been
6 no amendments to the Code of Ethics.

7 Q. Did you explain to the board of
8 ethics that you believed that you had no
9 conflict of interest on the Hampshire
10 application?

11 A. Yes, on many occasions.

12 Q. Let's put up the next slide.
13 Please take a look at Section 21-10C on
14 the Code of Ethics and read it aloud.

15 A. 21-10 ethics board jurisdiction,
16 powers and duties. The ethics board shall
17 have the following powers and duties: A,
18 to provide training and education to
19 municipal officers, board members and
20 employees.

21 Q. Now you heard Kathy Savolt
22 testify that there was an ethics training
23 that occurred last -- when was it?

24 A. December.

25 Q. And prior to that, when is the

PUBLIC HEARING

time the new Ethics Code was adopted in 2017, was it?

A. '10, 2010.

Q. Ten years ago. Other than the one ethics training ten years ago and the other that occurred in December, that's long after the date on which you were accused of violating the Code of Ethics; am I right about that?

A. Yes.

Q. Are you aware of any other ethics training that ever occurred in the Village of Mamaroneck for any officer, employee, board member, departmental head, elected official, anybody in the Village of Mamaroneck, conducted by the Village of Mamaroneck?

A. No. And I've served seven years on land use boards and there's been nothing.

Q. So now, has the board of ethics ever provided educational materials for village officers and employees?

A. No.

1 PUBLIC HEARING

2 Q. So let's take a look at the next
3 slide. Do you recognize this document?

4 A. Yes, it's the minutes of the
5 board of ethics meeting, April 26, 2018.

6 Q. And would you please read the
7 highlighted portion?

8 A. Mr. Ettinger noted that The Code
9 requires the board to provide training and
10 education to officers, board members and
11 employees but it has not done so.

12 Q. Have you recused yourself in any
13 other application?

14 A. In the past I've recused myself
15 on applications from Beach Point Club
16 because I'm a member.

17 Q. Are you aware of any matter heard
18 by the planning board that involved a
19 property near the home of John Verni while
20 he was chair of the planning board?

21 A. Well while he was a member of the
22 planning board I don't think he was a
23 chair for the first one. There were two
24 club applications that happened, I believe
25 one in 2017 and one in 2018. They were

PUBLIC HEARING

1
2 looking for site plan approvals to do some
3 improvements to the club property.

4 Q. Do you know the location -- what
5 was the nature of the businesses operating
6 on those properties, if any?

7 A. Well they are both recreational
8 social clubs. They have tennis courts and
9 marinas and pools and dining facilities
10 for members.

11 Q. They are beach clubs?

12 A. Yes.

13 Q. So what are the locations of
14 those beach clubs relative to Mr. Verni's
15 home?

16 A. Well Orienta Beach Club shares a
17 property line with Mr. Verni. They are on
18 the same side of the street. Beach Point
19 Club is across the street from Mr. Verni's
20 property.

21 Q. Did Mr. Verni recuse himself in
22 either of those matters?

23 A. No.

24 Q. Do you know whether he voted on
25 those matters?

PUBLIC HEARING

1
2 A. I reviewed the minutes and he
3 did.

4 Q. How many times did Mr. Verni vote
5 on the beach club applications?

6 A. On Beach Point Club it was five
7 times. On Orienta Beach Club it was six
8 times.

9 Q. Did Mr. Verni ever state why he
10 didn't recuse himself in those matters?

11 A. Not to my knowledge.

12 Q. Well do you recall his testimony
13 before the board of ethics?

14 A. Well yes. Under oath he did say
15 he thought they were good applications and
16 even though one might be a bit of an
17 inconvenience to him he decided to vote in
18 favor of it.

19 Q. Which beach club is across the
20 street from his home?

21 A. That's Beach Point Club.

22 Q. Do you remember more specifically
23 why he felt that he did not have a
24 conflict with respect to that application?

25 A. He did say that the proposed

PUBLIC HEARING

1 enlargement of the club was on the
2 opposite side of the building from his
3 house so he thought it was far enough away
4 that it wouldn't be a problem.

5 Q. And the Hampshire development
6 site is on the opposite side of the
7 property owned by the Hampshire Country
8 Club from your house; is that right?

9 A. The bulk of the development,
10 that's correct.

11 Q. Are you aware of any decisions of
12 the board of ethics on the village
13 website?

14 A. There are two ethics decisions on
15 the village website.

16 Q. Let me put one up on the screen.
17 Actually there are now three, Ms.
18 Goldstein.

19 A. Oh, yes, I've joined that club.

20 Q. Do you recognize this document?

21 A. I do.

22 Q. What do you recognize it to be?

23 A. This is the second Santoro
24 opinion on the board of ethics website.
25

PUBLIC HEARING

1
2 Q. Please read the highlighted
3 portion.

4 A. Susan McCrory filed a complaint
5 with the board of ethics that Village
6 Trustee Louis Santoro violated the Code of
7 Ethics at the February 13, 2017 board of
8 trustees meeting because he had, quote,
9 read and introduced the resolution
10 authorizing the payment of his legal
11 bills, unquote. Further, Ms. McCrory
12 complained that Mr. Santoro failed to step
13 off the dais after his recusal and during
14 a portion of the board of trustees meeting
15 concerning the legal fees.

16 They go on to say: However,
17 Mr. Santoro did not completely refrain
18 from any further participation in this
19 matter as required by the Code of Ethics
20 Section 21.4C(2) while Mr. Santoro did not
21 vote on the resolution of approving legal
22 fees or participate substantively in the
23 public comments on the resolution or the
24 board of trustees discussion on the
25 resolution he did continue to participate

PUBLIC HEARING

1
2 after his recusal in the procedural
3 aspects of the proceeding concerning
4 payment of his legal bills. We find this
5 was a technical violation of the Code of
6 Ethics. We further determine however that
7 Mr. Santoro's limited, the non-substantive
8 participation was in good faith and was
9 not an attempt to exert any influence on
10 the board of trustees' decision making or
11 oppose. Accordingly, no sanction,
12 disciplinary action or penalty is
13 warranted under the circumstances.

14 And it's signed by the chair,
15 Mark Ettinger.

16 Q. So let me ask you a few questions
17 about this. Does this describe an action
18 by the board of trustees in which
19 Mr. Santoro had a direct personal
20 interest?

21 A. Yes, it would put money in his
22 pocket.

23 Q. And what did he personally do
24 with respect to that application when it
25 was taken up by the board of trustees?

PUBLIC HEARING

1
2 A. He introduced the legislation
3 that he was recusing but continued to sit
4 on the dais with his fellow trustees.

5 Q. So he -- it says that he
6 introduced, he read and introduced the
7 resolution.

8 A. Yes.

9 Q. That would be participation by
10 Mr. Santoro in the consideration by the
11 board of trustees on the merits of a
12 matter that he had a direct personal
13 financial interest in?

14 A. Yes. He's reading the actual
15 resolution that the trustees were going to
16 consider and vote on.

17 Q. Okay. Now, in the Hommocks
18 matter, did you have a direct personal
19 interest?

20 A. No, none whatsoever.

21 Q. Did the two matters that you
22 voted on, opening the meeting and typing
23 the matter for SEQRA purposes, deal with
24 the merits of the application? In other
25 words, the planning board's consideration

1 PUBLIC HEARING

2 of what the applicant was seeking approval
3 of?

4 A. No. And if we hadn't taken those
5 actions the applicant would have good
6 reason to sue us and win.

7 Q. So the action you participated
8 in, in those ministerial actions, they
9 were procedural in nature, right?

10 A. Yes.

11 Q. So let's go back to the board of
12 ethics. The board of ethics found that he
13 didn't vote on the resolution approving
14 the fees. You didn't vote on the approval
15 of the application in the Hommocks Road
16 matter, right?

17 A. Correct.

18 Q. They go on to say that he did not
19 participate substantively in the public
20 comments on the resolution or the board of
21 trustees discussion of the resolution.

22 Well, by the time the planning board took
23 up the merits of the Hommocks application,
24 you had long ago recused yourself; is that
25 right?

PUBLIC HEARING

1
2 A. That's correct. I was out of the
3 room.

4 Q. But, the board says, he did
5 continue to participate after recusal in
6 the procedural aspects of the proceedings.
7 Now, without agreeing that reading and
8 introducing his own resolution to be paid
9 is not participating in the substantive
10 aspects of his own matter, by
11 participating in the vote to open the
12 hearing and classify the Hommocks
13 application for SEQRA purposes, were you
14 participating in the procedural aspects of
15 the proceeding?

16 A. Yes.

17 Q. Well in the Santoro matter the
18 board of ethics found it was a technical
19 violation of the Code; is that right?

20 A. Yes, a technical violation.

21 Q. And in your case they found that
22 what you did merits removal from the
23 planning board; is that right?

24 A. Yes.

25 Q. Let's look at the last sentence:

1 PUBLIC HEARING

2 We further determine however, that
3 Mr. Santoro limited non-substantive
4 participation. Was your participation in
5 the Hommocks matter limited and
6 non-substantive?

7 A. Yes.

8 Q. That his limited, non-substantive
9 participation was in good faith. Was your
10 participation in the Hommocks matter in
11 good faith?

12 A. Yes, it was.

13 Q. And was not an attempt to exert
14 any influence on the board of trustees
15 decision making or vote.

16 Well he read and introduced the
17 resolution to pay himself money. You, did
18 you participate in the planning board's --
19 or attempt to influence the planning
20 board's decision making or vote on the
21 merits, substance, of the application, the
22 nature of the application in the Hommocks
23 matter that was -- I'm forgetting the term
24 for it?

25 A. Wetlands permit?

1 PUBLIC HEARING

2 Q. Do you participate or attempt to
3 influence the planning board in its
4 decision on the wetlands application?

5 A. No.

6 Q. So the board of ethics concluded
7 that Mr. Santoro's circumstances merited
8 no sanction, no disciplinary action and no
9 penalty; is that right?

10 A. That's right.

11 Q. And in your case they have
12 recommended the ultimate penalty, haven't
13 they, removal from the board?

14 A. Yes.

15 Q. Is there any greater penalty that
16 the Village can impose?

17 A. This one seems pretty severe to
18 me so I don't think so.

19 Q. So we can take down this exhibit.
20 In your knowledge, has the board of ethics
21 ever recommended that anyone else be
22 removed from office?

23 A. No.

24 Q. Did you send an e-mail message to
25 the mayor and the board of trustees after

1 PUBLIC HEARING

2 the board of ethics hearing?

3 A. Yes, I did.

4 Q. I'm going to ask you to read it
5 in a moment but before we do I want you to
6 take a look at what the board of ethics
7 said about it on page 6 of the
8 recommendation. All right, I will read
9 it. I will read it. The board of ethics
10 said Ms. Goldstein sent an e-mail to the
11 mayor, village manager and ethics board
12 within two hours of the conclusion of
13 hearing on November 22nd, wholly
14 confirming our finding that Ms. Goldstein
15 demonstrates a disregard for the law and
16 refuses to conform her conduct to even the
17 letter or the spirit of the Code of
18 Ethics. In the e-mail Ms. Goldstein
19 transmitted confidential information
20 regarding the proceeding, contrary to the
21 provisions in the Code of Ethics, made
22 blatant misrepresentations about the
23 evidentiary record and made baseless
24 personal attacks against the ethics board,
25 even going to far as to hypothesize that

PUBLIC HEARING

1
2 the ethics board was motivated by a
3 financial nexus to the Hampshire developer
4 and accusing the ethics board of
5 manipulating land use for members.

6 Now let's take a look at the
7 actual e-mail that you sent. And I'm
8 going to -- it's long, but the board of
9 ethics was so exercised about this, so
10 outraged that you would send this letter,
11 that I would like you to read it.

12 A. I sent it to the mayor and the
13 board, the village manager and I copied
14 the board of ethics.

15 Q. Before you even read it, why did
16 you send it?

17 A. I knew whatever recommendation
18 the board of ethics would come up with
19 would ultimately go to the board of
20 trustees and I thought it was only fair
21 that they hear directly from me.

22 Q. So now let's read it.

23 A. As you may know, I have been the
24 target of two investigations brought by
25 the village's board of ethics and I

PUBLIC HEARING

1
2 believe it's important for you to know
3 what is going on. In January 2019 I
4 received a terse e-mail from the BOE
5 questioning my participation as a planning
6 board member on the Hampshire application.
7 I called Mr. Spolzino and asked what was
8 going on. He told me the BOE had been
9 considering the concept of land use board
10 members must recuse when their property
11 line abuts an application before them. I
12 responded immediately with information
13 that my property did not abut Hampshire
14 and cooperated with their request. I
15 subsequently met three times with board of
16 ethics members, shared information and
17 answered questions as requested. One of
18 those meetings was with board of ethics
19 members Mr. Newgaard and Mr. Meighen on
20 March 12th, see transcript attached, at
21 which they both told me they saw no
22 violation in my continued participation on
23 the Hampshire application. I didn't hear
24 from the board of ethics for two months
25 and thought the matter was closed. On May

PUBLIC HEARING

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2 14, 2019 I received a memo from the board
3 of ethics stating that two investigations
4 had been opened against me. In addition
5 to the Hampshire application there was
6 also an issue with 203 Hommocks Road. I
7 immediately retained counsel who is an
8 expert in ethics law. Although I firmly
9 believe there was no reasonable view that
10 a conflict of interest existed, I did
11 publicly recuse myself on 203 Hommocks
12 Road and copied the board of trustees and
13 the board of ethics. I thought that after
14 considering the information I promptly
15 provided the board of ethics would
16 understand that both the facts and the
17 law, see memo attached, supported my
18 actions. I also obtained an independent
19 opinion from a qualified real estate
20 appraisal, see copies attached, for each
21 application. We've just completed four
22 sessions with a closed hearing and
23 established that the board of ethics had
24 no training or taken any steps to inform
25 themselves of government ethics laws and

PUBLIC HEARING

1
2 decisions. Not a single member of a land
3 use board has received any correspondence
4 or guidance from the board of ethics.
5 You'll see from the transcripts provided
6 that the planning board chair fully
7 participated on two applications next door
8 to his home and no inquiry or complaint
9 was ever made. And although counsel was
10 always present at planning board meetings
11 I was never advised regarding any conflict
12 of interest issues. In the absence of
13 direct guidance from the board of ethics
14 Mr. Spolzino in his capacity as village
15 attorney, board of ethics attorney, and
16 land use counsel, had a duty to directly
17 advise land use board members. Instead
18 Mr. Spolzino and the mayor conferred and
19 tasked the planning board chair to speak
20 with me about recusing on 203 Hommocks
21 because no complaints were filed by any
22 third parties. The board of ethics filed
23 their own charges against me, see
24 attached, for Hampshire and 203 Hommocks
25 Road even though I had recused. The board

PUBLIC HEARING

1
2 of ethics is complainant, prosecutor,
3 judge and jury. For the last 11 months
4 I've been alternately cajoled and bullied
5 by the board of ethics. It's been
6 suggested that I, quote, preserve my
7 reputation, unquote, and avoid, quote,
8 removal from the planning board, unquote.
9 During their investigation, board of
10 ethics members smoke with 11 witnesses,
11 see list attached, most of them
12 irrelevant, in order to make certain that
13 my name was dragged through the mud. They
14 served a subpoena on my husband when a
15 simple e-mail would have sufficed. The
16 subpoena was not even placed in an
17 envelope where some element of
18 confidentiality could have been preserved.
19 The board of ethics twisted my legitimate
20 questions during the review of an
21 application of a planning board member and
22 taken them as evidence that I am looking
23 out for my own private interest rather
24 than the best interest of the entire
25 village. This demonstrates they have no

PUBLIC HEARING

1
2 understanding of a land use process or the
3 job of a planning board member. As former
4 mayor and current planning board member
5 Kathy Savolt said of their misguided and
6 unworkable proposal to amend the Code of
7 Ethics to mandate recusal based on mere
8 proximity. No board of ethics member has
9 served on a land use board yet they want
10 to substitute their judgment for that of
11 trained land use board members. They've
12 had no ethics training and are not
13 following their own president, see Santoro
14 decision attached. Not one of them is
15 qualified to substitute their judgment for
16 mine.

17 This goes on to the next page so
18 I'm going to need the next page. So I
19 missed the last couple of sentences
20 before. Can we go back?

21 So what is going on here? I have
22 a hypothesis. The Hampshire project, if
23 approved as proposed, will provide the
24 applicant a distressed asset private
25 equity investment firm with almost \$200

PUBLIC HEARING

1 million of revenue. The complaint on 203
2 Hommocks Road where I recused -- now I
3 need the next page -- where I recused but
4 still am pursued for an ethics violation
5 served as leverage to try to get me to
6 recuse on the Hampshire application. The
7 board of ethics currently has the power to
8 manipulate the land use process by
9 persuing unfounded allegations and
10 intimidating land use board members. I
11 will continue to defend myself against
12 these baseless attacks, just as any of you
13 would. I provide the transcripts from the
14 last two hearings when they are available.
15 Respectfully submitted.
16

17 Q. Ms. Goldstein, can you show me
18 anywhere in this memo where you think
19 there is a reason where you gave reason
20 for the board of ethics to conclude that
21 it demonstrates a disregard for the law?

22 A. No, I can't.

23 Q. How about that it demonstrates
24 that you refused to confirm your conduct
25 to either the letter or spirit of the Code

1 PUBLIC HEARING

2 of Ethics?

3 A. No.

4 Q. Did you transmit confidential
5 information regarding the proceedings?

6 A. No.

7 Q. Did you make any blatant
8 misrepresentations about the evidentiary
9 record or baseless personal attacks on the
10 ethics board members?

11 A. I did not.

12 Q. I'm going to task you -- take a
13 look at page 6 again of the board of
14 ethics' decision and -- that's the
15 language that I read a moment ago that I
16 was not able to put my hand on a moment
17 ago. So please read that paragraph.

18 A. The ethics board believes the
19 evidence and Ms. Goldstein's conduct
20 before, during and after the hearing show
21 no contrition and no willingness to
22 consider the views of the ethics board or
23 others with respect to the application of
24 the Code of Ethics. It strongly
25 suggests --

PUBLIC HEARING

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Q. You can read the part in the middle, it's okay.

A. In fact, Ms. Goldstein testified that even with complete knowledge of the facts in the record and everything she had learned to date that she would still not have changed her conduct with respect to recusal or disclosure in either of the two applications. It strongly suggests that Ms. Goldstein has the potential to ignore the application of the Code of Ethics in other circumstances.

Q. Okay, Ms. Goldstein, the word contrition, do you know anywhere in the Code of Ethics where the code regulates the operation of somebody's mind?

A. No. And I hope they never amend it for that.

Q. It regulates conduct, right?

A. Yes.

Q. How about the contents of your heart, does it reach into your soul and demand atonement and contrition?

A. No, it doesn't.

PUBLIC HEARING

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2 Q. So now let me ask you this very
3 important question: If in the future a
4 matter comes before the planning board
5 that involves circumstances similar to
6 those of the Hommocks or Hampshire
7 applications, what would you do?

8 A. My goal is to always follow the
9 law. And a court will soon decide this
10 matter. I always acted doing what I
11 thought was right but if an independent
12 judiciary finds that I should have acted
13 otherwise, I will comply with their ruling
14 and change my actions in the future.

15 MR. LEVENTHAL: Thank you. I
16 have no further questions of
17 Ms. Goldstein at this time; however,
18 at this point I would like to
19 introduce into evidence, I'm not going
20 to read it now, the letter submitted
21 by Ellen Stiler to the mayor and board
22 of trustees regarding this matter. We
23 will return to that later.

24 MAYOR MURPHY: It's already in
25 the Village's possession.

1 PUBLIC HEARING

2 MR. LEVENTHAL: Yes, it's already
3 in the Village's possession. That
4 concludes my examination of
5 Ms. Goldstein at this time. Thank
6 you, Ms. Goldstein.

7 THE WITNESS: Thank you.

8 MAYOR MURPHY: Adam, do have any
9 questions?

10 MR. STOLOROW: I do not have any
11 questions at this time.

12 MAYOR MURPHY: I just have a
13 couple.

14 EXAMINATION BY

15 MAYOR MURPHY:

16 Q. Ms. Goldstein, we've known each
17 other a long time and your service to this
18 community goes back many, many years we
19 worked on things together and that is an
20 unchangeable fact and thank you for that
21 service.

22 There is a couple of questions I
23 have, though. The first one goes to the
24 letter that Mr. Leventhal just read and
25 you read to Mr. Leventhal that on

PUBLIC HEARING

1
2 November 22, 2019 at the conclusion of the
3 ethics board hearing. I want to focus on
4 one paragraph because part of what I'm
5 doing here today is trying to find -- the
6 ethics board has their determination and
7 that determination is their determination.
8 I am not here to appeal that, I am not an
9 appeal officer. As you eloquently stated
10 at the end, there will be a court that
11 decides this eventually. My job here is
12 to just decide if punishment of removal is
13 warranted. So I want to ask you, and this
14 goes to mitigation of that, when you say I
15 have a hypothesis, if the Hampshire
16 project is approved as proposed it will
17 provide the applicant a distressed asset
18 private equity investment firm with almost
19 200 million of revenue, when you said that
20 are you alluding that ethics board members
21 had an interest in that?

22 A. Absolutely not.

23 Q. Then why is that in there, what
24 is that hypothesis about?

25 A. Well I think it provides context

PUBLIC HEARING

1
2 for why an applicant might want to stop
3 local planning board members from asking
4 questions. It doesn't mean that the board
5 of ethics has any investment in that.
6 They could be the unwitting tools of
7 someone trying to make a mountain out of a
8 mole hill in order to further a project.

9 Q. So your testimony here is you
10 don't think they are in league with
11 Hampshire?

12 A. No, I never suggested that and I
13 never suggested that they had a financial
14 interest. I think the plain reading of
15 the language is pretty clear.

16 Q. Well I'll read the language
17 again. So what is going on here? I have
18 a -- this is after we are talking about
19 the BOE. I have a hypothesis. The
20 Hampshire project if approved as proposed
21 will provide the applicant a distressed
22 asset private equity firm with almost 200
23 million in revenue.

24 Now, in the context of this
25 letter, it's hard to see how that is not

PUBLIC HEARING

1
2 referring to the ethics board. But I
3 appreciate your testimony that it is not.
4 In that context, in the middle of this
5 e-mail, it's hard to understand if there
6 had been any interest I would like to know
7 about it because that would be severe
8 mitigation.

9 A. Well it would be very hard to
10 know that because there is no process for
11 dealing with a complaint against an ethics
12 board member. So even if I had evidence
13 or the suggestion that that was
14 inappropriate, it would go nowhere. They
15 are unaccountable to anybody. And here's
16 the other thing. I don't know who filed
17 charges -- no one filed charges against
18 me. It's very unclear to me how this
19 whole thing started so without that
20 context, I am free to hypothesize whatever
21 might be motivating what I certainly seem
22 a view as a total witch hunt.

23 Q. Okay. But I want to be clear.
24 If you had evidence, I would pursue that
25 evidence. But thank you.

PUBLIC HEARING

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2 The last question. After having
3 read the ethics board decision, that in
4 their decision that you violated The Code,
5 in any way, would you do anything
6 different if you had a do over?

7 A. As I just recently stated, I
8 always acted in the best interest of the
9 village and did what I thought was best.
10 If a court tells me otherwise, I will
11 accept whatever they tell me as being
12 appropriate behavior going forward. So if
13 I was wrong, I will admit I was wrong and
14 I will conduct myself accordingly in
15 similar matters.

16 Q. That's good enough. That's good
17 to hear actually. Thank you. That
18 concludes my questions. Thank you for
19 being here. Thank you for your service in
20 the village in the past and going forward.

21 MR. LEVENTHAL: Thank you, Mr.

22 Mayor. Mr. Stolorow, I'm going to now
23 give a closing argument. I would like
24 to have just five minutes.

25 MAYOR MURPHY: Okay. Please

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PUBLIC HEARING

proceed.

MR. STOLOROW: Five minutes for closing or a five-minute break?

MR. LEVENTHAL: Five minutes for a break.

MAYOR MURPHY: Let me make clear to the listening public, again let me reiterate, this is not an appeals court. I'm not trying in any way to inhibit anything you are going say because this is not appeals court, this is just my responsibility here is just to decide if the punishment is appropriate so that is one side of the case. As Ms. Goldstein eloquently stated, the whole case will be in litigation and if folks want to read the whole ethics board opinion they can go to the Village of Mamaroneck website but I just want to put that out there because people might be wondering why there isn't another side, that don't know the whole history. But let's take a five-minute

PUBLIC HEARING

break and we'll see you all back here.
What time is it? 1:34. We'll see you
hear at 1:40.

MR. LEVENTHAL: Thank you.

(Off the record 1:34 to 1:43
P.M.)

MAYOR MURPHY: We are resuming
the hearing and Mr. Leventhal is going
to give his closing statement.
Mr. Leventhal, whenever you are ready,
sir.

MR. LEVENTHAL: Thank you. I
want to thank everyone for their
patience today and for listening to
what was said and for taking it very
seriously and considering it very
deeply. The evidence has not
established cause for removal. And
when I use the phrase cause for
removal, I'm talking about legal
cause. Legal cause which is a matter
of substance, that involves the
character of an individual, a neglect
of duty or calls into question that

PUBLIC HEARING

1
2 individual's fitness for office. So
3 let's talk about those issues. Next
4 slide please. Finally, after
5 addressing those three prongs, I'm
6 going to again address the faulty
7 reasoning of the board of ethics.

8 So Ms. Goldstein's character is
9 well demonstrated by her extensive and
10 impressive and self sacrificing
11 history of volunteerism. You heard
12 it. The résumé is in the record. I
13 don't need to repeat it. But I think
14 the mayor, in thanking Ms. Goldstein
15 for her service to the village over
16 these many years, has acted
17 appropriately based on the
18 contributions that she has made to the
19 community. So character I think is
20 established beyond any argument to the
21 contrary.

22 So let's talk about the lack of
23 neglect of duty. The first matter is
24 the Hommocks Road application. You
25 heard discussion about the facts that

PUBLIC HEARING

the March 27th meeting of the planning board, Ms. Goldstein voted with respect to two ministerial matters. She voted to open the meeting and she voted to classify the action as a Type II action for SEQRA purposes. The board of ethics record contains testimony by a distinguished expert in the field of land use regulations and municipal ethics, Ms. Patricia Salkin (phonetic) Ms. Salkin's resume is in the record. Her credentials include among many other things her current position as provost of Touro College. Her previous position as dean of Touro Law School, professor of Albany Law School. She's the author of five text books, 24 treatises, 74 Law Review articles and countless other articles, chapters, studies and reports. There is no more renowned or respected expert in the field of land use regulations and municipal ethics than Patricia Salkin. She testified that

PUBLIC HEARING

both of the votes at the March 27th meeting of the planning board are ministerial acts because they involved no exercise of discretion. The reason that conflicts of interest are prohibited is because conflicts of interest undermine the exercise of discretion. If there is no discretion to be exercised, then a person's actions cannot be influenced by their own interests. That is why the Village of Mamaroneck Code of Ethics identifies a particular type of action that is prohibited if it's going to benefit the officer or employee or someone related to them either through familial ties, business ties or otherwise. That is discretionary action. Now, the recusal section of the code doesn't use the phrase discretionary actions. It talks about actions but there is a well established principal of statutory construction that says that all parts

PUBLIC HEARING

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2 of the law must be read together and
3 harmonized and you can find that rule
4 of statutory construction and a
5 discussion of it at McKinney's
6 Statutes, Sections 97 and 98.

7 Ms. Goldstein recused herself without
8 ever voting on the merits of the
9 Hommocks Road application. She
10 recused herself in writing and then at
11 the next meeting read her recusal in
12 public and left, exited the meeting.

13 These actions by Ms. Goldstein do not
14 justify her removal from the planning
15 board. With respect to the Hampshire
16 application the board of ethics said
17 that -- let's just fix this technical
18 glitch. Thank you. The board of

19 ethics identified five particular
20 impacts that they claimed had
21 particular impact on Ms. Goldstein.

22 They said we're not going to argue
23 about proximity. We heard Leventhal
24 go on and on and on about proximity
25 not being a sufficient basis for

PUBLIC HEARING

1
2 disqualification unless it's coupled
3 with some facts that give rise to a
4 conflict. We are not going to rely
5 upon proximity, we are going to rely
6 upon proximity plus, proximity plus
7 those five factors identified in their
8 decision, and we are going to talk
9 about that in a moment. But just to
10 be sure, the case law is clear that
11 proximity alone is not enough to give
12 rise to a disqualifying conflict of
13 interest. Proximity must be coupled
14 with some significant impact that is
15 particular to the individual affected.
16 For example, let us say the board of
17 trustees got together one evening and
18 they said here's a great idea, let's
19 spot rezone our own homes, it will be
20 great. In fact, why don't you recuse
21 yourself when we rezone your house and
22 I'll recuse myself when we rezone mine
23 and we'll all have our homes rezoned.
24 Well you do not need to be an expert
25 on government ethics to see that

PUBLIC HEARING

1 that's improper. But if the board of
2 ethics rezoned a section of the
3 village in which a substantial number
4 of village residents reside and their
5 homes happen to be in that area, that
6 would not represent a conflict of
7 interest on the part of the trustees
8 because the action they are taking
9 does not have a particularized effect
10 on them that is uniquely different
11 than the effect that it has on a
12 substantial number of other village
13 residents. And the board said
14 although her attorney -- the board --
15 I should have mentioned at the outset
16 that the valuation evidence, the
17 appraisal submitted by Ms. Goldstein,
18 the appraisal report saying that the
19 Hampshire subdivision application
20 would have no impact on the value of
21 her home, that evidence is
22 uncontradicted in the record.
23 Uncontradicted. There is no other
24 evidence in the record. A decision is

PUBLIC HEARING

1
2 rational only if it's made based on
3 the evidence deduced at a hearing.
4 There is no evidence that the
5 Hampshire subdivision would have an
6 impact on the value of Ms. Goldstein's
7 home. The only evidence is to the
8 contrary. So the board of ethics
9 stated that it did not rely on
10 proximity as the basis for its
11 determination. It's stated at page
12 two of its decision: Although her
13 attorney has argued proximity alone
14 could not give rise to a conflict of
15 interest, the board of ethics did not
16 reach that question and find the facts
17 clearly establish that Ms. Goldstein
18 will be affected by numerous
19 circumstances and conditions arising
20 from the development of the Hampshire
21 project in a matter materially
22 different than almost all residents of
23 the village. Well, there are hundreds
24 of homes, hundreds, more than 200
25 homes close or closer to this project

PUBLIC HEARING

1
2 than Ms. Goldstein. You saw Mr.
3 Tong's radius maps. 189 residential
4 lots are in the notice area. The
5 distance from the nearest work area to
6 Ms. Goldstein's home is 765 feet and
7 210 houses are at the same or lesser
8 distance. The distance from the
9 nearest construction site is 800
10 feet -- 850 feet, rather, two and a
11 half football fields, and 169 houses
12 are at the same or lesser distance.
13 There are no adverse material impacts
14 that were likely to occur at 5 Oak
15 Lane as a result of this application.
16 The board, as I said, alleged five
17 impacts only of the myriad of
18 circumstances, of the many factors and
19 circumstances that they vaguely
20 alluded to in their decision, they
21 only identify five.

22 First, visibility. Well you
23 heard that the property is heavily
24 wooded. There is a winter view only
25 through the trees other than that

PUBLIC HEARING

1 corner of the roof of the tennis
2 facility that could be seen poking up
3 through the trees. So the visibility
4 of the project cannot be described as
5 a significant impact at 5 Oak Lane.
6 It might very well be significant at a
7 property in another location. It is
8 not a significant impact at 5 Oak
9 Lane.
10

11 Storm water flooding of her
12 neighbors properties was mentioned by
13 the board of ethics in those five
14 bullet points. They mentioned storm
15 water flooding at her neighbor's
16 properties but Ms. Goldstein's home is
17 at a higher elevation. And you saw an
18 aerial photograph taken and published
19 by FEMA that depicts the flooding from
20 Super Storm Sandy. Her two neighbors,
21 the one at 3 Oak Land and the one at
22 11 Oak Lane had flooded. The
23 Goldstein residence did not because of
24 its elevation. There was no
25 significant adverse environmental

PUBLIC HEARING

1
2 impact likely to occur at the
3 Goldstein home as a result of flooding
4 caused by the Hampshire project.

5 The next item mentioned by the
6 ethics board is truck traffic but the
7 truck route will not pass Ms.
8 Goldstein's home. They will turn off
9 of Hommocks Road before they reach Oak
10 Lane so the only place on Ms.
11 Goldstein's route in and out of Oak
12 Lane where she is likely to encounter
13 traffic is by the school where traffic
14 is and will be regulated and where the
15 hours of transportation are regulated,
16 the days of transportation are
17 regulated, and steps will be taken to
18 minimize the impacts. So the impact
19 of truck traffic is not a factor
20 unique or significant or substantial
21 to Ms. Goldstein, certainly not a
22 factor that warrants disqualification.
23 Construction noise. Well, you saw the
24 VHV chart. 50 decibels? That's less
25 than the loudness of a normal

PUBLIC HEARING

1 conversation. Those decibel levels
2 were measured by testing that occurred
3 at 3 Oak Lane and 11 Oak Lane, the
4 house on either side of Ms. Goldstein.
5 That's for levels if you add the
6 construction noise to the ambient
7 noise. The only evidence is that the
8 noise levels will be less than the
9 decibel levels of a normal
10 conversation. 50 decibels. Normal
11 conversation, 60. That's not Ms.
12 Goldstein's estimate. That's not my
13 estimate. That's the estimate of the
14 Center for Disease Control. So there
15 will be no substantial adverse
16 material -- adverse environmental
17 impacts from noise. There would be
18 none at 5 Oak Lane if this project had
19 been approved.
20

21 Finally, disturbance for soil
22 containing chemicals. Well you heard
23 that the final environmental impact
24 statement concluded that particularly
25 based upon the requirements of the New

PUBLIC HEARING

York State Department of Environment Control and compliance with their regulations there will be no material adverse impact for the disturbance of soil at the construction site.

That's it. That is what the board of ethics hung their hat on. Nothing else. There are no other impacts identified in the board of ethics decision. Only those and this notion of proximity and here the proximity is only to the property line farthest from the development site. Not -- Ms. Goldstein's not proximate to the development site itself.

Now let's talk about the vagueness of the law. The ethics board says that the Village of Mamaroneck has a stricter law than state ethics law. Well that may in some instances be true but the United States Constitution and the New York State Constitution both apply in the Village of Mamaroneck no matter what

PUBLIC HEARING

1 the board of trustees enacts in
2 legislation and no matter how the
3 board of ethics interprets it. And we
4 had case law and expert testimony from
5 Ms. Salkin stating the reasonable
6 appearance standard in the Code of
7 Ethics is unconstitutionally vague
8 because it fails to give sufficient
9 notice of what conduct is prohibited
10 and leaves it up to the board of
11 ethics to decide on an ad hoc basis
12 what conduct is prohibited. How is a
13 board member to regulate their conduct
14 if it's not up to them to decide what
15 is reasonable, it is up to the board
16 of ethics to decide after the fact
17 what is or is not prohibited under the
18 Code of Village of Mamaroneck. And
19 Mr. Stolorow at the outset read from
20 the board of ethics decision in which
21 they spoke about such a rule applying
22 to judges and lawyers. Judges are
23 unique. And lawyers, well there is a
24 concept of the appearance of
25

PUBLIC HEARING

impropriety in the practice of law,
the commentators ethics experts
Professor Roy Simon to particular, the
author of the leading treatise on
professional ethics in the State of
New York says that this concept of the
appearance of impropriety should never
be -- is so vague and so unhelpful a
standard that it should never be used
in a disciplinary context and we
extensively briefed the issue of the
vagueness and unenforceability and
unconstitutionality of this vagueness,
vague concept of the appearance of a
conflict or the appearance of
impropriety before the ethics board
and far from Ms. Goldstein ignoring
what the ethics board had to say to
her, the board of ethics ignored what
we had to say in good faith with our
conscientiously held believe, our
scholarship, our history of study, our
experts, our citations to case law,
the board of ethics would hear none of

PUBLIC HEARING

1
2 it. So the board of ethics, after
3 having received those arguments from
4 us, went to the board of trustees and
5 said, you know, we've got somebody
6 appearing before us who says that the
7 law may be unconstitutionally vague.
8 Here's what we recommend that you do,
9 board of trustees, we recommend that
10 you change the law and require a land
11 use board member to recuse themselves
12 if they live in a notice area, not
13 within a certain distance to the
14 project, not if their properties are
15 affected in some material way, if they
16 live in the notice area. And you know
17 what the board of trustees did with
18 that proposal? Nothing. So that is
19 not the law in the Village of
20 Mamaroneck. Now, I'm not here to tell
21 the board of trustees what it should
22 or should not enact into law, that's
23 not my purpose here. They are the
24 final word on what the law is in the
25 Village of Mamaroneck, provided they

PUBLIC HEARING

1
2 confirm to the federal and state
3 constitution enacting their laws and
4 provided they don't enact laws
5 contradicted by state law. But the
6 fact of the matter is, the request by
7 the board of ethics is an admission
8 that the provision is vague and the
9 fact that the board of trustees didn't
10 enact the recommended amendment is
11 evidence that that amendment is not
12 the law in the Village of Mamaroneck.
13 Living within the notice area does not
14 mandate disqualification by a land use
15 board member. Not now. Not unless
16 and until the board of trustees says
17 so.

18 Now, let's talk about
19 Ms. Goldstein's motives in not
20 recusing herself in the Hampshire
21 matter. Because she recused herself
22 in the Hommocks matter, any fair
23 review of the facts have to conclude
24 that Ms. Goldstein recused herself in
25 the Hommocks matter before the

PUBLIC HEARING

1
2 planning board reached the merits of
3 the application, when it had only
4 engaged in two ministerial acts that
5 did not involve the exercising of
6 discretion and therefore could not
7 give rise to disqualifying conflict of
8 interest. But let's talk about the
9 Hampshire application for a moment.
10 What would be the effect of
11 Ms. Goldstein recusing herself in the
12 Hampshire application? There is a law
13 of the State of New York we have not
14 yet spoken about. The General
15 Construction Law. Not construction as
16 in erecting a building, but
17 construction as in construing laws.
18 And the General Construction Law says
19 at Section 41 that in order to
20 determine whether a voting body has
21 achieved a sufficient number of votes
22 for a measure to carry, whether it has
23 achieved a sufficient number of votes
24 in favor of a measure, for a measure
25 to carry, you compare the number of

PUBLIC HEARING

1 votes in favor to the number of seats
2 on the board, whether those seat are
3 occupied or not. So let us say that
4 you have a five member board. Let's
5 say there is one vacancy. Now there
6 are four members present and
7 participating. Do you have a quorum?
8 Sure you have a majority of members
9 present. One member recuses herself
10 leaving three members participating.
11 Do you have a quorum? Yes, you still
12 have a majority of the board acting,
13 you still have a quorum, you have a
14 good meeting and the board can
15 consider the matter. Now, the matter
16 comes up for a vote. Two members vote
17 in favor and one votes against. Does
18 the measure carry? No, it does not
19 carry. Because on a five member board
20 you need three votes in favor for a
21 measure to carry whether the seats are
22 occupied or not. Therefore
23 Ms. Goldstein's recusal from voting in
24 this matter, participating and voting
25

PUBLIC HEARING

1
2 in this matter, would have been the
3 functional equivalent of a nay vote.
4 Her seat is counted as a nay vote
5 whether she is sitting in that seat
6 and voting no or whether she recused
7 herself and is home watching it on
8 television. So Ms. Goldstein could
9 not have participated to achieve
10 anything for her own benefit. Her
11 non-participation would have achieved
12 substantially the same result. Sure,
13 she can participate in the discussions
14 with her colleagues, try to influence
15 them to the extent she can. But
16 ultimately when it comes to the vote,
17 and certainly the board of ethics
18 places the highest importance in
19 voting, her non-vote is the functional
20 equivalent of a vote against the
21 project.

22 So let's talk about
23 Ms. Goldstein's fitness for office.
24 You heard the planning board chair,
25 Ms. Savolt, talk about Ms. Goldstein's

PUBLIC HEARING

1 participation on the board. She spoke
2 about Ms. Goldstein's participation in
3 the highest terms. You heard it. I
4 don't need to characterize it for you.
5 She could not have been more
6 complimentary of Ms. Goldstein, her
7 commitment, her dedication, her
8 preparation, her objectivity. You
9 heard that Ms. Goldstein has in all
10 the years that she served on land use
11 boards both as a member of the
12 planning board and a member of the
13 harbor coastal zone management
14 committee before that, overall I think
15 it was, I think testimony was that it
16 was seven years, she only missed one
17 meeting and that was an excused
18 absence because of a conflict. She
19 prepares for meetings. There is no
20 one more prepared than Ms. Goldstein.
21 She asks cogent questions that elicit
22 important information at the board
23 meetings to accomplish its work and
24 you heard Ms. Savolt tick off the
25

PUBLIC HEARING

1
2 characteristics that in her view make
3 for a good planning board member. And
4 Ms. Goldstein exemplifies every one of
5 them.

6 Finally on this point, apart from
7 Ms. Goldstein's training and
8 experience as a lawyer and long time
9 member of land use boards in this
10 village, she completed her training
11 requirement imposed by state law for
12 members of the planning board. You
13 saw the certificate. So it cannot be
14 argued, it cannot be argued in good
15 faith, that Ms. Goldstein is not fit
16 for office.

17 That brings me to the faulty
18 reasoning of the board of ethics.
19 Well, to start with what could be more
20 unfair than making a motion to
21 disqualify a member of the tribunal
22 that's going to judge for bias and not
23 have the motion decided? I'm not
24 saying that the village has to grant
25 every motion that we make. You've

PUBLIC HEARING

1
2 heard me make objections and the mayor
3 says noted and we go on. We all know
4 that we have certain rules of
5 engagement and we follow them. This
6 is not a case in which Ms. Goldstein
7 made a motion to disqualify Ms. Chapin
8 and some objective arbiter reviewed
9 it, read the papers, heard the parties
10 if necessary, and decided against
11 Ms. Goldstein. Her motion was
12 ignored. You saw the letter from
13 Mr. Barberio, the Village Code says
14 that the board of ethics has to refer
15 any complaint against a board of
16 ethics member to the village manager.
17 Don't you think that that means that
18 the village manager has an obligation
19 to either decide that himself or to
20 bring it to the mayor and the board of
21 trustees for a decision? Do you think
22 it could possibly mean that the
23 members of the board of ethics are
24 unaccountable, that if they are
25 accused of a conflict of interest it

PUBLIC HEARING

1 gets no hearing in the Village of
2 Mamaroneck and that a board of ethics
3 member who is alleged to have a bias
4 against someone whose case they are
5 judging sits and decides that matter
6 with her colleagues without ever being
7 held accountable or having to explain
8 why she is not biased? That is the
9 height, the height of unfairness and
10 the height of hypocrisy. What does
11 due process mean? Due process is one
12 of the most treasured constitutional
13 rights we have in this country. It's
14 enshrined in the United States
15 Constitution, in the New York State
16 Constitution. What did we fight a
17 revolution over, what have soldiers
18 died in war to protect other than the
19 constitutional right to due process
20 when our government comes after us?
21 So there is no disregard here by --
22 next slide please. There is no
23 disregard here by Ms. Goldstein of her
24 obligations under the Code of Ethics,
25

PUBLIC HEARING

there is a principled disagreement. And her position is supported by case law, expert testimony, experienced in the village of the practices in the village. Her interpretation of the code in its application to herself was not some crazy crackpot, off the wall self justification; it's a rational, reasonable, considered, cogent position supported by case law and expert testimony, all of which was presented to the board of ethics. The board of ethics has no special expertise in the area of government ethics. You know, very often local municipal boards are populated by people who know something about the business of the board. That's why a land use board will often have a member who's an architect or an engineer or in the case Ms. Goldstein a lawyer, who can help lend some degree of expertise to the proceedings. The ethics board are

PUBLIC HEARING

1
2 just random members of the community
3 appointed by the elected officials and
4 gathered together in a room to try to
5 figure out what ethics is all about.

6 I have to tell you from my own
7 personal experience. I was appointed
8 to the Nassau County Board of Ethics
9 by the county executive in 1990. And
10 after participating in a meeting or
11 two of the Nassau County Board of
12 Ethics I realized that I didn't know a
13 thing that I needed to know to be a
14 competent member of an ethics board
15 because it's not about what my
16 internal sense of right or wrong
17 determines what the conduct should be,
18 it's about what the state law, the
19 village law and the case law and the
20 other commentary and authorities,
21 advisory opinions by the New York
22 State attorney general, advisory
23 opinions by the New York State
24 comptroller, it's what that entire
25 universe of authorities says the rules

PUBLIC HEARING

1 of the road are in government. So
2 what did I do? I joined the state bar
3 association municipal law section
4 committee on local government ethics,
5 which I now serve as co-chair these
6 many 30 or so years later. I
7 undertook to learn the law of local
8 government ethics. No member of the
9 Village of Mamaroneck board of ethics
10 has done such a thing, let alone
11 offered training to the officers and
12 employees of the village. So the --
13 if you are learning about ethics in
14 the Village of Mamaroneck by watching
15 what other board members do, perhaps
16 you would sit on the dais at meetings
17 of the board of ethics or you'd sit in
18 the audience and you would watch Mr.
19 Verni. Mr. Verni who at the board of
20 ethics hearing testified, he testified
21 at pages 41 through 47 of the
22 transcript of the board of ethics
23 hearing and he said that he sat and
24 decided and deliberated and
25

PUBLIC HEARING

1 participated and voted on the
2 application for the beach club
3 immediately adjacent to his home and
4 he did the same for an application for
5 the beach club directly across the
6 street for him. And the reason he
7 thought he was justified in voting in
8 connection with the matter across the
9 street is because the development site
10 was on the side of the property
11 opposite from his home. What could be
12 more similar to the facts of Ms.
13 Goldstein's case? Worse yet, worse
14 yet, the Santoro decision. The
15 Santoro decision alone, if I said
16 nothing else to you in my closing
17 argument and only spoke about the
18 Santoro decision, it is a shockingly
19 inconsistent ruling by the board of
20 ethics. By the way, you know what one
21 of the leading cases is on the subject
22 that a board, a local municipal board,
23 if it's presented with facts similar
24 to a prior case and rules it
25

PUBLIC HEARING

1
2 differently than it ruled in the prior
3 case without justification, that
4 decision arbitrary, irrational and
5 invalid and would be invalidated by a
6 court of law. You know what one of
7 the leading cases is on that
8 principle? It's an appellate division
9 case from 2008 by the name of Lucas
10 versus Board of Appeals of Mamaroneck.
11 So Mamaroneck is famous in this field.
12 Mamaroneck gave us one of the leading
13 cases that says that a board must act
14 consistently if it's presented with
15 similar circumstances. So here's what
16 happened in the Santoro case. Let's
17 compare it to Ms. Goldstein's case.

18 Unlike Ms. Goldstein, Santoro
19 participated in a matter in which he
20 had a direct financial interest, the
21 pavement his own legal fees. He
22 participated in the merits of the
23 application by introducing the
24 resolution to approve payment of his
25 own legal fees. Now, the board of

PUBLIC HEARING

ethics dismisses it by saying he only participated in the procedural matters. Well isn't introducing the resolution presenting it and introducing it, participation in the board of ethics consideration of the merits of the matter? Of course it is. Ms. Goldstein, on the other hand, was a mile away from the merits of the Hommocks Road application. All she did was vote to open a hearing and classify the hearing for SEQRA purposes. The planning board didn't get the merits of the application until after referring the matter to the harbor coastal zone management committee and having it sent back to them long after Ms. Goldstein recused herself. So Mr. Goldstein [sic], after recusing himself, remained on the dais of the board while the matter was considered by his colleagues. What is more likely to influence your colleagues in their consideration of

PUBLIC HEARING

1
2 whether to pay your legal fees or not,
3 than you sitting there? If you are
4 sitting there, your mere presence has
5 the effect of influencing your board
6 members, and don't rely upon my
7 opinion on this, rely upon the opinion
8 of the attorney general who has said
9 over and over again in advisory
10 opinions that when a board member
11 recuses himself or herself, they
12 should get up, and the attorney
13 general says, leave the room. That's
14 exactly what Ms. Goldstein it. It's
15 not what Mr. Santoro did.

16 Ms. Goldstein had no direct financial
17 interest in the matter and she did not
18 participate in the merits and to use
19 the phrase that the board of ethics
20 improperly used in the Santoro matter,
21 she only participated in preliminary
22 procedural matters. She recused
23 herself on the merits. She left the
24 meeting. Yet despite all of this, the
25 board of ethics concluded in the

PUBLIC HEARING

1
2 Santoro matter, we find that this was
3 a technical violation of the Code of
4 Ethics. We further determine,
5 however, that Mr. Santoro's limited,
6 non-substantive participation was in
7 good faith and was not an attempt to
8 exert any influence on the board of
9 trustees decision making or vote.
10 Accordingly, no sanction, disciplinary
11 action or penalty is warranted under
12 the you circumstances. Do you know
13 who the chairman of the board of
14 ethics was who signed that decision?
15 Mr. Ettinger. Do you know who the
16 chairman of the board of ethics who
17 signed the decision recommending Ms.
18 Goldstein's removal from the planning
19 board was? Mr. Ettinger. The board
20 of ethics found Ms. Goldstein's
21 conduct so egregious that she should
22 have the ultimate penalty imposed, the
23 municipal of capital punishment,
24 removal from office. As a further
25 basis for the board of ethics's

PUBLIC HEARING

1 recommendation, the board based its
2 recommendation on what it
3 characterized as a pattern and course
4 of conduct. What pattern or course of
5 conduct, have you heard of one? There
6 were two matters, one in which
7 Ms. Goldstein recused herself and the
8 other in which she did not. And we
9 discussed the reasons why extensively
10 here. That's not a pattern or course
11 of conduct. Ms. Goldstein did reject
12 out of hand or refuse to consider the
13 views of the board of ethics. She
14 consulted with counsel and recused
15 herself in the Hommocks matter. She
16 met and cooperated with the board of
17 ethics and attempted to persuade the
18 board of ethics that recusal was not
19 required in the Hampshire matter. She
20 submitted a memo of law discussing
21 relevant authorities and retained
22 experts (inaudible) board of ethics.
23 Ms. Goldstein did not disregard, let
24 alone blatantly flout, the language
25

PUBLIC HEARING

1 and spirit of the Code of Ethics in
2 the Hommocks application. To the
3 contrary, she recused herself. Listen
4 to the petulant language, the irate
5 language of the board of ethics. What
6 is at work here? What is behind this
7 anger that permeates the board's
8 decision? Ms. Goldstein was entitled
9 to her well-founded opinion that she
10 would not benefit from the Hommocks
11 application even if the board of
12 ethics disagreed. The bottom line is
13 she recused herself. A finding worthy
14 of a Kafka novel, the board of ethics
15 concluded that Ms. Goldstein's recusal
16 letter acted to further, the
17 recommendation that she be removed.
18 If that's not right out of Kafka
19 novel, I don't know what is. The
20 board of ethics claimed that
21 Ms. Goldstein did not sufficiently
22 disclose the reason for her recusal
23 but listen to what she said, these are
24 Ms. Goldstein's words: It was
25

PUBLIC HEARING

1 suggested that I recuse myself in the
2 matter based on the speculation that I
3 might benefit in the event a sewer
4 line is approved and installed in the
5 property. To avoid even the
6 speculation that I might benefit from
7 this application and to put the matter
8 at rest, I decided to recuse myself.

10 Well if that is a recusal that
11 furthers a recommendation that you be
12 removed from office then every member
13 of every board in the Village of
14 Mamaroneck needs to worry and fear the
15 board of ethics coming for them. For
16 reasons explained by municipal law and
17 land use expert, Provost Patricia
18 Salkin, the reasonable appearance
19 provision in the Code of Ethics that
20 was applied by the board of ethics is
21 unconstitutionally vague because it
22 gives no guidance to those officers
23 and employees of what is prohibited.
24 The boards of ethics found that Ms.
25 Goldstein lacked contrition. The

PUBLIC HEARING

board of ethics members are not the thought police. The Code of Ethics does not regulate thought, it regulates conduct. Ms. Goldstein has no reason to be contrite. There was no moral failure here. In the Hommocks application she participated only in ministerial acts and then reused herself before the planning board reached the merits of the application. In the Hampshire matter she followed the advice of counsel supported by expert testimony. Ms. Goldstein is not motivated by self interest because recusal is the functional equivalent of a nay vote and the planning board has no alternate members. Contrary to the claim of the board of ethics, Ms. Goldstein's May 5, 2020 e-mail to the mayor and board of trustees was neither hostile nor disregarded the truth. Ms. Goldstein's e-mail to the mayor and board of trustees was an

PUBLIC HEARING

1 exercise of her constitutional right
2 to petition government. The e-mail
3 did not disclose any confidential
4 information about the hearing before
5 the board of ethics because the
6 intended purpose of the hearing was to
7 produce a recommendation to the mayor
8 and the trustees. Further, any
9 requirement of confidentiality is
10 intended to protect the subject of the
11 investigation; here, Ms. Goldstein.
12 The requirement of confidentiality is
13 not intended to shroud the board of
14 ethics about in a cloak of secrecy as
15 if it were a Starr chamber. The
16 entire record before the board of
17 ethics has now been posted on the
18 village website for all the world to
19 see as surely has the order to conduct
20 this public hearing required by state
21 law. In a case that I on behalf of
22 the City of White Plains, the matter
23 of Journal News versus the City of
24 White Plains, there was an ethics
25

PUBLIC HEARING

1 investigation by the city board of
2 ethics by then Mayor Bradley. The the
3 ethics investigation resulted in a
4 finding that he violated the code but
5 before the decision was released Mayor
6 Bradley resigned and the board of
7 ethics determined that the matter was
8 moot. The Journal News FOIL'd the
9 entire record of the ethics board and
10 the FOIL was denied on the basis that
11 because the decision was not released,
12 was not forwarded to the city counsel
13 for further action and because the
14 matter was moot and because Mr.
15 Bradley did not have the opportunity
16 to impune before the city counsel in
17 his own defense, that it would be an
18 unwarranted invasion of personal
19 privacy to release the record. But
20 the court ruled, as courts have
21 consistently ruled, and as the
22 committee and open government has
23 repeatedly opined that FOIL preempts
24 the confidentiality imposed by local
25

PUBLIC HEARING

law on broad categories of material. To put it differently, the only records of a local government that are truly confidential -- well let me put it rather differently. The only information of local government that is truly confidential is information that's prohibited from disclosure from either federal or state law. Other than that, FOIL, Freedom of Information Law, and the open meetings law confer upon the local municipality discretion to withhold certain categories of information from the public. For example, information under the Freedom of Information Law, that would result in an unwarranted invasion of privacy if released to the public. Now, because the law confers discretion on the local municipality, that discretion must be exercised on a case by case basis subject to judicial review in Article 78 to see whether the municipality has exercised their

PUBLIC HEARING

discretion in a way that is arbitrary, capricious and abuses discretion not based on the evidence and warrants reversal. So the court in the City of White Plains case said your law, your code of ethics that makes records of the board of ethics confidential is invalid, it's illegal, it's preempted by the Freedom of Information Law and I, the judge in the case, am going to review the entire record in camera, that means in chambers privately, and I will decide which the the records were properly withheld by the board of ethics and which were not properly withheld by the board of ethics based upon the Freedom of Information Law and it's requirements and the categories of information that a local government is permitted to withhold.

Now, I apologize for spending so much time on this point but it would have been difficult to shorten it and the bottom line on this point is that

PUBLIC HEARING

1
2 the the Code of Ethics to the extent
3 that it makes all records of the board
4 of ethics confidential is illegal,
5 invalid, preempted by the Freedom of
6 Information Laws. In this country we
7 do not allow our governments to
8 operate in secret.

9 Code of Ethics Section 21-20 in
10 fact acknowledges the board of ethics
11 must comply with the Freedom of
12 Information Law.

13 MR. STOLOROW: Mr. Leventhal, if
14 I can just stop you for a moment, does
15 this relate in some way to the
16 decision that the mayor is making
17 today having gotten the records of the
18 ethics board --

19 MR. LEVENTHAL: Absolutely it
20 does because despite the attempts by
21 the mayor and you to distinguish this
22 and separate it from an evaluation of
23 the board of ethics decision itself,
24 the mayor must decide what weight to
25 give that decision, whether the

PUBLIC HEARING

1 conclusions of the board of ethics
2 based upon the evidence that was
3 adduced before the board justified the
4 recommendation that it has made. It
5 is not for the mayor to merely decide
6 that the board of ethics determination
7 is a set piece that cannot be examined
8 into. In fact, the mayor must look
9 into the validity of the
10 recommendation of the board. The
11 mayor cannot look into the validity of
12 the recommendation --

14 MAYOR MURPHY: Mr. Leventhal, I
15 will get my legal advise from Mr.
16 Stolorow. Thank you very much for
17 that. Please conclude. We have given
18 you a lot of leeway here to pretty
19 much litigate your whole case. Please
20 get to the conclusion.

21 MR. LEVENTHAL: Well okay Mr.
22 Stolorow, the mayor does not wish me
23 to answer your question, so I won't.

24 Ms. Goldstein's privacy referred
25 away, Code of Ethics 21-14A authorizes

PUBLIC HEARING

1
2 the board to recommend disciplinary
3 action and that is exactly what the
4 board of ethics has done here. The
5 law requires a public hearing and due
6 process requires disclosure of the
7 evidence deduced at the hearing. The
8 Code also acknowledges that a person
9 decreed by a decision of the board of
10 ethics may seek judicial review in
11 Article 78 in which the records go to
12 the board of ethics of necessity for
13 the public record. I'm saying all of
14 that because the board of ethics chose
15 to discuss Ms. Goldstein's e-mail to
16 the board, the mayor and the board of
17 trustees in the decision that it's
18 rendered.

19 Finally, let's go to the style of
20 the letter. I'm going to commend your
21 attention a letter that was submitted
22 to the mayor and the board of ethics
23 in which the author, an experienced HR
24 manager discussed the fact that the
25 tone and language used by with board

PUBLIC HEARING

1 of ethics used in decision talking
2 about Ms. Goldstein's attitude, the
3 spirit and -- spirit of the code, the
4 reasonableness of appearances, these
5 are all traditional code words that
6 are used when someone is engaging in
7 an exercise of implicit violence, when
8 someone might not even understand the
9 fact of their bias, but that the way
10 they react, the way they interact, the
11 way they perceive someone is colored
12 by their own biases. And clearly when
13 a male member of a village board
14 appearing before the board of ethics
15 and presuming or daring to disagree
16 with the board of ethics'
17 interpretation of code, would have
18 been portrayed with a venom and
19 hostility that Ms. Goldstein has been
20 portrayed. So Ms. Styler's (phonetic)
21 letter is part of the record and I
22 commend it to your attention. There
23 is only one woman on the board of
24 ethics and that woman demonstrably was
25

PUBLIC HEARING

1
2 biased against Ms. Goldstein, as
3 Ms. Goldstein said before in her
4 disqualification motion. The decision
5 by the board of ethics --

6 MAYOR MURPHY: I have to stop
7 you. You say demonstrably. It hasn't
8 been demonstrated.

9 MR. LEVENTHAL: Well, have you
10 read the motion papers?

11 MAYOR MURPHY: Yes, I have. It's
12 been alleged, it hasn't been
13 demonstrated. Let's be clear.

14 MR. LEVENTHAL: Well I'm not sure
15 what distinction you are making
16 between --

17 MAYOR MURPHY: -- alleged and
18 when you demonstrate something, it's
19 beyond fact.

20 MR. LEVENTHAL: When you allege,
21 you make a claim. When you present
22 evidence, you demonstrate. And we
23 presented evidence in the form of an
24 affidavit, a sworn statement. The
25 legal standard for removal is that

PUBLIC HEARING

there must be a matter of substance relating to the character. Ms. Goldstein's long history of volunteerism and civic participation has been established. She had a principle disagreement with the board of ethics. Her actions were not based on greed, prejudice or self interest, she did not neglect her duty. There is a dispute here over the interpretation of a vague code provision. Her fitness for office is beyond dispute. She diligently performed the duties of each office that she has occupied. No member of any village board has ever been removed. Not Mr. Santoro, not Mr. Verni, there is no recommendation here of progressive discipline. The recommendation for removal is not justified by the record or president. Ms. Goldstein's performance in office and history of volunteerism are a model for others. Her future intent

PUBLIC HEARING

1 is to follow the law as it is
2 determined to be in what will be the
3 inevitable decision of the court in
4 the Article 78 proceeding. I
5 introduce now my memo of law which is
6 posted on the village website in
7 support of the Article 78 proceeding
8 and I close by saying today,
9 Mr. Mayor, you are serving as a judge.
10 You have a some solemn duty to put
11 personalities aside and judge fairly
12 and objectively. Mrs. Goldstein's
13 personal and professional reputations,
14 reputation as a respected member of
15 the community is at stake. The board
16 of ethics has recommended the ultimate
17 penalty, removal from office. Every
18 village board member is watching and
19 asking themselves is the board of
20 ethics my advisor or my master? Do I
21 dare to exercise my own independent
22 judgment? Do I dare to serve on a
23 village board at all? Your decision
24 will answer these questions. Thank
25

PUBLIC HEARING

you.

MAYOR MURPHY: Thank you. It is 2:42. On the agenda there was supposed to be a scheduled recess. How about we take a ten minute -- let's go to -- no, public comments was supposed to be already. Let's take a five minute recess and then we'll come back to public comments. So I'll see you in about five minutes.

(Off the record 2:43 P.M. to 2:51 P.M.)

MAYOR MURPHY: We are all back. We are going to resume with the public comments and just to make a couple of points clear, is that I just want to reiterate this is not an appeals process. This is a hearing to determine whether or not removal is necessitated. So you have been hearing Mr. Leventhal present his side of the case, which is fine this hearing. The whole record is on the village website. What we are going to

PUBLIC HEARING

1
2 do today is allow public comment and
3 the public is going to have five
4 minutes to speak. At the end of the
5 five minutes I'll tell you time is up
6 and please just finish your thought
7 and that doesn't mean start another
8 paragraph. The record will be left
9 open for two weeks. You can e-mail
10 any comments or ideas or any questions
11 that you have to goldsteincomments,
12 all one word, @vomny.org. Once again,
13 goldsteincomments@vomny.org.

14 The first hand I see up is
15 Mr. Glen Tippit. Just so people know,
16 when we begin to get you in it takes
17 10 or 15 seconds before it all gets
18 hooked up so don't lose your
19 patience.

20 MR. STOLOROW: Mayor, I'm
21 assuming you want them to state their
22 name and address for the record?

23 MAYOR MURPHY: Before you start,
24 please state your name and address for
25 the record and if you are going to

PUBLIC HEARING

1
2 testify as to facts relevant to the
3 case we are going to ask you to be
4 sworn in but if you are just
5 testifying to your feelings, then let
6 it fly.

7 Mr. Tippit?

8 MR. TIPPIT: Glen Tippet, 506
9 Hill Street, Mamaroneck, New York.
10 Let me first start by saying I've
11 watched Cindy Goldstein on both the
12 coastal management board and on the
13 planning board and where I do not
14 agree with every decision she makes I
15 find her to be brilliant in the work
16 that she does. I think that every
17 decision she makes is well planned and
18 well thought out, whether I agree with
19 her or not. I don't like the idea of
20 proximity eliminating somebody from
21 being able to make a decision on the
22 board because quite frankly we will
23 miss brilliant people on the board if
24 you raise the ethic board standard of
25 proximity for accusing and being found

PUBLIC HEARING

in ethic violations for the board. You are talking about somebody who has dedicated years and years sitting on the boards of Mamaroneck and doing absolutely (inaudible) job in the job she has done. Again, I do not agree with every one of her decisions but you know what, when I disagree with somebody and I go and argue with them, I want to argue with the best. And as far as I'm concerned she is one of the most outstanding board members you have ever had sitting on a board and the village would be lesser if she was not in the position she's in. Thank you.

MAYOR MURPHY: Thank you, Glen.
The next person up is -- can you read
that name?

THE CLERK: Giselle (inaudible.

MS. AMARROQUIN: I live on
Rockland Avenue here in the Village of
Mamaroneck. So I want to start off by
saying that I do want to express my

PUBLIC HEARING

1 support my support that Ms. Goldstein
2 be removed from the planning board as
3 I believe even after today's session
4 that her participation and access to
5 the information of the named project
6 has a personal conflict of interest
7 that should have been anticipated and
8 she should have participated
9 (inaudible) would give at least an
10 impression that something was wrong on
11 the ethics piece and the integrity of
12 her role. To the point of character
13 and whether there was a neglect of
14 duty there are these two situations
15 that we heard about today certainly
16 brings out Ms. Goldstein's (inaudible)
17 how she acted (inaudible) in the
18 benefit of the public. So I also want
19 to state that what has become obvious
20 in this hearing and this process we
21 reviewed today and played out over
22 many months here in the village is
23 that the system of the checks and
24 balances, transparency and the clarity

PUBLIC HEARING

in which things are stated whether it's in the Code of Ethics and procedures and meetings is broken and it allows for the questioning of codes and procedures that essentially have led us to doubt how this level of discretion that was referenced before has been allowed to be exercised to a broad extent. The trust in the officials and representatives of the Village of Mamaroneck should not be affirmed through these costly and drawn out processes but rather it should just be clearly assured to all of us residents that the systems are being managed, monitored and that policy is written with the interest of the public as a driving force and clearly the current composition of these boards is not broad enough to ensure that all interests of the residents are represented and we can see that in the conversations even today when folks are referencing

PUBLIC HEARING

1
2 knowing each other within a very small
3 radius of the village. So I do want
4 to state that I think we need to
5 assess those systems and what is
6 written to make sure these
7 questionable things, you know these
8 examples that came up today about
9 somebody else doing this similar to
10 what happened with Ms. Goldstein
11 really never come into question again.
12 I do challenge the village to look at
13 itself and make sure that this doesn't
14 happen again so that it not only
15 benefits all us residents the way it's
16 supposed to but it doesn't cost us any
17 money and time the way it has today.
18 Thank you.

19 MAYOR MURPHY: Next up is Ms.
20 Yergin. What we are doing is this
21 thing here provides a queue and we are
22 just going through the queue.

23 MS. YERGIN: (Inaudible) a
24 village resident and I'm a member of
25 the zoning board of appeals. I'd like

PUBLIC HEARING

1
2 to comment about the New York
3 (inaudible) member about conflicts of
4 interest. As you know all village
5 land use board members are required to
6 annually complete CEU credits, unlike
7 ethics board members. We receive
8 training on the principles and due
9 process we should follow in our
10 reviews and applications. I received
11 training on ethics and land use boards
12 as part of a seminar hosted by the New
13 York Planning Federation in
14 November 2019. The presentation was
15 given by Sara (inaudible), Esquire,
16 counsel to the Association of
17 (inaudible) of New York State. I
18 learn of the established state law
19 regard conflict of interest of the
20 General Municipal Law Article 18
21 regarding contracts and since land use
22 applications are not contracts,
23 (inaudible) told us the legal
24 president in New York State is for
25 land use board members to look to

PUBLIC HEARING

Common Law for guidance. In terms of Common Law miss (inaudible) informed us the three requisite factors regarding a conflict of interest are number one, is the interest personal, that it has to be something very specific to the individual and not shared with other members of the district or neighborhood. Number two, is the interest substantial, that course of rule that something is not a conflict of interest if the possibly realized interest is de minimus. And number three, the interest cannot be speculative. It's not a conflict of interest if it's something that's based on some chance that at some time in the future something will come to pass. And following these standard neither owning property in proximity to a matter or speculating that a matter may result in some unspecified advantage to a group of neighbors in the future constitutes an automatic

PUBLIC HEARING

1
2 conflict of interest or reason to
3 recuse. Those Ethics Code only refers
4 to the personal financial benefit of a
5 village official without any further
6 clarification so it makes sense to
7 refer to the president of Common Law
8 for an understanding of what
9 constitutes a personal financial
10 interest. We know our local ethics
11 board couldn't propose (inaudible)
12 conflict of interest rules that differ
13 from those advanced by Common Law but
14 they would be approved by the board of
15 trustees, as noted today, before
16 taking effective. And the ethics
17 board did propose such legislation to
18 mandate recusal of an official with
19 property close to an application but
20 it was never introduced or enacted by
21 the trustees so owning property in
22 proximity to an applicant is not a
23 part of the village's Code of Ethics.
24 What I find troublesome is lacking a
25 substantive basis for a violation the

PUBLIC HEARING

ethics board still (inaudible) its decision and recommendation which I read with references to Ms. Goldstein's hostile and aggressive attitude basically making her out to be a nasty woman who deserves removal largely to her unrepentant attitude. And the ethics board also did its best to distract the reader on the points of it's voluminous paragraph on conversations regarding neighborhood sewer lines. This subjective characterization has no material bearing on this matter. As a ZBA member I can assure you that the zoning board in the course of its reviews does not comment on or consider the attitude of an applicant or other stakeholders involved in applications. The ethics board acted inappropriately, to say the least, by offering such pejorative statements in an official report.

Finally I'd like to share my

PUBLIC HEARING

1 personal experience with the ethics
2 board. In November 2018 I made
3 comments as a resident at a board of
4 trustees public meeting regarding
5 proposed legislation. Afterwards, the
6 ethics board sent me a letter stating
7 that it had learned that I had
8 participated in a matter before the
9 trustees by a source that they refused
10 to reveal. The board requested I
11 write a letter to the trustees, not
12 only identify myself as a ZBA member
13 but to disclose my potential conflict
14 of interest due to my material
15 interest in the matter. It took a
16 number of emails to figure out what
17 the ethics board thought was my
18 potential conflict. As I discovered
19 it was because I owned property in a
20 zone that's situated alongside the
21 zone which would be impacted by the
22 legislation and nothing more than
23 that. But if I didn't write the
24 letter the board advised it would
25

PUBLIC HEARING

1 launch an investigation. I strongly
2 disagreed that I, speaking as a
3 resident, needed to disclosure
4 anything regarding my interest. In
5 effect, the ethics board acting on the
6 suggestion of an unnamed source
7 thought to way in on my constitutional
8 right to make public comments at a
9 meeting. And at the same board of
10 trustee meeting a gentleman who owns
11 property in my building so would have
12 the same material interest, and who is
13 also a member of a land use board,
14 made comments regarding the same
15 legislation. He, however, did not
16 receive any request by the board of
17 ethics to disclose his supposed
18 potential conflict of interest. I
19 have no idea why I was singled out by
20 the tipster or the ethics board. And
21 I would like to point out that
22 according to my e-mail exchange with
23 the ethics board regarding this
24 matter, that the board was acting on
25

PUBLIC HEARING

its outside a publicly notice meeting in violation of a New York State Open Meetings Law.

Ms. Goldstein's actions are beyond reproach and she is an upstanding and invaluable member of our community. Removing her from the planning board would be a great loss to the village. I am urging the mayor to reject the recommendations of the ethics board to remove Ms. Goldstein from the planning board and the board of trustees' mandate (inaudible) on conflicts of interests and due process for the board of ethics going forward for the sake of Ms. Goldstein and for the sake of the village. Thank you.

MAYOR MURPHY: Thank you. Next up is a gentleman named David Cooper. If possible also, if speakers have their comments in writing and would not mind submitting them in writing for the record it would help us as we develop the transcript. If you have

PUBLIC HEARING

1
2 comments that you want to read feel
3 free to read them but please submit an
4 e-mail too. Okay, Mr. Cooper.

5 MR. COOPER: Good afternoon. My
6 name is David Cooper from the law firm
7 of (inaudible). We represent
8 Hampshire Recreation, LLC, the
9 applicant most (inaudible) and one of
10 the primary (inaudible) recommend that
11 she be removed. Hampshire has a
12 unique standing to participate in this
13 hearing being a first hand witness to
14 all of the violations documented by
15 the ethics board. I want to begin
16 because I believe the record is clear
17 the ethics board initiated this
18 investigation on its own. Hampshire
19 was not aware that the board had
20 commenced its investigation in June of
21 2019, was not informed (inaudible)
22 board hearing in May 2019 and was not
23 even provided with the decision and
24 recommendation that was issued in
25 November 2019. Hampshire first

PUBLIC HEARING

1
2 learned of the ethics board's decision
3 and recommendation with the rest of
4 the public on May 15th in a notice of
5 this hearing was made public. Now
6 having read all of the materials
7 publicly disclosed this week,
8 Hampshire wishes to express the fact
9 that it wholeheartedly agrees with the
10 ethics board's assessment of the
11 severity of the violation. I believe
12 it was the most serious ethics case in
13 memory in the village and
14 wholeheartedly agrees with the
15 recommendation that Ms. Goldstein be
16 removed. No need to rehash the full
17 record. The ethics board's opinions
18 are very clear. We've now spent a
19 full day going through that record.
20 But we do agree that the evidence, the
21 ethics violations, the proceedings,
22 work sessions that we attended, we
23 agree that Ms. Goldstein should have
24 been removed in November of 2019. Now
25 in arriving at a decision, Mr. Mayor,

PUBLIC HEARING

1
2 your decision should explain to you
3 public, Hampshire, that is a village
4 tax payer (inaudible) by the board,
5 the village did not disclose the
6 ethics board's recommendation to the
7 public and Hampshire for a six month
8 period. The recommendation was issued
9 on November 29, 2019. Disclosure
10 occurred May 15, 2020. In the interim
11 Ms. Goldstein was allowed to prepare,
12 vote on findings denying Hampshire's
13 application and yet the (inaudible)
14 decision Hampshire was never informed
15 that for a year the ethics board had
16 concerns about Ms. Goldstein's
17 objectively review the application.
18 It did not come to light until after
19 the planning board voted to reject
20 this application (inaudible).
21 Therefore any decision should indicate
22 why the (inaudible) decided to wait
23 until after the planning board voted
24 on this application to let the public
25 know and (inaudible) that this was

PUBLIC HEARING

1
2 occurring and to keep her on the board
3 while the vote went forward. We look
4 forward to that decision and reviewing
5 it shortly. Thank you.

6 MAYOR MURPHY: Next up, Luis
7 Quiros. And Mr. Quiros, I just want
8 to remind you and everybody else that
9 there is a five-minute time limit.
10 Please keep your comments to the time
11 limit. Mr. Quiros, your microphone is
12 on mute. Please un mute your
13 microphone.

14 MR. QUIROS: Very impressive
15 speech, Leventhal. Me, as a state
16 member of over ten years on the NYCLU
17 and the state board for many doctoral
18 courses (inaudible) seminary on
19 ethics. I do not believe you still
20 understand ethics and government
21 history. I will speak to the removal
22 of Cindy Goldstein and explain why
23 other members with official authority
24 supporting her (inaudible) sorely
25 needed revenue that would be yielded

PUBLIC HEARING

1 by the Hampshire project are
2 responsible for the demise of the
3 community and especially for today's
4 cause -- expenses caused by the elite
5 being, caused by the elite being
6 incurred by others. Know that the
7 Village of Mamaroneck is a metaphor
8 for the closing moments of the United
9 States of America and its fake
10 democracy and unaffordable or fake due
11 process for its others. Know that the
12 USA constitution was established
13 solely to control social distancing
14 hence there is the daughters of the
15 American Revolution who are
16 responsible for being and finding
17 perfectly acceptable members for their
18 society hence zoning board and clever
19 taxation between social classes hence
20 slaves, minimum wage workers, red
21 lining and country clubs. The
22 friendly village are words used to
23 avoid calling the village fascists.
24 Yes we are small but intentionally not
25

PUBLIC HEARING

diversified though gentrified.
Fascist because news for the further
development of Hampshire is minimized
and omitted. The media loop has
demonstrated that or for or against
for or against transparency which
always has a social class function
difficult to detect or repute without
appropriate academic credentials or
experience or leisure time. I find
it -- I find it -- excuse me, I'm
sorry. I find it -- I find it -- I
find it ironic that watching over
approximately 20 Hampshire planning
sessions where Ms. Goldstein
complained about the Hampshire
development would be so loud, so many
trees taken down and so horrible that
now suddenly she has the nerve to say
that noise wouldn't bother her home
and she won't see any of the homes
being built. Please. Fascist because
the news for the first -- I'm sorry I
said that before. Fascist because

PUBLIC HEARING

1 food is used as a weapon and to
2 intimidate the poor. Ms. Goldstein's
3 connection to the food bank and
4 donation have prevented large numbers
5 of people from signing a petition that
6 would extend their likelihood of
7 living in the village instead even the
8 cost being incurred today will be
9 passed onto the less fortunate.
10 Fascism because a gentlemen's
11 agreement is the law of the land.
12 Know that even the police department
13 in the social district are under
14 investigation. Over three years ago I
15 commenced dialogue over the racial
16 (inaudible) with a doctor involved in
17 health and politics. My views, the
18 real epidemic of the nation is mental
19 illness preventing us from being alert
20 to what is happening to this village.
21 From this conversation it became
22 obvious that within a few years a flu
23 would flourish that would kills
24 hundreds of thousands of people the
25

PUBLIC HEARING

doctors supported these statements and I verified this in two books and websites the intentionality to organize a better set of people attempted throughout all of Latin America and of course Africa is a mental illness hence as we can both quote to favoring case law the history of the world and its greatest philosophers exposed by sovereignty belongs to only the people that include themselves among the others and the government is -- and the government that's being displayed in this village and the United States, we are not in this together. Too often others are assumed to be out of the spectrum of deserving their natural right. This is historical Aristotle was the father of Natural Law's famous maxim *Lex injusta non est lex*, meaning an unjust law is no law at all. The classic statement delivered in 19 -- 1830 was by John Austin, the creator

PUBLIC HEARING

1
2 of the school of analytical
3 jurisprudence. The existence of one
4 thing is merit or demerit another and
5 this is the introductory of one of my
6 two books. What is going on here is
7 mental illness, is gentlemen's
8 agreement, is negotiating at the
9 expense of the other. You discuss
10 issues of gender, men and women but no
11 one has mentioned the aegis of black
12 and brown people that are absent at
13 all these meetings. Absent is the
14 disgusting expense of this entire
15 years of finagling back and forth that
16 has caused us enormous debt,
17 enormous --

18 MAYOR MURPHY: (Inaudible).

19 MR. QUIROS: -- and everything
20 else that goes with it and I will sit
21 with anybody an that table, including
22 you Mr. Leventhal, and discuss ethics
23 and go to the books and hit the
24 credentials and go to the classroom --

25 MAYOR MURPHY: Mr. Quiros, your

PUBLIC HEARING

1
2 time is up, sir. Thank you very much.
3 The next up at bat is Greta, and I
4 guess this is Greta Heeny (phonetic.

5 MS. WITNESS: Yes, this is Greta
6 Heeny. I live at 824 The Parkway.
7 And I'm a volunteer citizen on the
8 zoning board of appeals. I really
9 don't understand how we got into this
10 place in the Village of Mamaroneck.
11 It conjures up an unsettling feeling
12 that democratic norms are being abused
13 on the local level much like what is
14 happening in Washington now. As the
15 ethics board does its very best to
16 attack Cindy Goldstein's good name in
17 its recently released voluminous
18 record I would like to take some time
19 to provide a testimonial to Cindy's
20 outstanding character. I have known
21 her for over ten years. I can say
22 without qualification that she is a
23 good person, one with integrity, one
24 with the highest ethical standards.
25 She is also smart, confident and

PUBLIC HEARING

direct. She is tough and is not intimidated by bullies, qualities which I admire particularly in women. It outrages me that the ethics board construes these fine qualities as attitude. But this is more than supporting a friend and affirming her integrity. With its attempts to change the ethics law ex post facto, with its decision to have this hearing during a pandemic and an inconvenient time to the public, with its publication of a 1400-page record with no reasonable time for the public to fully review it, and with its offense language in its public report the ethics board's conduct and underlying motivation comes into question. They certainly are not about ethics. Mayor Murphy we cannot let this stand. Thank you.

MAYOR MURPHY: Thank you. Next up, Kevin Chon.

MR. CHON: Can everyone hear me?

PUBLIC HEARING

1
2 MAYOR MURPHY: You are now loud
3 and clear, sir.

4 MR. CHON: Thank you very much.
5 I will begin by saying thank you for
6 giving me the floor. I've got a
7 stopwatch in front of me so I know I
8 won't be over on time. My name is
9 Kevin and I have been a Mamaroneck
10 resident for over ten years now. I
11 live near the Mamaroneck Avenue
12 School, not too far from I-95
13 junction. I will say that I am
14 actually very, very upset by this
15 whole situation. I actually learned
16 about the actions of Ms. Goldstein
17 first through Mr. Luis Quiros who
18 already spoke and this is a fact that
19 upsets me because I feel as though
20 this is information that everyone in
21 Mamaroneck should have had front and
22 center. I should not have heard this
23 in passing. That would be something
24 to make our village government more
25 transparent. For Ms. Goldstein

PUBLIC HEARING

herself, I truthfully don't have any words because it is not up to me to look at her. It is up to a judge and jury in America to decide what her punishment should be for her abuse of power. If I was in charge I would see to it I would see to it that she be charged with number one, taking power despite a clear and present conflict of interest. Number two, mismanagement of tax payor funds that results in uneven distribution among the community. And number three, contributing to the deliberate disenfranchisement of some Mamaroneck neighbors, particularly of color, as a result of financial mismanagement. Clearly no elected official is thinking on this level. I am sorry to say that even -- I believe even Mayor Murphy is complicit in this course of action. When I first met Mayor Murphy I was working at the community resource center in Mamaroneck under

PUBLIC HEARING

1 the worker center. To me, Mayor
2 Murphy came across as respectful and
3 humble, someone dedicated to his
4 service to the 10543 ZIP code in which
5 we reside. However I understand now
6 that he has been reluctant to take
7 action against Ms. Goldstein for over
8 six months when her removal should
9 have been the immediate knee jerk
10 reaction as a proper American,
11 especially in light of the
12 November 2019 vote by the Mamaroneck
13 board of ethics to kick her off. I
14 ask what good is the word of the
15 ethics board under the leadership of
16 Mr. Mark Ettinger if the mayor can
17 just disregard it. I believe that
18 Ms. Goldstein is not the only one who
19 should resign immediately. I truly
20 hope that the FBI gets involved
21 because clearly we can't handle this
22 ourselves. As an apology to my
23 community I demand that Mayor Murphy
24 and the government of Mamaroneck
25

PUBLIC HEARING

1
2 compensate us for the tragedy that is
3 unfolding before our eyes. If the
4 mayor truly cares about all of
5 Mamaroneck and not just the elites, he
6 should prove it. In light of this
7 fatal response by the Mamaroneck
8 government I make three demands as
9 reparation: I demand that the
10 Mamaroneck government has be used to
11 pay the rent of everyone of my
12 neighbors without question for the
13 next 12 months. I also demand that
14 the pay for any Mamaroneck resident or
15 employee who works in cleaning or
16 housekeeping, hospitals, nursing
17 homes, transportation and other
18 essential industries be increased by
19 30 percent after accounting for taxes
20 due and finally, my third demand is
21 that an investigation be aggressively
22 pursued by an external, unbiased
23 source in order to hold Ms. Goldstein
24 accountable for her actions and anyone
25 who is complicit. In this, I also

PUBLIC HEARING

1 hold the mayor complicit for his
2 inability to act and her lawyer, Steve
3 Leventhal for his fatal discourse and
4 a sham of a defense. Unless the
5 Mamaroneck government makes the right
6 call here or complies with the demands
7 that I have listed out then I fail to
8 see how they care at all about our
9 friendly village. As we can all
10 clearly see, no one is even thinking
11 on this level. Mayor Murphy and other
12 officials are probably just thinking
13 about where the funds are going to
14 come out of to fund future legal
15 confrontations over development. If
16 we have the tax payor money to be
17 paying the legal fees associated with
18 the costs of development then we must
19 have money to take care of our own
20 residents as well but instead we are
21 spending money on fighting and
22 stalling certain developments in
23 court. The Hampshire controversy
24 alone has already been going on for an
25

PUBLIC HEARING

1
2 unholy amount of time and money when
3 that whole project could have been
4 done by now and instead providing
5 amazing tax revenue for our schools
6 and essential workers as is the case
7 with the Grand Street lots, the mason
8 and other projects. I conclude by
9 saying that I do see that many of my
10 neighborhoods are not as bothered by
11 this as I am, if at all. I respect
12 that right because everyone has -- in
13 American I believe that everyone is
14 entitled to an opinion and opposing
15 view. However I have do know many
16 people who are understandably angered
17 by this situation. I have in my
18 possession several signatures from
19 some of my immediate neighborhoods who
20 support the removal of Ms. Goldstein
21 for the aforementioned reason. These
22 signatures have been gathered and I
23 will see to it that the appropriate
24 authorities receive them as proof that
25 our friendly village deserves better

1 PUBLIC HEARING

2 than this garbage. And how dare you
3 limit the public to five minutes of
4 speak --

5 MAYOR MURPHY: As you know, your
6 time is up because you have a watch --

7 MR. CHON: Four hours to defend
8 corruption in Mamaroneck. Shame on
9 you.

10 MAYOR MURPHY: Thank you very
11 much. Before we go to the next
12 speaker, I'm going to ask that the
13 speakers not attack anybody,
14 especially Ms. Goldstein or other
15 members of this community and just
16 keep it to the facts and keep it to
17 the mitigation of what could possibly,
18 you know, be the mitigation of the
19 decision that I'll have to make.
20 There is no reason for ad hominem
21 attacks on Ms. Goldstein or anybody
22 else. Please, the next up I believe
23 is Ms. McCrory.

24 MS. MCCRORY: Can you hear me?
25 My name is Susan McCrory. I've been a

PUBLIC HEARING

resident of the Village of Mamaroneck since 1999. I live on the crescent. The purpose of my testimony today is to urge the mayor to reject the recommendation to remove Ms. Goldstein. I also want to urge the village board of trustees to politely but firmly repudiate the ethics report. Here's my perspective. First let's compare with instant matter with Larry Friole (phonetic) conduct as our former planning board chair. Friole held investment property under LLC name that disguised his ownership. That disguise allowed him in his capacity as planning board chair to testify before the board of trustees on code changes that would improve the development potential for his personal properties. I brought an article 78 to obtain his confidential financial disclosure report. When his property holdings were eventually made public Friole immediately resigned as

PUBLIC HEARING

1 chair of the planning board telling
2 village folks we could all go to hell.
3 That's the historic context. Cindy
4 Goldstein is not Larry. Cindy
5 Goldstein has no personal interest at
6 stake. Cindy Goldstein's decision to
7 recuse in one case but not the other
8 seems quite sound to me. She did not
9 recuse from the Hampshire matter
10 because the outcome of that
11 application would have no particular
12 effect on her property. She did
13 recuse from the Hommocks Road matter
14 where the owner was considering the
15 installation of a sewer line that
16 would be closer to her house than the
17 present terminus. Good for the ethics
18 board in bringing this to Ms.
19 Goldstein's attention. The only
20 puzzle is why the ethics board did not
21 consider the matter resolved. I worry
22 that the ethics board is improperly
23 protecting someone's identity and
24 motive behind this complaint. I've
25

PUBLIC HEARING

1
2 made ethics complaints in the past. I
3 have always needed to make sworn
4 complaints to the ethics board. But
5 in this case we have no sworn
6 complaints. The party raising the
7 underlying ethics concern is being
8 hidden. We all deserve to know who
9 started this mess to assess that
10 person's motive. Let's imagine who
11 the secret complainant might be.
12 Suppose, for example, it's the mayor.
13 The record shows the mayor raised a
14 concern with the village attorney
15 about the Hommocks Road matter who
16 raised it with the planning board
17 chair who raised it with Cindy
18 Goldstein. Maybe the mayor started
19 the complaint. If so, what was his
20 motive? The mayor should lay bear his
21 actions in this matter before making
22 any determination. Alternatively,
23 suppose the Hampshire investor was
24 chummy with Mark Ettinger, the ethics
25 board chair, and made a secret

PUBLIC HEARING

1 complaint to him. The mere presence
2 of an ethics inquiry would benefit
3 Hampshire by clouding the integrity of
4 any planning board decision in which
5 Cindy participated. Let's unmask
6 these hidden interests. I urge the
7 mayor to obtain from each member of
8 the ethics board a sworn affidavit
9 identifying the sources of the
10 information leading to the Goldstein
11 investigation. The mayor should also
12 submit for the record a full
13 accounting of his own participation in
14 the matter. My second concern is that
15 the ethics board had made up the rules
16 on the fly. At every annual filing of
17 a financial disclosure form the ethics
18 board might have advised filers it
19 would consider property proximity as
20 necessitating recusal in each and
21 every matter but that didn't happen.
22 My point is that no such rule seems to
23 exist or be enforced except for Cindy
24 Goldstein, not a long standing rule,
25

PUBLIC HEARING

not a duly noticed rule, not a universally rule. It seems a special Cindy Goldstein gotcha rule and a clear violation of due process. My third concern is that the ethics board mistakenly believe that they regulate and punish Cindy Goldstein for attitudes and opinions it considers unacceptable. Our constitution precludes any village entity from regulating beliefs, attitudes and opinions. The ethics board has left a lasting impression with me that it's members despise smart, intelligent and credentialed women. I urge the Village of Mamaroneck's board of trustees to repudiate such comments swiftly and unequivocally. Let me conclude my remarks by saying I spent years writing and reviewing evaluation reports for GAO. Had this report come to me in draft form, I would have gently but firmly told the writers that they lacked evidence to support

PUBLIC HEARING

1
2 their proposed recommendation. The
3 report does not stand on its own. I'd
4 be concerned about the omission of key
5 evidence --

6 MAYOR MURPHY: Your time is up.
7 Can you just finish up, please.

8 MS. McCRORY: About the posture
9 of the applicants themselves. Did
10 they request recusal? Did that their
11 disclosure for GMU 809 disclosure form
12 say? The report does not say. Huge
13 missing pieces.

14 MAYOR MURPHY: Thank you. The
15 next up is Alana Stone.

16 MS. STONE: Hi. My name is Alana
17 Stone. I live at 1206 Park Avenue.
18 I'm speaking in support of Cindy
19 Goldstein today. I'm very concerned
20 about the culture of volunteer in the
21 village. I think that Kathy Savolt
22 said it best this morning when she
23 said that she was wondering if
24 testifying would put a target on her
25 back and then just hearing from Yergin

PUBLIC HEARING

1 a few minutes ago she mentioned that
2 she got a gotcha call from the board
3 of ethics. And Cindy Goldstein has
4 just bee, you know, hung in the
5 village square where her reputation is
6 central to her ability to make an
7 income and my question to myself is
8 does my love for volunteerism and
9 betterment of this village worth
10 putting my own reputation and my
11 income at risk in volunteering on a
12 board? After listening to hours and
13 hours of testimony today, this removal
14 comes across as a witch hunt.
15 Starting by pulling the string of the
16 sewage issue, I mean, I think if
17 anybody in this village wants to be
18 horrified about waste and wasted
19 money, having septic sewage lacing the
20 sound shore to me was the most
21 horrifying topic that came out of this
22 whole issue. Septic sewage has no
23 place in the village of Mamaroneck.
24 It may be okay in places like South
25

PUBLIC HEARING

1
2 Salem where every resident has acres
3 of land, but not in the Village of
4 Mamaroneck where land frequently
5 floods and houses are in close
6 proximity. If Cindy and her husband
7 sought anything, they sought that the
8 sewage -- look at that one image of
9 the houses surrounding her house being
10 flooded during Sandy. Where did all
11 that septic sewage go? Out to the
12 sound. And the Village has been sued,
13 I think it was \$40,000 a day was the
14 lawsuit until we cleaned up the
15 village. Let's be spending our time
16 on that instead of that instead of
17 this on witch hunt. So when that
18 didn't work what concerns me is then
19 why does the board of ethics go to the
20 next string to pull? This just seems
21 like a witch hunt and it really is
22 disconcerting to the culture of this
23 village. I have to say that I think
24 this board had done a tremendous job
25 of giving diversity to the board, you

PUBLIC HEARING

1 know, when I had to speak at the
2 planning board it was all men. Now I
3 see there is a lot of women. I
4 understand there is a lot of woman on
5 the zoning board and I applaud you. I
6 think it's the right direction. But
7 this to me is just fright frightening.
8 First of all there is no law against
9 what she did. The other things is,
10 you know, why is there this cloak of
11 darkness over of the board of ethics?
12 I mean, why are they being protected?
13 What are they trying to protect? I
14 mean, there's a double standard here.
15 First of all they are asking her to
16 recuse herself yet nobody from the
17 board recused themselves when they
18 obviously had a personal relationship
19 that had gone sour. So I think if
20 there is anything that comes out of
21 this, the changes to make to make this
22 village go forward would be first to
23 remove the cloak. Why is it there? I
24 think Sue McCrory had an excellent
25

PUBLIC HEARING

1 point. And the second thing is
2 clarify the rules. I would just say
3 again there is no law against what
4 Cindy Goldstein did. She has been an
5 outstanding member of society and I
6 would also just say that, Tom, you
7 know, people voted for you because you
8 are the moral compass of this village.
9 People voted for you because they
10 believe you make the right decisions
11 in a tough time. There is also
12 already a lawsuit outstanding. Cindy
13 was wronged and she has the right to
14 have her good name righted and I think
15 that we should let the courts make
16 this decision. This to me seems
17 absolutely -- it seems crazy that
18 anybody would weigh in on this. Let
19 the courts do their job. Thank you.
20

21 MAYOR MURPHY: Thank you. Next
22 up is Andres Bermudez Hallsthom.

23 MR. HALLSTHOM: Okay.

24 MAYOR MURPHY: Same rules, five
25 minutes. You're on, sir.

PUBLIC HEARING

MR. HALLSTHOM: Okay, thank you. Good morning, everybody -- afternoon. There was a lot of mention of the notice provisions as far as for land use. The reason we have notice of properties within 400 feet, 100 feet, whatever, is because it's assumed that certain projects will affect the properties that have to be noticed and there is a reason why the property that Ms. Goldstein now lives on was noticed for the Hampshire application. I'm sure the mayor has read the decisions and it's clear that the Hampshire project would effect the street Ms. Goldstein's property. I think that case is more clear cut for the Hommocks application where there is even a dollar amount put in as having a benefit of having approved that application. There is also the the argument about vagueness. I cringed when Mr. Leventhal was talking about Ms. Goldstein's with Pace

PUBLIC HEARING

1 University because I am a proud alum
2 of Pace Law and one of the key points
3 of ethics training for attorneys is
4 that you cannot legislate absolutely
5 every possible ethical violation
6 because if you do that someone will
7 come up with a new shady way to be
8 unethical. The ethics rules by design
9 vague and having legal training I
10 think Ms. Goldstein should have been
11 known better the conflict for both the
12 Hampshire application and Hommocks
13 application was clear. As far as the
14 attitude of Ms. Goldstein that was
15 alluded to by the ethics board, that
16 is actually relevant. In any sort of
17 a -- I'm a criminal defense attorney.
18 When it comes to sentencing, which is
19 what the board of ethics did after
20 they came to their conclusion on the
21 law as to what the punishment should
22 be. Contrition is part of that. A
23 defendant who is contrite, who accepts
24 responsibility gets a lesser
25

PUBLIC HEARING

1
2 punishment. In fact, it's even
3 codified in the federal system under
4 the sentencing guidelines. You get
5 less jail time if you are contrite and
6 you accept responsibility. There is
7 also a lot of talk about how
8 Ms. Goldstein cares so much about the
9 community. There is also talk about
10 how this would be equivalent of
11 municipal (inaudible) and the death
12 penalty and that's funny because
13 Mr. Leventhal, who is doing an
14 excellent job, his fee is being paid
15 for by the tax payers of the Village
16 of Mamaroneck. The last bill, I
17 believe the total was without a bill
18 so far, \$125,000 which is actually
19 about what it would cost to do a
20 homicide defense. All this for what
21 is basically a (inaudible) exercise
22 because there is no inherent right to
23 be on the planning board. She's not
24 losing any money if she's kicked off
25 the planning board, she is not facing

PUBLIC HEARING

any other sort of consequence that I know of just from being removed. To give a little history, the reason that Hampshire was (inaudible) the planning board was because the board of trustees back when I was on the board in 2013, 2014, had an application for rezoning for Hampshire and we decided to send it to the planning board because we believe that that would be the place where both sides would get a fair hearing. We did not anticipate that the fix would be in against Hampshire, that was never our intention. And having somebody whose property would be affected by Hampshire, who's noticed, received a notice from Hampshire on the basis that her property would be affected, would be making a decision against Hampshire. And I don't think you should give any credence to the argument that a recusal is the same as a nay. The end result of the lack of

PUBLIC HEARING

1
2 recusal and to the vote should not be
3 taken into consideration. Whether you
4 agree that Ms. Goldstein's vote
5 against Hampshire should not be part
6 of their decision making. A recusal
7 is meant to ensure that there is no
8 undue influence on an application
9 because both the applicant deserve it
10 and the village deserve it. Ms.
11 Goldstein's actions, we know that this
12 is going to be the primary argument in
13 Hampshire's lawsuit against the
14 village and Ms. Goldstein's actions
15 put the village at great risk legally.
16 I think the village tax payers are
17 going to end up having to pay way more
18 than \$125,000 for this decision and
19 this is not necessarily
20 Ms. Goldstein's first runs with ethics
21 and conflicts of interest. When she
22 was on the HCZM she created working
23 groups for rewriting the --

24 MAYOR MURPHY: Your time is up,
25 sir.

1 PUBLIC HEARING

2 MR. HALLSTHOM: I know. She
3 created groups of citizens she picked
4 to help rewrite the LWRP with
5 absolutely no input and no showing
6 that they did not themselves have
7 conflicts. And in fact, some of the
8 people appointed to these working
9 groups did have financial interests in
10 the LWRP.

11 MAYOR MURPHY: Okay. Thank you
12 very much. Thank you very much. The
13 next up is Alison Stabile.

14 MS. STABILE: Just for the
15 record, previous speaker was not asked
16 to state his name and address and I'm
17 confused as to why he's even
18 commenting at this proceeding.

19 MAYOR MURPHY: I don't have an
20 answer.

21 MS. STABILE: I'm saying
22 everybody else is required to --
23 (inaudible).

24 Anyway my name is Alison Stabile.
25 I live at 572 The Parkway. I have

PUBLIC HEARING

1 lived in the village for 27 years now.
2 And I'm calling to speak on Cindy
3 Goldstein's behalf. Let me state for
4 the record that I live nowhere near
5 Hampshire or Ms. Goldstein and I'm on
6 the other side of town. I also would
7 like to comment that some of us are
8 not very good at technology and it's
9 not always easy to attend these
10 meetings and not always clear exactly
11 how to access village meetings in
12 general such that a resident can make
13 their presence known for questions so
14 I fear that there are many members of
15 the public who are not able to hear
16 these proceedings and participate.
17 Any way, I've known Cindy for most of
18 the 27 years I have lived here and
19 mainly as a result of getting involved
20 in the community and as a volunteer
21 and I've never witnessed anything but
22 the highest level of integrity from
23 this woman who in my opinion is a role
24 model. I don't think you can top her
25

PUBLIC HEARING

1 years of service to this community on
2 any level and the kind of smearing
3 that I heard is just appalling for
4 anybody who might even consider being
5 a community volunteer I would suggest
6 that she's a role model and has given
7 an extraordinary amount of her
8 personal time and this is just from my
9 personal experience and I have to say
10 I was delighted to attend the event of
11 the At Home on the Sound where she was
12 honored. I thought that was
13 absolutely appropriate. Anyway
14 basically I'm appalled by what I
15 consider to be persecution of Cindy
16 Goldstein. I'm appalled as a human
17 being, I'm appalled as a woman, I'm
18 appalled as a person who volunteers my
19 time and energy for the benefit of
20 this community and I'm appalled as a
21 tax payer. The onerous message to any
22 person wanting to participate in a
23 meaningful way in this community is
24 that you can be attacked both
25

PUBLIC HEARING

1 personally and professionally and
2 dragged through the mud for simply
3 working hard on behalf of this village
4 and contributing your time and energy.
5 I think it's important to understand
6 that emotional toll of this toxic, and
7 I'm going to say that again, this is a
8 toxic exercise. The board of ethics
9 has created a hostile and toxic
10 situation. I don't know what's behind
11 it. And I think it's shameful and I
12 am appalled that this is happening in
13 the friendly village. I don't know
14 even know how we can call ourselves a
15 friendly village at this point. I
16 think it's important to pay attention
17 to the financial impact of this farce
18 to the tax payers of this village and
19 I'm not talking about the fees that
20 are being paid to Ms. Goldstein's
21 attorney because I think that's
22 completely appropriate considering
23 what she has been put through, I'm
24 talking about the overall expenses
25

PUBLIC HEARING

1 including everybody involved, and I
2 won't point fingers and name names. I
3 think there are other people who can
4 do that much better than I can. I
5 think it's important to get to the
6 bottom of what has motivated this
7 misguided action by the board of
8 ethics in the first place and I think
9 we better ensure that this kind of
10 vitriolic attack on a community
11 volunteer serving this community in
12 good faith never happens again. Thank
13 you.

14
15 MAYOR MURPHY: Thank you. Nora
16 Lucak, Trustee Lucak.

17 MS. LUCAK: I'm Nora Lucak. I
18 live on Beach Avenue in Mamaroneck,
19 I'm a village trustee and I just have
20 enormous questions about this process.
21 Most recently that the voluminous
22 record was made public only on
23 Saturday. It's not possible to go
24 through it in a few days. I know
25 because I've had a paper copy of it

PUBLIC HEARING

1 since February. And if the ethics
2 board were so confident with this
3 process and their recommendation I
4 don't understand why they were
5 reluctant to make the Goldstein record
6 available to until the public hearing.
7 It has significantly delayed this,
8 what can only be called a sentencing
9 hearing, it's made things more
10 difficult for the village and for
11 Ms. Goldstein. I've read the record
12 several times and I don't agree with
13 the statement that the ethics board
14 made that it was competent that any
15 resident of the village takes the time
16 to read the thousands of pages that
17 constitute the record in an honest and
18 thoughtful manner will be convinced as
19 the ethics board was the Ms. Goldstein
20 committed serious violations of the
21 Code of Ethics requiring her removal.
22 To me this raises questions about
23 their objectivity and I don't know how
24 any of us, including the mayor, can
25

PUBLIC HEARING

1
2 have full confidence in their decision
3 when it took eight months to bring one
4 of the charges and showed reluctance
5 to publish the underlying record.

6 They additionally disclosure could
7 have a chilling effect on the workings
8 of the ethics board that could
9 adversely impact future investigations
10 and hearings and adversely affect the
11 ability to conduct a fair process. As
12 we heard from many other people who
13 were concerned they might be next or
14 gives them pause as to whether they
15 want to continue to be volunteers, the
16 ethics board gives no similar
17 consideration of the chilling effects
18 of the Goldstein hearing process and
19 decision may have or have already had
20 on the many residents who may not
21 decide to seek land uses or other
22 positions. The language is also
23 condescendingly critical of Ms.
24 Goldstein's opinion of having a good
25 faith different opinion. The

PUBLIC HEARING

1 criticize her attitude. Her attitude
2 prevails. She refused to even
3 consider the ethics board's point of
4 view, she refused to avail herself of
5 their assistance, she showed no
6 contrition. Defending your rights to
7 contest the ethics board's
8 interpretation doesn't constitute a
9 bad attitude, it constitutes self
10 respect and self defense and I applaud
11 Cindy for sticking up for herself and
12 for all the volunteers the village who
13 could otherwise be cowed by the
14 ethics board. I also -- there was a
15 big exchange about the letter that she
16 sent, the e-mail that she sent at the
17 end of the hearing and the ethics
18 board accused her of being incorrect
19 and misleading. I received that. I'm
20 a fact checker. I'm a researcher
21 professionally. There was no
22 inaccuracy in that. I think they were
23 upset by it, but there was no
24 inaccuracy and I think her reference
25

PUBLIC HEARING

1
2 to Hampshire was really a reference to
3 maybe that's what the underlying
4 complaint and cause was. I'm really
5 concerned that the ethics board made a
6 statement at the beginning of January
7 that they had some interest, they had
8 some information and they are acting
9 on some information. We still don't
10 know where the information came from
11 and months and months later, a year
12 and a half later, and hundreds of
13 thousands of dollars, probably on both
14 sides of the investigation, we're
15 nowhere. We are just in the stage
16 where we don't know how these charges
17 were brought. I'm troubled by the
18 failure to be consistent (inaudible)
19 in which a previous board member
20 said -- participated in a ministerial
21 (inaudible) in the past but they ended
22 up giving Cindy an ethics violation
23 after she had done what I think
24 (inaudible) and I think that the board
25 (inaudible) describing Goldstein's

PUBLIC HEARING

1
2 attitude and lack of deference. I
3 think the timing of the Hampshire
4 charges, the inconsistency with the
5 (inaudible) decision and the amount of
6 time it simply took to bring this to
7 fruition and once it came to fruition
8 for them to release the records so the
9 board of trustees could act on the
10 recommendation are issues that
11 (inaudible) and I am very empathetic
12 to Tom because I think he's got a
13 really hard to decision in front of
14 him but (inaudible) considering the
15 ethics board recommendation.

16 MAYOR MURPHY: Thank you. Next
17 up is Daria Locher.

18 MS. LOCHER: Hi, there. I'm
19 Daria Locher and I live on Cedar
20 Island in Larchmont. So I'm speaking
21 now directly to the mayor as a
22 concerned, even upset citizen. So
23 Mr. Mayor in 2013 when you ran for
24 office the Daily Voice ran an article
25 where you said ethics was important to

PUBLIC HEARING

you. You said, and I quote, to me one of the most pressing issues in every form of government is to restore people's faith that the government works for them. I'm therefore confused how this is even a discussion of your agreeing or not with the unanimous decision of the ethics board for not recommending Ms. Goldstein leave the planning board immediately. As Mr. Cooper previously mentioned, why did it take six months for this decision to be made public with this hearing? This passage of time makes it feel like you waited for Cindy Goldstein to reject the Hampshire project and then announce the hearing a few days later. Obviously there is an issue with the official standards that were extensively discussed throughout this day and that needs to be addressed at a future time, preferably as soon as possible. I understand this current situation

PUBLIC HEARING

1
2 isn't convenient is wanted in your
3 position but it does under your
4 position's official obligation and I
5 expect that you act in a way
6 conforming to the ethical standards
7 promised to your constituents. Thank
8 you.

9 MAYOR MURPHY: Thank you. Doreen
10 Rooney. So we're going to call Doreen
11 on the phone. We're going to put her
12 on speaker phone.

13 MS. ROONEY: You didn't have to
14 call me, I had been hanging on the
15 line. I first want to say I've been a
16 lifelong resident of the Village of
17 Mamaroneck. I currently live on High
18 View Street. I am also a member of
19 the harbor coastal zone management
20 commission and served with Cindy
21 Goldstein for a period of four years.
22 I am very troubled by this entire
23 situation. I will begin by saying as
24 a member of a board for the past five
25 and a half years I haven't heard any

PUBLIC HEARING

educational component to what the ethics board is supposed to be providing to anyone who is an appointee of a board in the Village of Mamaroneck. That should be step one. Step two, as a board member myself, when I had questions of recusal and so on and so forth, I previously would contact the land use attorney at the time and my thought process on why I should recuse was pretty much thrown by the wayside. I had a situation next door to me where a former planning board chair acting under shell companies, I will say, might have been part and parcel to a potential development going on next door to me and it wasn't until Ms. McCrory did a foil request on his disclosure that he resigned and told you and I, Tom, to go to hell. That in itself pretty much -- he told everybody to go to hell but you and I personally. At any rate, I will say

PUBLIC HEARING

1
2 that in the time I have been on the
3 harbor coastal zoning management
4 commission with Cindy Goldstein,
5 because she's no longer on our
6 commission, I have never ever seen
7 such a mentor, such a person with
8 integrity. If I ever had a question
9 she would basically make a suggestion
10 on how to find the information. It
11 wouldn't come from her personally but
12 if she had the answer she would give
13 it. I have no reason to believe that
14 there was anything untoward that Cindy
15 Goldstein did in the two matters of
16 the ethics board coming down with
17 whatever deliverance they had here
18 today. It is unacceptable that anyone
19 that sits on a board can have the
20 ethics board without a sworn testimony
21 of someone making a complaint
22 (inaudible).

23 MAYOR MURPHY: Doreen, I lost
24 you. Doreen has disappeared. The
25 next up is Mr. Natchez. For people

PUBLIC HEARING

1
2 who are trying to get back on the
3 queue, you get one shot at the apple.

4 MR. NATCHEZ: Good afternoon. My
5 name is Dan Natchez. In addition to
6 being a resident, I am also a trustee
7 of the Village Board of Trustees. In
8 2017 I undertook a small assignment as
9 president of my consulting company to
10 assist Steven Goldstein, husband of
11 Cynthia Goldstein, the subject of this
12 hearing. The assignment was the
13 evaluation of their septic system at
14 5 Oak Lane in early 2017 when they
15 were considering purchasing their
16 current home. This was a one-time
17 work, not ongoing consultation, and I
18 listed this work in my 2018 and 2019
19 disclosure forms filed with the
20 village. As a trustee, as a village
21 trustee I later recused myself from
22 participating in board discussions
23 involving a request from Steve
24 Goldstein on the board of trustees
25 regarding sewage at Oak Lane and

PUBLIC HEARING

1 Hommocks Road. At that time I recused
2 myself still within the two year
3 period in which disclosures are
4 required by the village disclosure
5 form. It's now been approximately
6 three years since I performed one-time
7 work for the Goldstein's and I do not
8 anticipate any future work from them
9 at this time. Because of my past work
10 I was also included on a list of
11 potential hearing witnesses to be
12 called by the ethics board involving
13 Cindy Goldstein but I was not called
14 as a witness. I received
15 communication from the ethics board
16 suggesting that I consider recusing
17 myself from participating in the board
18 of trustees matters that involve
19 Cynthia Goldstein. I note that I do
20 not have any decision making authority
21 in this hearing today, this is the
22 mayor's hearing, but I believe it is
23 important for me state my opinion that
24 I do not believe that I have a
25

PUBLIC HEARING

1
2 conflict of interest in issue that
3 would require recusal. I've consulted
4 my attorney who that I do not have a
5 conflict of interest. I believe that
6 the attorneys -- I believe that the
7 ethics board is entirely mistaken in
8 their recommendation regarding Cynthia
9 Goldstein which a matter of this
10 public hearing. In my opinion, when
11 everything is boiled down to its
12 simplest denomination regarding
13 Ms. Goldstein, the ethics board is
14 seeking to enforce their
15 interpretation of the ethics code
16 which differs from the historical code
17 of the village (inaudible) regarding
18 any member of the board or commission
19 to recusing themselves if they live
20 within the noticed distance from the
21 property that may be before the board
22 or commission. The ethics board made
23 the specific recommendation to the
24 board of trustees to change the ethics
25 code to incorporate that

PUBLIC HEARING

1 recommendation. All members of the
2 board of trustees expressed concerns
3 about the recommendation and the board
4 of trustees has not changed the ethics
5 code to include same. Yet this has
6 not stopped the ethics board of
7 seeking to advise board and commission
8 members that this is what the code
9 means and that they should recuse
10 themselves if they live within the
11 noticed area. Ms. Goldstein first saw
12 the Hampshire application as chair of
13 the harbor coastal zone management
14 commission when she lived at a
15 residence not within the notice area
16 (inaudible) as reflected in the record
17 and since that time was asked hard
18 questions to ensure that applicants
19 meet the requirements of the various
20 codes, laws and regulations. It is an
21 approach that she has and others have
22 used on applications that have
23 appeared before them in various public
24 service capacities. It is my believe
25

PUBLIC HEARING

1
2 based on the entire Cynthia Goldstein
3 record that the ethics board
4 recommendation to remove Ms. Goldstein
5 from the planning board is incorrect
6 and not within the best interests of
7 the village. Thank you for your time.

8 MAYOR MURPHY: Thank you.

9 Richard Litman.

10 MR. LITMAN: I don't want to be
11 repetitive of all the testimony you've
12 heard so far but I realize what a
13 tough spot you are in and I just
14 wanted to give you some impression
15 that I've had. I serve on the village
16 planning board. I have since December
17 of 2016. I've had a lot of
18 opportunity to work with Cindy and I
19 think she's really terrific. She's
20 added a lot of professional expertise
21 and community expertise. I, as a
22 relative new comer, have learned a lot
23 from Cindy and Kathy and Don and Lou
24 and some of the others over time and I
25 think it would be a tragic error and

PUBLIC HEARING

1 not in the public interest to remove
2 Cindy from our board. We have a
3 couple of lawyers, engineer, planner,
4 and Kathy is just an all around whiz.
5 It's a really good board and we've
6 always striven to comply with the law
7 and be objective and do what we can
8 and, you know, Hampshire was a
9 bruising exercise for us. We were
10 getting it from all sides and I have
11 to tell you what goes for Cindy goes
12 for all of us, we remained objective
13 and professional, followed the state
14 law as best we could and reached a
15 decision. And, you know, maybe that's
16 made the current situation somewhat
17 awkward but when you follow the law
18 you have to live with where you end
19 up. So I would urge you please to not
20 remove Cindy and let us continue
21 making progress in the village. Thank
22 you.

24 MAYOR MURPHY: Thank you, Mr.
25 Litman. Okay. That concludes public

PUBLIC HEARING

comment. I don't think there is much to -- there's one more. Victor Tafur.

MR. TAFUR: Can you hear me now?

My name is Victor Tafur. I am a village resident. I bring these comments as a private citizen but I am a member of the board of trustees so it's hard to keep those hats separate. First I do apologize for not raising my hand earlier honest in the morning I actually (inaudible) the benefit of the morning because I had a conflict with work. Now I'm struggling with a conflicting matter. I try my best to multitask but you know it is hard this time of day so I apologize for raising my hand now. Straight to my comments, I've been a resident for 16 years now and I met Ms. Goldstein through her volunteer positions maybe around eight, ten years, and I do have her highest regard for her work as a volunteer and for her personally. I say that even preserving I think my

PUBLIC HEARING

1
2 independence and objectivity in this
3 comments and of course in the board
4 where I sit and further proceedings I
5 actually heard of her work for Pace as
6 a trustee, as alum, and I also have
7 just to mention I am an adjunct there.
8 I have my master's and my doctorate at
9 Pace and I do teach there part time
10 but that has absolutely no bearing in
11 my highest regard for her, her
12 appointment, and actually I want to
13 thank her for that additional level of
14 volunteering that I didn't know. The
15 Mayor asked us to provide some
16 questions or comments and I thank for
17 that I didn't really hesitate, I just
18 of course want to be very careful that
19 I don't overstep my comments, I don't
20 want to touch any area that I should
21 not but anyway I do have very quickly
22 two questions or comments of the
23 recommendation, two on the decision
24 and a final comment. My main question
25 is that this is not about whether the

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1
2 mayor can remove her, it's whether he
3 should remove her that he previous
4 stated (inaudible) you have discretion
5 and judgement call will determine
6 (inaudible) in this village and I hope
7 the mayor can find an outcome that is
8 favorable to the village working on
9 this matter including changes to the
10 code, training, other issues that you
11 probably have mentioned as mitigation,
12 I think is it not just for
13 Ms. Goldstein but for all of us. My
14 two comments are here. Removal is
15 pretty extreme, drastic measure.
16 That's reserved for unscrupulous
17 conduct or gross dereliction of duty
18 or conduct that denotes a pattern of
19 misconduct and abuse of authority. I
20 didn't make that up. I learned that
21 when we went to the training session
22 December. That was in the package
23 that Mr. Mancini gave us. My second
24 comment also comes from that
25 (inaudible) packet which is a recusal

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1
2 is an extreme remedy, one that should
3 be only involved when it's necessary,
4 absolutely necessary to preserve
5 transparency and trust when
6 impartiality is compromised. My
7 second comment is that objectively
8 what is the board's (inaudible)
9 Ms. Goldstein's impartiality has been
10 compromised. As you noted, I'm
11 raising this as questions, not
12 statement, of things that I would take
13 into account and that's what the mayor
14 asked us for. Now very briefly on the
15 decision. Now on the Hommocks matter
16 I won't say much other than without
17 testifying or saying anything further,
18 I was sitting on the dais on February
19 13th in the Santoro matter and I think
20 enough has been said. I think
21 president should be followed. I think
22 that says a lot. On the Hampshire
23 matter I am concerned that the code
24 has a division of interest which then
25 mentions benefit and then mentions

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that is has to be as a result of a business or professional transaction. But I also note with concern that there is no definition of benefit and benefit is very, very open ended. Benefit, financially or otherwise, or that it gives a reasonable appearance of a conflict of interest. Now I looked at the decision and I, without getting into further legal analysis, I just have a simple line here. When that was applied, because I am not going to get into the standards, when that was applied, this is what the decision says, because Ms. Goldstein would be affect in a material different way then the vast majority of the village residents it creates an appearance of conflict of interest or impropriety, decision at 55. So how is that applied here? Is it a different standard? Is it an additional standard? I would say that you have to be very careful with that

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1 and I end up with personal note. I
2 was brought in another country. I've
3 been here for 20 years and the most
4 important value we have in this
5 country which I am now a very proud
6 resident and citizen, is (inaudible)
7 due process of local government, local
8 government is based upon (inaudible).
9 We don't have that anywhere else in
10 the world. It is the most fundamental
11 value and I urge you to keep that in
12 mind. Your decision will really
13 impact volunteerism in this village.

14 MAYOR MURPHY: Thank you. Can
15 you go to Paula Ryan. Hello, Ryan.

16 MS. RYAN: I'm calling because
17 I'm in total support of Cindy
18 Goldstein. I've known her for a very
19 long time and my concerns about what
20 you have to use to make your decision
21 really rests on three things that come
22 across so strongly to me. Number one
23 is that her attorney said that she
24 is -- everyone is entitled to due
25

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1
2 process. I believe everyone is also
3 entitled to know their accuser and
4 that is part of the constitution,
5 Amendment Six, I believe, and I think
6 that it is her right to know her
7 accuser so I think that puts us in a
8 very bad place that she doesn't
9 because if you know who has a problem
10 with her behavior it may very well
11 have nothing to do with what she has
12 done in her job as a planning board
13 member. Secondly, I think that the
14 lack of consistency in the judgement
15 here is so revealing because you have
16 the two cases that you have used are
17 so clearly exactly the same thing that
18 Cindy has done and yet she is being
19 taken to ask for acting the same as
20 others who have been found innocent.
21 And finally, we worked very hard on
22 establishing an ethics committee and
23 ethics law, Tom you were there at that
24 time as well, and it seems to me that
25 along the way there has been a lack

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1
2 of -- boards change, new people come
3 on and that's true of the ethics board
4 and it seems to me that their
5 knowledge of what their
6 responsibilities are always needs to
7 be -- they need to be reminded of that
8 or taught what that is and new comers
9 on other boards also need to know what
10 the ethics board is all about and what
11 their ethic responsibility to the
12 residents of this village is. So
13 those are my concerns that you use
14 consistently and that you use the fact
15 that there is she doesn't know her --
16 the person who has accused her. I
17 think those are very important things
18 to take into consideration when you
19 make your decision and again, I am in
20 strong support, I see nothing that
21 Cindy Goldstein has done that makes
22 her guilty of anything. And thank you
23 for listening.

24 MAYOR MURPHY: Thank you, have a
25 good day. The next up is Gina Von

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Eiff.

MS. VON EIFF: Hi, everybody.

I'm just trying to backup out of here for a second and find my way. Please give me a second of patience here.

I'm not getting there. I apologize it is not working. It's very difficult

to try to work and keep a million

browsers open. I'm really calling to

support Cindy. I don't know Cindy

personally, I only know Cindy through

my work and what I've learned through

committees over the past years since

the flood happened in Mamaroneck.

I've been a resident my entire life

and I became very involved in the

village when we had the floods with

Irene and Sandy and that's why I

started to meet people that were

involved that cared about the same

issues I did and she was a very

important figure for me to learn a lot

from. I started to watch her meetings

and learn about watersheds and floods

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1 and I can't reiterate everything
2 everyone said because I feel the same
3 way. You know, I looked up our
4 village is 3.2 square miles.
5 Absolutely everybody in this village
6 is affected by any development and
7 density just by the geographer of it,
8 whether we are affected positively or
9 negatively. And you know, what I
10 found by watching the boards over the
11 years and being ignorant political
12 person until I started to realize the
13 world was bigger than the Village of
14 Mamaroneck boards and committees have
15 people of all backgrounds and
16 professions, lawyers, real estate
17 agents, agency owners, developers,
18 business proprietors, independent
19 contractors and many of the people
20 have invested interests and they own
21 properties that are affected by the
22 board and committee decision that they
23 and their colleagues are making. So I
24 believe any reasonable person in this
25

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1
2 village could argue that all of the
3 people on the committees and boards of
4 this village have vested interests
5 personally and financially. And you
6 know, just by being here and living
7 here and have met by being on them and
8 the outcomes that their boards and the
9 decisions they make they benefit from,
10 not Cindy, everybody on these boards.
11 I mean I always question how a real
12 estate person or a developer can be
13 sitting on the board in the village
14 and own property and be on a committee
15 that's assessing the flooding on that
16 property they own and have vested
17 interest in. And, you know, there is
18 this very big inconsistency because
19 I've seen people, board people, board
20 members, board chairs, at public
21 meetings and hearing and televised
22 where they have commented with
23 applicants that they love their
24 development, they go their personally
25 because they're own use and business

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1 is located near it, not just their
2 home but their business in the village
3 is within the boundary of that
4 development and I've witness board
5 members accept invitations to
6 breakfast for an entire board from an
7 applicant at his own hearing and I'm
8 saying, hey, stupid people, there's
9 ethics issues here. In my law firm
10 you can't accept \$3 in somebody and
11 you're accepting a breakfast for ten?
12 There are a lot of inconsistencies and
13 improprieties and conflicts of
14 interest and nothing has ever been
15 done that I've seen about it because
16 people so on the board so I'm finding
17 that's what is happening to Cindy it
18 feels so disgusting and such hypocrisy
19 in the village and such a witch hunt
20 for a person who has dedicated their
21 entire life to following the rules and
22 learning and it takes a lot to learn
23 to be on these boards, and I would
24 hope that the recommendation for
25

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1
2 whatever reason the ethics committee
3 has come up with this, can be put
4 aside right now and that common sense
5 will prevail that you have a person
6 that is being targeted and usually
7 it's the very good people that get
8 targeted. And that's my opinion and I
9 thank you all for listening.

10 MAYOR MURPHY: Okay, it looks
11 like we cleared the board. We are
12 going to go on to the next --
13 hopefully finish this up. I don't
14 particularly have any response or
15 comments. Mr. Leventhal, are you
16 ready to close this down?

17 MR. LEVENTHAL: Yes. I just
18 would like to thank everyone who
19 participated.

20 MAYOR MURPHY: Yes, me too. I
21 would like to thank the public who
22 participated, I would like to thank
23 all the staff. Ms. Goldstein, I would
24 like to thank you. I'm sorry this has
25 come to this, you know, as I said

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1
2 before this isn't how I planned to
3 spend my vacation but duty is duty and
4 I said before I'm going to give this a
5 good hard look and keep an open mind
6 and my mind is not made up and I
7 welcome comments from the public.
8 Once again, comments can be sent to
9 goldsteincomments@vomny.org. Adam,
10 what are we going to do, two weeks
11 accept comments?

12 MR. STOLOROW: We are holding
13 this open for public comments, for
14 written comments throughout the end of
15 June 10th, so two weeks from today.

16 MAYOR MURPHY: So if you have
17 comments that you'd like to say,
18 please e-mail them in. If you had
19 written your comments today, you want
20 them to be part of the e-mail record,
21 they will be part of this record
22 obviously but feel free to e-mail
23 those comments in. It might help us
24 make sure that the court reporter had
25 everything 100 percent accurate

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although I'm sure she's doing a great
job. That concludes this hearing and
thank you all very much. Have a good
evening. Stay safe and stay healthy.

(Whereupon, at 4:18 P.M., the
above matter concluded.)

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C E R T I F I C A T E

STATE OF NEW YORK)

: SS.:

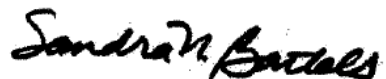
COUNTY OF ORANGE)

I, SANDRA NOEL BARTELS, a Notary
Public for and within the State of New
York, do hereby certify:

That the above is a correct
transcription of my stenographic notes.

I further certify that I am not
related to any of the parties to this
action by blood or by marriage and that I
am in no way interested in the outcome of
this matter.

IN WITNESS WHEREOF, I have
hereunto set my hand this 10th day of June
2020.



SANDRA NOEL BARTELS

1	12th 105:21 106:5 109:18 112:10 113:17 116:19 173:20 13 78:5 84:22 164:7 13th 305:19 14 54:10 91:16 99:13 100:12 174:2 1400 259:14 14th 92:11 101:21 109:21 110:6 15 80:14 115:8 236:17 251:10 15th 111:2,7,8 250:4 16 23:18 112:16 302:19 169 128:10 196:11 16th 111:21 112:8 18 22:22 242:20 1830 256:25 189 196:3 18th 43:3 109:24 19 5:18 256:24 1965 38:15 1990 213:9 1992 36:6 1999 267:3 19th 105:16 1:34 188:3,6 1:40 188:4	200 177:25 183:19 184:22 195:24 2000 45:19 2001 77:19 2002 45:20 2003 77:21 2004 36:5 2006 36:4 2007 45:20 2008 47:24 216:9 2009 45:21 47:24 2010 159:4 2013 280:8 291:23 2014 280:8 2016 36:9 300:17 2017 10:9 35:14 37:24 45:22 47:13 53:25 138:6 159:3 160:25 164:7 296:8,14 2018 10:5 77:13,18 160:5,25 246:3 296:18 2019 10:21 11:11 12:12 13:23 14:21 15:14,23 16:13,18 17:8 18:11 19:6 19:16 23:18 28:14 28:22 47:9,17,18 82:24 91:16 99:13 100:12,16 112:16 113:11 123:5,13 173:3 174:2 183:2 242:14 249:21,22 249:25 250:24 251:9 262:13 296:18 202.15 4:23 202.29 5:12 2020 1:9 4:22 5:4 5:5,13,15 8:10	74:13 123:5 223:21 251:10 317:19 203 13:16 14:7 17:12,17 29:10 48:2,12 81:22 89:16 90:22 91:19 93:8,11 94:13,25 174:6,11 175:20 175:24 178:2 21-10 158:15 21-10c 158:13 21-13e 123:12 21-14a 229:25 21-20 228:9 21-3 87:17 21-4 87:19 21-4a 17:2,6 24:13 24:17 86:16 154:20 21-4c 8:21 16:19 16:20 19:23 24:7 26:5 29:17 154:12 156:5 21-4n 8:21 20:7 21:15 26:12,14 27:24 29:19 21-5c 19:25 26:7 29:25 21.4c 164:20 210 129:3 196:7 21st 42:24 43:10 22 43:4,17 183:2 22nd 171:13 24 54:4 67:5 190:19 25th 103:17 105:20 26 77:5 110:7 160:5
1 1 5:5 16:20 19:23 24:7 26:5 33:20 154:12,14 156:5 1.8 133:14 10 8:9,13 10:5 54:10 80:14 123:4 123:5,12 145:25 146:6 159:4 236:17 100 48:18 51:16,17 73:21 94:18 277:7 315:25 1025 24:24 105 25:2 10543 262:5 10:00 1:10 10th 33:15 315:15 317:18 11 84:17 85:21 136:16,19 137:14 137:19 141:18,21 143:7,10,22 176:3 176:10 197:22 199:4 11:56 115:17 12 11:11 12:12 113:11 114:5 120:15 263:13 120 94:18 126:6 145:6 120,000 95:7 1206 272:17 125,000 279:18 281:18 12:10 115:9 12:15 6:23 115:11 12:20 115:13,16 115:18 12:30 115:6	2 2 100:6 103:5 164:20 20 56:18 80:11 121:4 132:8 134:11 135:20 137:12 254:15 307:4		

27 1:9 13:23 14:20 15:23 16:12 18:11 19:6,16 82:23 100:16 283:2,19 27th 15:11 86:9 89:7,8,23 90:12 91:16 190:2 191:2 28 17:8 29 28:22 251:9 2:30 6:23,25 2:42 235:4 2:43 235:12 2:45 6:23 2nd 110:22	47 214:22 4:18 316:6 4th 110:2	8 8 5:13 800 126:3 127:22 128:2 196:9 808 22:2 809 272:11 824 258:6 850 127:14,18 128:4,5,5,8 140:17 196:10	173:13 abuts 12:22 173:11 academic 254:10 accept 186:11 279:6 313:6,11 315:11 acceptable 253:18 accepting 313:12 accepts 278:24 access 138:16,22 139:10 239:5 283:12 accompanied 157:19 accomplish 208:24 account 305:13 accountable 211:8 263:24 accountant 57:15 57:22 accounting 263:19 270:14 accurate 152:25 153:5 315:25 accurately 135:15 accused 40:13 68:6 79:8,12 159:9 210:25 289:19 309:16 accuser 308:3,7 accusing 172:4 237:25 achieve 207:9 achieved 205:21 205:23 207:11 acknowledge 99:23 100:15 acknowledges 228:10 230:8
3 3 136:12,20 137:14 137:18 141:18,21 143:8,14,22 197:21 199:4 313:11 3.2 311:5 30 77:24 130:16 144:25 146:11 214:7 263:19 30th 105:8 31 15:14 16:18 31st 111:5,17 112:2,5 360 126:7	5 5 10:8 17:20 25:3 25:6 137:17 141:14 143:12 196:14 197:6,9 199:19 223:21 296:14 50 74:12 198:24 199:11 506 237:8 52 129:9 143:23 144:13 145:18 149:18,20 55 306:21 572 282:25	9 9 4:21 22:24 38:5 95 139:16 142:14 145:3 260:12 97 192:6 98 192:6	
4 4 97:6,17 98:9 112:20 117:9,17 4-0 152:8 40 130:16 40,000 274:13 400 51:18 73:5 277:7 41 205:19 214:22 4154 317:23	6 6 99:9 171:7 179:13 60 145:2,11,21 146:14 199:12 6th 105:10	a a.m. 1:10 115:17 ability 33:8 58:11 273:7 288:11 able 5:8 7:2 116:13 179:16 237:21 283:16 absence 175:12 208:19 absent 257:12,13 absolutely 58:17 59:7 75:9 108:24 134:11 183:22 228:19 238:6 276:18 278:5 282:5 284:14 303:10 305:4 311:6 abuse 261:6 304:19 abused 258:12 abuses 227:3 abut 12:15 13:5 103:22 104:2	
	7 7 5:14 137:18 7-718 35:19 38:5 7-7189 3:24 70 145:4 74 190:19 765 129:4 196:6 78 3:2 9:10 30:18 226:24 230:11 234:5,8 267:22 792 131:3 795 134:16 140:14 7th 105:16		

acknowledging 99:18 acres 133:14 274:2 act 16:24 24:12 50:23 87:20 123:10 154:18 216:13 264:3 291:9 293:5 acted 19:14 99:16 181:10,12 186:8 189:16 221:17 239:18 245:21 acting 16:11,22,23 19:18,20 23:25 24:10,11 25:18,18 25:25 35:10 154:17,18 206:13 247:6,25 290:8 294:15 308:19 action 20:18 27:3 31:9 33:6 49:10 50:12,15,17,18,21 50:21 51:15 83:7 83:13,15,16,17,23 85:6 86:5,8 87:3 87:11,20 88:11,12 88:18,20 90:14 91:25 92:2 94:5 122:24,24 148:5 148:10,13,14 165:12,17 167:7 170:8 190:6,7 191:14,20 194:9 219:11 225:14 230:3 261:23 262:8 286:8 317:14 actions 16:2 22:15 40:6 51:9 82:25 83:2,5,18 84:14,15 87:9,16 167:5,8	174:18 181:14 191:11,22,23 192:13 233:8 248:5 260:16 263:24 269:21 281:11,14 active 39:18 actively 9:20 10:18 activities 39:17 65:14 138:15 acts 191:4 205:4 223:9 actual 100:14 110:5 166:14 172:7 ad 201:12 266:20 adam 1:16 3:11 62:7 71:2 182:8 315:9 add 14:16 61:9 199:6 added 300:20 adding 15:9 addition 8:6 11:17 36:7 174:4 296:5 additional 80:7 145:15 303:13 306:24 additionally 288:6 address 39:9,10 100:13 105:3 136:10 189:6 236:22,24 282:16 addressed 10:19 292:23 addressees 95:21 addressing 156:25 189:5 adduced 29:14 229:4	adjacency 13:7 adjacent 215:4 adjudicates 46:3 adjunct 303:7 administrative 8:24 58:5 admire 259:4 admission 204:7 admit 186:13 admits 40:15 adopt 4:15 7:24 8:17 30:22 63:5 157:10,15,23 158:2 adopted 51:22 52:2 159:2 advance 46:24 advanced 244:13 advantage 243:24 adversaries 63:2 adverse 149:16 196:13 197:25 199:16,17 200:5 adversely 288:9 288:10 advice 92:19 223:13 advise 90:6 175:17 229:15 299:8 advised 175:11 246:25 270:19 advisor 234:21 advisory 78:5 213:21,22 218:9 advocate 18:7 advocated 93:14 aegis 257:11 aerial 197:18 affect 23:6 61:22 129:16 277:9 288:10 306:17	affidavit 232:24 270:9 affirmed 240:13 affirming 259:8 affordable 78:10 aforementioned 265:21 africa 256:7 afternoon 102:23 249:5 277:3 296:4 age 120:22 agency 311:18 agenda 49:18 91:20 110:9 153:4 235:4 agents 311:18 aggressive 245:5 aggressively 263:21 ago 55:24 121:4 135:25 152:18 159:5,6 167:24 179:15,17 255:15 273:2 agostino 1:21 agree 62:23 100:2 138:23,25 237:14 237:18 238:7 250:20,23 281:4 287:13 agreeing 168:7 292:8 agreement 255:12 257:8 agrees 250:9,14 ahead 71:2 74:20 aid 77:2 103:5 alana 272:15,16 albany 190:17 alert 255:20
--	--	---	---

alison 282:13,24 allegations 178:10 allege 16:9 232:20 alleged 196:16 211:4 232:12,17 alliance 78:8 allison 1:17 allow 4:19 14:13 228:7 236:2 allowed 240:9 251:11 267:16 allows 240:5 alluded 196:20 278:16 alluding 183:20 alongside 246:21 aloud 86:16 158:14 alphabet 149:7 alter 150:24 alternate 153:22 154:3,9 223:19 alternately 176:4 alternatively 269:22 alum 278:2 303:6 amarroquin 238:22 amazing 265:5 ambient 142:7,12 142:16,21 143:9 143:14 144:6 145:14 146:3 199:7 ambiguity 153:7 amend 177:6 180:18 amendment 155:9 157:16 204:10,11 308:5	amendments 158:6 america 253:10 256:7 261:5 american 77:23 253:16 262:11 265:13 amount 95:14 98:5 139:3 142:20 265:2 277:20 284:8 291:5 amplified 117:21 analysis 67:10 124:23 128:6 306:11 analyst 55:14 analytical 257:2 ancillary 82:12 andres 276:22 andrew 127:9 anger 42:5 221:8 angered 265:16 announce 95:24 96:7 292:18 announced 100:12 annual 270:17 annually 57:17 242:6 answer 32:14 73:20 229:23 234:25 282:20 295:12 answered 74:23 173:17 answers 69:3 anticipate 4:9 280:13 297:9 anticipated 5:24 239:8 anybody 61:17 73:5 88:3 96:5	117:11 120:7 159:16 185:15 257:21 266:13,21 273:18 276:19 284:5 anyway 282:24 284:14 303:21 apart 209:6 apologize 71:14 86:17 120:25 227:22 302:10,17 310:7 apology 262:23 appalled 284:15 284:17,18,19,21 285:13 appalling 284:4 apparent 46:25 100:18 appeal 30:11 32:3 183:8,9 appealing 2:20 appeals 23:2 187:9 187:12 216:10 235:18 241:25 258:8 appear 22:23 36:24 37:7 44:7 95:23 96:6 141:22 appearance 17:4 22:10,18 23:7 24:15 25:15 34:25 56:6 64:7 66:12 92:22,25 93:23 154:21,24 155:4 155:24 156:9,17 201:7,25 202:8,15 202:16 222:18 306:8,20 appearances 1:14 15:5 18:18 231:5	appeared 18:5,12 34:5,23 43:7 91:20 110:8 153:3 299:24 appearing 37:18 83:23 203:6 231:15 appears 82:2 83:17 87:17 88:18 appellate 35:23 38:14 216:8 applaud 275:6 289:11 apple 296:3 applicable 156:4 applicant 14:13 48:12 50:9 51:19 72:17 80:5 82:10 82:15 106:22 147:11 148:6,15 167:2,5 177:24 183:17 184:2,21 244:22 245:19 249:9 281:9 313:8 applicants 51:10 51:11 104:7 272:9 299:19 312:23 application 9:24 10:20 11:3,7 13:17 14:6 16:11 16:15 17:14 18:14 19:12,15,18 20:22 21:3,11 23:12,21 23:25 24:4,25 25:19,24,25 27:6 27:11,19 29:6 48:6 51:13 58:24 59:17 61:10,14,18 81:8,25 82:22 85:13,21 86:9 88:7,24 90:17
---	---	---	---

91:17 92:25 93:7 93:12 94:6 96:7 96:13,19,23 98:13 100:23 102:5 104:8 114:17 117:7 148:11 150:9 151:15 152:5,9,12,14,18 152:21 154:8 156:8 157:14 158:10 160:13 162:24 165:24 166:24 167:15,23 168:13 169:21,22 170:4 173:6,11,23 174:5,21 176:21 178:7 179:23 180:12 189:24 192:9,16 194:20 196:15 205:3,9,12 212:7 215:3,5 216:23 217:11,15 221:3,12 222:8 223:8,12 244:19 251:13,17,20,24 268:12 277:13,19 277:22 278:13,14 280:8 281:8 299:13 applications 9:19 22:16 41:19 46:3 49:6 50:6 59:18 119:24 157:7 160:15,24 162:5 162:15 175:7 180:10 181:7 242:10,22 245:21 299:23 applied 17:9 24:20 48:4 72:18 222:20 306:13,15,22	applies 22:4 23:10 apply 200:24 applying 23:10 41:24 68:10 201:22 appoint 35:20 36:2 appointed 5:18 10:6 45:23 79:3 213:3,7 282:8 appointee 294:5 appointing 4:5 37:25 appointment 10:17 105:9 303:12 appointments 73:15 appraisal 124:16 125:23 126:17 174:20 194:18,19 appraiser 124:18 124:21 appraiser's 125:8 126:21 131:6,10 appreciate 70:4 185:3 approach 299:22 approached 90:9 appropriate 2:25 32:23 64:2 70:22 108:16 186:12 187:15 254:10 265:23 284:14 285:23 appropriately 12:3 189:17 approval 24:22 47:25 48:16 81:8 147:12 149:13 157:9 167:2,14	approvals 24:23 161:2 approve 96:22 216:24 approved 84:20 85:15 92:6 177:23 183:16 184:20 199:20 222:5 244:14 277:21 approving 164:21 167:13 approximately 14:11 77:5 126:3 126:6 127:13 128:10 140:14 254:15 297:6 april 4:21 5:4 160:5 arbiter 74:7 150:17,25 210:8 arbitrary 216:4 227:2 architect 212:21 area 52:5,14 53:22 72:2 74:25 75:6 128:23,24 136:3 194:6 196:4,5 203:12,16 204:13 212:15 299:12,16 303:20 argue 192:22 238:10,11 312:2 argued 156:16 195:13 209:14,14 arguing 12:14 argument 157:3 186:23 189:20 215:18 277:23 280:24 281:12 arguments 2:12 28:21 32:11,15,17	32:20,23 36:19 203:3 arising 101:8 195:19 aristotle 256:20 arrive 148:22 arriving 250:25 article 2:25 9:10 22:22 30:18 226:24 230:11 234:5,8 242:20 267:22 291:24 articles 190:20,20 aside 234:12 314:4 asked 68:20 89:12 102:25 106:9 116:6 145:13 151:3 173:7 282:15 299:18 303:15 305:14 asking 59:2 133:12 150:18 155:16 184:3 234:20 275:16 asks 208:22 aspects 165:3 168:6,10,14 asserted 99:20 100:21 assertion 12:4 assess 241:5 269:9 assessing 312:15 assessment 250:10 asset 177:24 183:17 184:22 assigned 2:16 assignment 296:8 296:12 assist 31:7 76:22 296:10
---	--	---	--

assistance 289:6 assisted 3:10 associate 90:3 associated 264:18 associates 124:17 association 214:4 242:16 assumed 256:18 277:8 assuming 236:21 assurance 12:6 assure 3:3 245:16 assured 240:15 atonement 180:24 attached 125:21 157:22 173:20 174:17,20 175:24 176:11 177:14 attack 258:16 266:13 286:11 attacked 284:25 attacks 171:24 178:13 179:9 266:21 attempt 165:9 169:13,19 170:2 219:7 attempted 42:19 220:18 256:6 attempts 228:20 259:9 attend 53:15 283:10 284:11 attended 250:22 attending 5:19 attention 230:21 231:23 268:20 285:17 attitude 41:23 112:22 113:9 114:6 116:17	117:22 120:10 231:3 245:6,8,19 259:7 278:15 289:2,2,10 291:2 attitudes 271:9,12 attorney 30:7 34:13 43:18 53:11 53:13,15,16,17,19 89:14 91:13 117:23 118:23,25 119:14 175:15,15 194:15 195:13 213:22 218:8,12 269:14 278:18 285:22 294:10 298:4 307:24 attorney's 102:7 attorneys 22:25 278:4 298:6 audience 214:19 audio 7:8 45:2 106:10 auggie 44:6 august 46:17 112:10 austin 256:25 author 190:18 202:5 230:23 authorities 213:20 213:25 220:22 265:24 authority 2:9 3:22 4:5,8 36:12 37:21 37:25 38:4 252:23 297:21 304:19 authorized 44:20 44:24 authorizes 229:25 authorizing 164:10	automatic 106:23 243:25 automatically 50:24 53:5 104:8 avail 289:5 available 6:10,19 9:4,15 55:2 137:3 138:2 178:15 287:7 availed 2:21 avenue 238:23 260:11 272:17 286:18 average 80:8,15 avoid 22:18 92:23 101:5 176:7 222:6 253:24 award 77:21,24 awarded 77:19 aware 18:15,17,20 19:6 47:14 52:10 52:15 66:19 67:20 92:8 155:8 159:12 160:17 163:12 249:19 awkward 301:18 ax 106:20	296:2 background 8:15 9:16 10:4 13:21 43:19 55:10 76:13 94:10 backgrounds 311:16 backup 310:4 backyard 131:20 132:3,4,11,23 133:23 bad 289:10 308:8 balances 239:25 bank 255:4 bar 214:3 barberio 122:23 210:13 bartels 317:7,23 base 13:10 based 2:3,25 8:19 8:23 30:23 37:23 41:12,21 62:17 92:4,19 103:4 107:4 148:13 177:7 189:17 195:2 199:25 220:2 222:3 227:4 227:17 229:3 233:8 243:18 300:2 307:9 baseless 171:23 178:13 179:9 basic 47:8 135:4 basically 46:2 245:6 279:21 284:15 295:9 basis 37:19 70:3 100:21 114:21 192:25 195:10 201:12 219:25 225:11 226:23
		b	
		b 143:3 back 47:19,24 55:4 64:14 105:15 109:17 112:19 115:19 116:12 119:12 129:20 130:15,17,18 132:9 134:7,22 148:5 167:11 177:20 182:18 188:2 217:18 235:10,14 257:15 272:25 280:7	

244:25 280:19	believed 43:11	bid 121:13	34:10,24 35:6,7,15
bat 258:3	89:8 158:8	big 73:4 289:16	35:21,22 36:13,25
beach 160:15	believes 157:4	312:18	37:3,4,21,24 38:2
161:11,14,16,18	179:18	bigger 311:14	39:8,10,24 40:8,14
162:5,6,7,19,21	belonged 120:24	bill 279:16,17	40:16,20,22 41:2,2
215:3,6 286:18	belongs 256:12	bills 164:11 165:4	41:9,12,21 42:2,10
bear 5:20 269:20	benefit 16:25	bit 162:16	42:18,23,25 43:3,7
bearing 245:15	18:24 22:7 24:12	black 257:11	43:9,10,15 44:2
303:10	25:17 86:19 87:6	blasting 139:13	45:21,25 46:2,11
bee 273:5	87:11 92:5,24	141:7,8 143:11,15	46:14,19,24 47:6,7
beginning 113:2	93:19 101:2,9	144:10	48:3,5,7,9,20 49:5
290:6	154:19 191:16	blatant 171:22	49:17,21 50:3,4,10
behalf 31:15 62:10	207:10 221:11	179:7	50:11,20 51:7
62:20 224:22	222:4,7 239:19	blatantly 98:13,21	52:3,11,12,22 53:2
283:4 285:4	244:4 270:3	220:25	53:3,10,15,20 54:7
behavior 68:8	277:21 284:20	blinkoff 1:20	54:13,14,19 55:20
186:12 308:10	302:12 305:25	blood 317:14	55:21 56:8,11
belabor 146:13	306:5,6,7 312:9	blue 136:3	58:2,7,20 59:6,12
belief 151:4	benefits 15:8	board 1:18 2:4,7	59:19,24 60:3,17
beliefs 271:12	241:15	3:20 4:3,4,6,8,10	61:3,22,23 63:6,19
believe 44:16	bermudez 276:22	4:16 6:14 7:25	63:25 64:9,11
47:10,17,19 49:14	best 3:4 5:17 62:3	8:16,18,20,25 9:7	65:4,9,10,20,21
51:6 54:16 58:15	94:5 157:4 176:24	9:14,19,25 10:2,7	66:25 67:4,5,9,9
90:2 92:19 93:22	186:8,9 238:11	10:19,21 11:4,5,9	67:11,11,14,16,21
95:15 104:24	245:9 258:15	11:14,21 12:5,23	67:22 68:5,8,11
105:2 109:12	272:22 300:6	13:4,10,18,19,22	72:7,21 73:13,16
112:11 119:3	301:15 302:15	13:23 14:21,25	73:16 74:24 75:7
137:25 138:14	better 256:5	15:5,11,18,23 16:5	75:8 76:20 77:13
139:13 147:5	265:25 278:12	16:12,21 17:6,10	77:24 78:2,6,6
152:19,22 157:21	286:5,10	18:6,10,13,19	79:17,23 80:9,18
160:24 173:2	betterment 273:10	19:16,19,21 20:3,9	81:4,10,15 82:18
174:9 202:22	beyond 39:21	20:11,15,23,25	83:2,3,8,12 85:5
239:4 249:16	58:12 94:24	21:6,8,12,14,17,18	86:4,7,24 87:24
250:11 252:19	189:20 232:19	24:9,18,20 25:22	88:6,9,14 89:2,22
261:21 262:18	233:14 248:6	26:3,7,20,23 27:8	90:6,15 91:10,11
265:13 266:22	bias 42:13 53:5	27:9,14,16,20,22	91:12,20,24 92:12
271:7 276:11	123:17 209:22	28:3,7,20,22,24	92:13 95:24 96:6
279:17 280:11	211:4 231:10	29:2,5,12,21 30:3	96:19 97:5,12,15
295:13 297:23,25	biased 211:9 232:2	30:5,12,15,23,24	97:21 98:17,25
298:5,6 299:25	biases 41:25	31:3,6,13 32:10	99:3,10,12,16
308:2,5 311:25	231:13	33:9,21 34:4,6,8	100:11,17 101:12

101:14,15,18,21	172:2,4,8,13,14,18	220:17,19,23	289:19 290:5,19
101:25 102:8,14	172:19,25 173:6,9	221:6,12,15,21	290:24 291:9,15
102:19 103:11,16	173:15,18,24	222:13,15,20	292:9,11 293:24
104:5 105:4,23	174:2,12,13,15,23	223:2,11,18,20,22	294:3,5,7,15
106:6,9,16 107:17	175:3,4,6,10,13,15	223:25 224:6,14	295:16,19,20
108:2,6 109:11,13	175:17,19,22,25	224:17 225:2,7,10	296:7,22,24
110:3,8,13,16,22	176:5,8,9,19,21	227:8,15,17 228:3	297:13,16,18
111:7,12,24,25	177:3,4,8,9,11	228:10,18,23	298:7,13,18,21,22
112:4,12,19 113:4	178:8,11,20	229:2,4,7,11 230:2	298:24 299:3,4,7,8
113:12 114:14	179:10,13,18,22	230:4,9,12,14,16	300:3,5,16 301:3,6
116:21 117:2,6,10	181:4,21 183:3,6	230:16,22,25	302:8 303:3
117:23 118:12	183:20 184:3,4	231:14,15,17,24	308:12 309:3,10
119:2,5 120:11,17	185:2,12 186:3	232:5 233:7,17	311:23 312:13,19
121:8 122:5,8,9	187:19 189:7	234:16,19,20,24	312:19,20 313:5,7
123:7,13,21 124:4	190:3,8 191:3	237:12,13,22,23	313:17 314:11
124:8 125:3,23	192:15,16,18	237:24 238:2,13	board's 9:12 11:20
126:18 127:2	193:16 194:2,14	238:14 239:3	13:8 14:5 15:25
129:8,9,12,21	194:15 195:8,15	241:25 242:5,7,25	32:4,5,18 41:15
138:18 139:11,21	196:16 197:13	244:11,14,17	42:4 53:14,19
141:4 146:17	198:6 200:8,10,19	245:2,9,17,21	61:13 82:20 88:23
147:3 148:4,12	201:2,4,11,14,16	246:3,4,7,11,18,25	96:12 97:23 98:4
149:19,21,25	201:21 202:17,19	247:6,10,14,17,21	99:17 100:7 102:3
150:7,8,23 151:17	202:20,25 203:2,4	247:24,25 248:9	113:6 154:6
152:11,24 153:3,9	203:9,11,17,21	248:12,13,13,16	166:25 169:18,20
153:15,18 154:3	204:7,9,15,16	249:15,17,19,22	221:8 250:2,10,17
154:15 155:4,9,14	205:2 206:3,5,13	251:4,15,19,23	251:6 259:18
155:15 156:6,15	206:15,20 207:17	252:2,17 253:19	289:4,8 305:8
156:16,21 157:3,5	207:24 208:2,13	258:8,15 259:5	boards 12:13
157:10,11,15,16	208:23 209:3,12	262:14,16 267:8	22:13 54:2,6 55:5
157:23 158:2,3,7	209:18 210:14,15	267:13,17,18	63:21 67:3,23
158:15,16,19	210:20,23 211:3	268:2,19,21,23	79:16,20 149:5
159:15,22 160:5,9	212:13,14,19,20	269:4,16,25 270:5	157:7 159:20
160:10,18,20,22	212:25 213:8,11	270:9,16,19 271:6	208:12 209:9
162:13 163:13,25	213:14 214:10,16	271:13,17 273:3	212:17 222:24
164:5,7,14,24	214:18,20,23	273:13 274:19,24	238:5 240:21
165:10,18,25	215:20,23,23	274:25 275:3,6,12	242:11 309:2,9
166:11 167:11,12	216:10,13,25	275:18 278:16,20	311:11,15 312:3,8
167:20,22 168:4	217:7,14,22 218:5	279:23,25 280:6,6	312:10 313:24
168:18,23 169:14	218:10,19,25	280:7,10 285:9	bob 89:14
170:3,6,13,20,25	219:8,13,16,19,19	286:8 287:3,14,20	body 5:8 87:24
171:2,6,9,11,24	219:25 220:2,14	288:8,16 289:15	104:16,21,25

132:13 135:6 205:20 boe 173:4,8 184:19 boiled 298:11 bono 77:6 78:22 books 190:19 256:3 257:6,23 bother 254:21 bothered 265:10 bottom 127:20 221:13 227:25 286:7 bought 135:25 boundary 12:21 13:7 51:17 139:24 313:4 bradley 225:3,7 225:16 break 115:8 116:2 130:18 187:4,6 188:2 breakfast 313:7 313:12 breathing 145:24 146:6 briefed 202:12 briefly 305:14 bright 156:11 brilliant 237:15,23 bring 138:8 210:20 288:3 291:6 302:6 bringing 23:20 268:19 brings 209:17 239:17 broad 226:2 240:10,21 broken 240:4 brought 9:10 30:18 40:4 121:8	172:24 267:21 290:17 307:3 brown 257:12 browsers 310:10 bruising 301:10 budget 79:5 buffer 48:18 buffering 125:17 build 48:16 building 16:19 46:4,10 80:6 127:23,25 128:21 130:20 140:18 163:3 205:16 247:12 buildings 144:4 builds 78:9 built 18:21 128:23 254:23 bulk 140:9 163:10 bullet 69:7 146:17 146:21 147:2 197:14 bullied 176:4 bullies 259:3 bunch 105:15 110:23 business 80:9 191:18 212:19 306:3 311:19 312:25 313:3 businesses 161:5 busy 76:15 105:20	304:5 called 28:19 37:2,5 57:10 89:11 91:22 102:24 103:18 104:16 148:20 173:7 287:9 297:13,14 calling 34:14 253:24 283:3 307:17 310:10 calls 188:25 camera 227:12 canon 22:24 canons 22:24 capability 44:20 capacities 299:25 capacity 17:19 53:2 91:13 175:14 267:17 capital 219:23 caprice 38:17 capricious 227:3 care 264:9,20 cared 310:21 career 39:15 55:13 careful 303:18 306:25 carefully 36:21 cares 263:4 279:8 carol 124:17 131:5 carry 205:22,25 206:19,20,22 case 37:6 38:9,13 94:10 98:15 108:15 117:11 122:11 168:21 170:11 187:16,17 193:10 201:5 202:24 210:6 211:5 212:3,11,22 213:19 215:14,25	216:3,9,16,17 224:22 226:23,23 227:6,11 229:19 235:23 237:3 250:12 256:9 265:6 268:8 269:5 277:18 cases 215:22 216:7 216:13 308:16 catchall 152:2 categories 226:2 226:15 227:20 category 67:4 cause 3:21 4:3 38:11,12,15,16 145:7 147:7 188:19,20,22,22 253:5 290:4 caused 198:4 253:5,6 257:16 cazes 1:23 cedar 291:19 cell 102:24 center 136:5 144:18 146:9 199:15 260:22 261:25 262:2 central 78:24 273:7 certain 46:9 47:23 53:4 176:12 203:13 210:4 226:14 264:23 277:9 certainly 34:24 56:6 73:7 93:13 93:18 94:3 96:8 185:21 198:21 207:17 239:16 259:20
	c c 76:6 317:2,2 cajoled 176:4 caliber 59:8 call 28:18 33:19 34:7,8,11 43:24 68:14 264:7 273:3 285:15 293:10,14		

certificate 80:25 81:2 209:13 certificates 110:25 certify 317:9,12 ceu 242:6 chair 34:10 40:19 45:23 78:2 79:2,2 89:2 91:11,12 98:17,25 99:3 112:11 121:12 160:20,23 165:14 175:6,19 207:24 214:6 267:14,18 268:2 269:17,25 294:15 299:13 chairman 219:13 219:16 chairperson 43:25 77:17 chairs 312:20 challenge 32:5 241:12 challenging 9:11 chamber 224:16 chambers 227:13 chance 243:18 change 181:14 203:10 259:10 298:24 309:2 changed 180:8 299:5 changes 155:16 267:19 275:22 304:9 chapin 79:3 120:18,19 121:5 121:18,22 122:4 123:17 124:3 210:7 chapter 21:25	chapters 190:21 character 38:22 39:3,8,13,21 56:23 57:6 188:24 189:8 189:19 233:3 239:13 258:20 characteristics 58:16 209:2 characterization 245:14 characterize 59:10 60:15 208:5 characterized 220:4 charge 20:5 26:10 261:7 charged 29:16 41:10 111:18 112:3,5 155:21 261:9 charges 16:4,8,16 19:24 20:4 21:16 23:16,20,23 24:5 26:6,9,13 27:25 29:20 40:3 103:11 112:17 117:8 121:7 175:23 185:17,17 288:4 290:16 291:4 charitable 77:7 chart 141:21 144:16 198:24 check 110:15 checker 289:21 checks 239:24 chemicals 130:9 147:7,17 199:22 chicks 56:13 children 120:20 120:21	chilling 288:7,17 chip 95:8 chipping 139:13 141:7,8 143:11,15 144:10 choice 86:6 chon 259:24,25 260:4 266:7 chose 4:12 230:14 chummy 269:24 cindy 2:5 45:15 75:21 237:11 252:22 258:16 268:4,5,7 269:17 270:6,24 271:4,8 272:18 273:4 274:6 276:5,13 283:3,18 284:16 289:12 290:22 292:16 293:20 295:4,14 297:14 300:18,23 301:3 301:12,21 307:18 308:18 309:21 310:11,11,12 312:10 313:18 cindy's 258:19 circumstance 75:6 circumstances 30:2 75:2 165:13 170:7 180:13 181:5 195:19 196:18,19 216:15 219:12 citations 202:24 citizen 258:7 291:22 302:7 307:7 citizens 282:3 city 224:23,24 225:2,13,17 227:5	civic 39:16 233:5 civil 55:14 118:20 claim 146:20 223:20 232:21 claimed 41:3 129:11,14,22 192:20 221:21 claims 30:19 101:12 clarification 244:6 clarify 40:17 276:3 clarity 153:7 155:6 157:5 239:25 class 254:8 classes 253:20 classic 256:24 classified 84:15 91:25 classify 50:21 83:13 85:6 86:5 90:14 168:12 190:6 217:13 classifying 88:11 classroom 257:24 cleaned 274:14 cleaning 263:15 clear 13:10 30:8 32:21 37:22 48:8 48:11 85:4 90:24 94:7,11 101:7 122:3 141:3 184:15 185:23 187:7 193:10 232:13 235:17 249:16 250:18 260:3 261:10 271:5 277:15,18 278:14 283:11
--	--	---	--

cleared 314:11 clearly 131:21 195:17 231:13 240:15,20 261:19 262:22 264:11 308:17 clerk 1:21,22 7:15 238:21 clever 253:19 cliff 1:23 cloak 224:15 275:11,24 cloaked 38:18 close 10:10 13:6 68:9 72:3 120:20 127:4 130:19 195:25 234:9 244:19 274:5 314:16 closed 8:12 173:25 174:22 closer 127:5 195:25 268:17 closest 139:25 145:16 146:4 closing 186:23 187:4 188:10 215:17 253:9 clouding 270:4 club 9:23 10:11 29:8 104:11,13 109:23 120:24 132:24 140:25 160:15,24 161:3 161:16,19 162:5,6 162:7,19,21 163:2 163:9,20 215:3,6 clubs 161:8,11,14 253:22 coastal 67:12 77:15 79:18	119:23 136:25 149:24 208:14 217:17 237:12 293:19 295:3 299:14 code 4:7 8:22 10:25 11:25 12:7 14:3 16:3,9,19,20 19:22,25 20:6 21:15,20,21,23 22:5,8,11 23:23 24:7 26:4,12,14 27:23 28:10 29:12 29:19 30:11,16 32:20 37:15 42:8 46:5,8 48:25 49:3 49:12 51:8,21,25 72:10 83:10 85:9 86:12 87:17 97:25 98:14,22 106:25 113:8,14 116:22 117:25 122:6 123:8 154:11 155:10,22 156:5 158:6,14 159:2,9 160:8 164:6,19 165:5 168:19 171:17,21 177:6 178:25 179:24 180:12,16,16 186:4 191:13,21 201:7,19 210:13 211:25 212:7 219:3 221:2 222:19 223:3 225:5 227:7 228:2 228:9 229:25 230:8 231:4,6,18 233:12 240:3 244:3,23 262:5 267:19 287:22	298:15,16,25 299:6,9 304:10 305:23 codes 240:5 299:21 codified 279:3 codify 53:9 cogent 208:22 212:10 colleagues 207:14 211:7 217:23,25 311:24 college 190:15 color 261:17 colored 231:12 column 142:4,6,19 143:5,17,24 145:22 combination 82:9 come 66:5 67:18 81:6 85:8 106:7 129:20 137:22 172:18 235:9 241:11 243:19 251:18 264:15 271:22 278:8 295:11 307:22 309:2 314:3,25 comer 300:22 comers 309:8 comes 58:24 131:5 181:4 206:17 207:16 211:21 259:19 273:15 275:21 278:19 304:24 comfortable 64:18 64:25 coming 107:12 144:4 222:15 295:16	commenced 249:20 255:16 commend 230:20 231:23 comment 4:12,13 7:16 8:7 56:10 236:2 242:2 245:18 283:8 302:2 303:24 304:24 305:7 commentary 213:20 commentators 202:3 commented 312:22 commenting 282:18 comments 3:8,10 7:3,5,11,16,19 8:9 31:5 164:23 167:20 235:7,10 235:16 236:10 246:4 247:9,15 248:22 249:2 252:10 271:18 302:7,18 303:3,16 303:19,22 304:14 314:15 315:7,8,11 315:13,14,17,19 315:23 commission 22:14 77:16 119:23 157:12 293:20 295:4,6 298:18,22 299:8,15 commitment 79:21 208:8 committed 29:15 40:21 92:15 287:21
---	--	--	--

committee 78:3,5 79:2,5,18 149:24 154:15 208:15 214:5 217:18 225:23 308:22 311:23 312:14 314:2 committees 310:14 311:15 312:3 common 22:20 58:9 144:19 243:2 243:3 244:7,13 314:4 communicated 35:7 communication 297:16 community 57:4 77:21,23 151:25 182:18 189:19 213:2 234:16 248:8 253:4 261:14,24 262:24 266:15 279:9 283:21 284:2,6,21 284:24 286:11,12 300:21 companies 294:16 company 296:9 compare 205:25 216:17 267:11 compass 276:9 compensate 263:2 compensated 46:12 competent 213:14 287:15 compiled 8:25 117:14	complainant 176:2 269:11 complained 164:12 254:17 complaint 108:10 108:21 122:7,25 123:6,11,14 164:4 175:8 178:2 185:11 210:15 268:25 269:19 270:2 290:4 295:21 complaints 55:12 55:17 175:21 269:2,4,6 complete 6:3,14 41:9 80:18 180:5 242:6 completed 80:21 174:21 209:10 completely 60:18 107:13 164:17 285:23 completes 50:9 completing 81:3 completion 7:4 125:19 compliance 111:2 200:3 complicated 56:5 60:14 complicit 261:22 263:25 264:2 complied 70:12 complies 264:7 complimentary 208:7 comply 181:13 228:11 301:7 component 294:2	composition 240:20 comprehension 58:11 compromise 115:11,13 compromised 305:6,10 comptroller 213:24 conceding 151:9 concept 173:9 201:25 202:7,15 concern 269:7,14 270:15 271:6 306:4 concerned 64:13 238:12 272:4,19 288:13 290:5 291:22 305:23 concerning 164:15 165:3 concerns 12:13 15:25 97:10,15 98:16,24 99:4 148:7 150:5 251:16 274:18 299:3 307:20 309:13 conclude 11:23 151:2 178:20 204:23 229:17 265:8 271:20 concluded 11:22 29:13,22 41:14 170:6 199:24 218:25 221:16 316:7 concludes 182:4 186:18 301:25 316:3	conclusion 33:24 41:16 55:18 138:24 139:2 171:12 183:2 229:20 278:21 conclusions 12:10 229:2 condescendingly 288:23 condition 18:23 conditions 195:19 conduct 12:7 41:4 48:20 86:23 97:23 98:11 113:6 141:13,16 171:16 178:24 179:19 180:8,20 186:14 201:10,13,14 213:17 219:21 220:5,6,12 223:5 224:20 259:18 267:13 288:11 304:17,18 conducted 28:3 47:15 56:14 63:20 114:9 159:17 conducting 28:4 33:23 62:13 69:21 155:18 confer 226:13 conference 4:21 5:10,11 7:9 conferred 175:18 confers 226:20 confidence 157:8 288:2 confident 258:25 287:3 confidential 171:19 179:4 224:4 226:5,8
---	---	---	--

227:8 228:4 267:22 confidentiality 66:2,4 176:18 224:10,13 225:25 confirm 66:8 178:24 204:2 confirming 171:14 conflict 17:4 21:22 22:10,21 24:15 25:15 53:6 92:21 93:10,23 95:16 100:14,15,18,22 101:6,8 111:4,10 154:21,24 156:9 158:9 162:24 174:10 175:11 193:4,12 194:7 195:14 202:16 205:7 208:19 210:25 239:7 242:19 243:5,13 243:16 244:2,12 246:14,19 247:19 261:10 278:12 298:2,5 302:13 306:9,20 conflicting 23:5 302:15 conflicts 191:6,7 242:3 248:15 281:21 282:7 313:14 conform 171:16 conforming 293:6 confounds 64:7 confrontations 264:16 confused 117:12 282:17 292:7	conjunction 49:15 conjures 258:11 connect 14:13 connected 7:6 connection 14:8 18:13 85:2 93:6 215:9 255:4 connections 84:22 85:17 conscientious 39:24 42:6 conscientiously 202:22 consecutive 107:8 consequence 280:2 conservation 149:15 consider 3:9 32:11 32:25 41:15 43:13 50:4 67:3 75:6 97:13,22 98:3 99:8 113:5 155:16 166:16 179:22 206:16 220:13 245:19 268:22 270:20 284:5,16 289:4 297:17 considerable 92:10 consideration 11:2 11:20 14:5 19:13 25:22 29:5 67:10 82:21 88:23 96:12 96:18 154:7 156:7 166:10,25 217:7 217:25 281:3 288:17 309:18 considered 212:10 217:23	considering 8:17 30:21 32:7,9 98:5 125:11,15 149:13 173:9 174:14 188:17 268:15 285:23 291:14 296:15 considers 271:9 consistency 308:14 consistent 150:10 290:18 consistently 15:7 216:14 225:22 309:14 consists 82:3 constituents 293:7 constitute 287:18 289:9 constituted 29:11 constitutes 243:25 244:9 289:10 constitution 200:23,24 204:3 211:16,17 253:13 271:10 308:4 constitutional 211:13,20 224:2 247:8 constitutionality 30:10 construct 18:9 129:2 constructed 17:15 128:2 constructing 17:25 construction 17:14 18:25 24:25 25:10 82:6,10 84:18 85:14 91:19	125:19 127:23 128:9,21 130:6,7 139:4,5,14,17 140:5,12,18 141:9 142:10,20 143:11 143:15,19 144:3,9 144:11 145:17 147:7 149:12 191:25 192:4 196:9 198:23 199:7 200:6 205:15,15,17,18 construed 23:2 construes 259:6 construing 205:17 consultants 80:4 consultation 296:17 consulted 92:17 93:20 220:15 298:3 consulting 140:23 296:9 contact 103:10 108:15 294:10 contacted 11:5 15:18 108:9 contacting 89:15 contained 10:3 13:20 containing 199:22 contains 190:8 contemplated 113:14 116:22 content 42:16 contents 180:22 contest 289:8 context 119:4 183:25 184:24 185:4,20 202:11 268:4
---	--	---	---

continue 5:7,17 19:9 105:5 107:9 107:18 108:11 109:19 111:16 112:9 115:20 149:2 156:13,24 164:25 168:5 178:12 288:15 301:21 continued 124:3 166:3 173:22 continues 25:20 contractors 311:20 contracts 242:21 242:22 contradicted 126:23 204:5 contrary 12:4 38:21 171:20 189:21 195:8 221:4 223:19 contribute 95:11 contributing 261:15 285:5 contributions 189:18 contrite 223:6 278:24 279:5 contrition 179:21 180:15,24 222:25 278:23 289:7 control 139:6 144:19 146:10 199:15 200:3 253:14 controls 104:24 controversy 264:24 controvert 13:2	convenient 293:2 convening 5:7 conversation 99:6 109:5 145:2,10,19 146:13 150:20 199:2,11,12 255:22 conversations 240:24 245:12 conveyances 85:2 convinced 287:19 cooper 248:20 249:4,5,6 292:12 cooperated 103:15 173:14 220:17 cooperation 41:9 coordinator 49:15 copied 172:13 174:12 copies 174:20 copy 9:3 68:19 123:6,14 125:22 286:25 corner 132:16 133:15 135:2 197:2 corporation 78:9 correct 48:13,14 63:3,22 94:17 95:5,6 123:18,25 124:2 129:16 132:18 136:17 148:18,25 154:4 155:20 163:11 167:17 168:2 317:10 correia 36:4 correspondence 42:22 119:9 175:3 corruption 266:8	cost 19:2 92:10 94:4,23 95:2,6,12 241:16 255:9 279:19 costly 240:13 costs 264:19 counsel 8:3 15:20 28:15 43:2 45:15 71:19 78:18 89:15 91:14 119:2 174:7 175:9,16 220:15 223:13 225:13,17 242:16 counted 207:4 countless 190:20 country 9:23 10:10 29:8 140:25 163:8 211:14 228:6 253:22 307:3,6 county 35:24 36:8 104:11,13 109:23 132:24 137:25 213:8,9,11 317:5 couple 54:17 71:24 115:14 177:19 182:13,22 235:16 301:4 coupled 193:2,13 course 10:12 94:5 135:7 151:5 217:8 220:4,5,11 243:12 245:17 256:7 261:22 303:3,18 courses 252:18 court 2:22,22,23 2:23 6:16 23:2,12 30:19,20 36:7 38:15 82:11 130:23 131:18 133:16 181:9	183:10 186:10 187:10,12 216:6 225:21 227:5 234:4 264:24 315:24 courts 5:16 161:8 225:21 276:16,20 cove 24:24 36:6 covered 85:25 covid 5:18 cowtied 289:14 cpa 76:14 crackpot 212:8 crazy 212:8 276:18 create 37:19 106:12 142:21 created 30:24 103:4 106:8 281:22 282:3 285:10 creates 34:25 56:6 306:19 creator 256:25 credence 280:23 credentialed 271:16 credentials 190:13 254:10 257:24 credits 242:6 crescent 267:3 criminal 278:18 cringed 277:24 criteria 85:21 critical 58:10 288:23 criticize 289:2 cross 63:8 crystal 37:22 cue 7:15
--	--	---	---

culture 272:20 274:22 uomo 4:22 uomo's 4:18 curious 54:4 current 40:19 45:16 76:18 140:8 177:4 190:14 240:20 292:25 296:16 301:17 currently 54:5 102:10 142:11 156:5 178:8 293:17 cursor 136:11 137:6 cut 87:25 277:18 cwp 149:11 cycle 145:3 cynthia 1:7,18 3:18 296:11 297:20 298:8 300:2	dated 42:24 43:2,4 123:4 dates 103:7 daughters 77:22 253:15 david 248:20 249:6 day 28:16 103:17 103:20 114:14 250:19 274:13 292:22 302:17 309:25 317:18 days 28:13 198:16 286:24 292:19 daytime 5:24 db 144:24 de 243:14 dead 130:13 132:17 138:13 deal 46:22 151:11 166:23 dealing 130:5 185:11 deals 129:24 130:2 dean 190:16 dear 123:3 death 279:11 deborah 120:18 120:19 debt 257:16 dec 147:12 december 10:5 45:22 47:9 53:24 77:13 158:24 159:7 300:16 304:22 decibel 144:24 146:8 199:2,10 decibels 142:10 143:2,8,12,13 144:13,20,25	145:2,4,4,7,11,18 145:20,25 146:11 146:14 198:24 199:11 decide 2:22,24 30:20 49:5 69:17 181:9 183:12 187:14 201:12,15 201:17 210:19 227:14 228:24 229:6 261:5 288:21 decided 38:14 49:9 93:4 94:5 162:17 209:23 210:10 214:25 222:9 251:22 280:9 decides 183:11 211:6 decision 2:7,13,24 4:14 8:23 9:6,12 9:14 12:24 13:9 13:11 15:18 20:4 20:12,25 21:19 26:8,20 27:9 28:23 29:2,13,20 29:23 30:12,14 31:12 32:4,6,8,12 32:18 37:16 42:11 42:17 63:12 97:4 98:9 99:10 100:7 111:24 117:11,13 129:9 139:11 146:18 147:4 149:19,21 165:10 169:15,20 170:4 177:14 179:14 186:3,4 193:8 194:25 195:12 196:20 200:11	201:21 210:21 215:15,16,19 216:4 219:9,14,17 221:9 225:6,12 228:16,23,25 230:9,17 231:2 232:4 234:4,24 237:14,17,21 245:3 249:23 250:2,25 251:2,14 251:21 252:4 259:11 266:19 268:7 270:5 276:17 280:21 281:6,18 288:2,19 291:5,13 292:9,14 297:21 301:16 303:23 305:15 306:10,16,21 307:13,21 309:19 311:23 decisions 163:12 163:15 175:2 238:8 276:11 277:15 312:9 declined 95:4 decreed 230:9 dedicated 39:15 39:23 238:4 262:4 313:21 dedication 208:8 deduced 105:4 195:3 230:7 deem 11:25 deemed 33:20 93:2 deeply 188:18 defend 178:12 266:7 defendant 278:24
d			
d 76:6 143:3 daily 291:24 dais 164:13 166:4 214:17 217:22 305:18 damage 145:6 dan 42:23 296:5 dare 234:22,23 266:2 dared 42:7 daria 291:17,19 daring 231:16 darkness 275:12 data 56:4 date 5:14 11:22 159:8 180:7			

defended 120:5 defending 289:7 defense 225:18 264:5 278:18 279:20 289:11 deference 291:2 defined 23:12 46:8 defines 22:5 definitely 138:17 definition 86:2 87:16 306:5 degree 212:24 deis 148:20 delayed 287:8 deliberate 261:15 deliberated 214:25 deliberations 93:6 delighted 284:11 deliverance 295:17 delivered 256:24 delivering 7:18 demand 70:6,8 180:24 262:24 263:9,13,20 demanding 69:20 demands 263:8 264:7 demerit 257:4 demise 253:3 democracy 253:11 democratic 79:2 258:12 demographics 151:25 demolish 14:6 81:12 demolition 82:4 91:18	demonstrably 231:25 232:7 demonstrate 232:18,22 demonstrated 189:9 232:8,13 254:6 demonstrates 147:24 149:9 171:15 176:25 178:21,23 demonstrative 103:3,8 denied 38:7 151:16 225:11 denomination 298:12 denotes 304:18 density 125:16 311:8 deny 150:9 152:5 152:8 denying 64:24 251:12 department 55:15 80:6 149:14 200:2 255:13 departmental 159:15 depend 46:17 depending 6:20 depends 44:12 51:15,18 depict 128:12,15 134:19 135:16,22 depicted 134:9 depicts 131:15 197:19 deputy 1:22 53:17 dereliction 304:17	describe 45:16 56:19 58:19 76:13 77:3 165:17 described 42:9 197:5 describing 84:13 290:25 description 2:14 58:7 71:11 81:25 descriptions 58:5 deserve 269:8 281:9,10 deserves 245:7 265:25 deserving 256:19 design 278:9 despise 271:15 despite 19:9 218:24 228:20 261:10 detail 15:17 39:12 129:19 detailed 12:24 28:25 detect 254:9 determination 31:8 129:13 183:6 183:7,7 195:11 229:7 269:22 determinative 13:8 109:7 determine 3:17 11:16 28:8 63:4 70:18 127:4 148:12 165:6 169:2 205:20 219:4 235:20 304:5 determined 128:15 225:8 234:3	determines 50:11 213:17 develop 148:6 248:25 developer 172:3 312:12 developers 311:18 development 25:8 29:8 51:5 59:22 125:16 126:2,11 127:5,6,15,18 130:10 138:9 163:6,10 195:20 200:14,16 215:10 254:4,18 264:16 264:19 267:20 294:18 311:7 312:24 313:5 developments 264:23 dialogue 255:16 died 57:19 211:19 dies 130:15 differ 244:12 difference 60:5,21 60:25 89:5 94:11 128:19 different 51:9 57:3 63:18 84:14 134:8 186:6 194:11 195:22 288:25 306:18,23 differently 153:6 216:2 226:3,6 differs 298:16 difficult 2:13 31:22 121:11 135:12 227:24 254:9 287:11 310:8
---	--	--	--

difficulties 5:22 diligence 135:24 138:5 diligently 233:14 dining 161:9 direct 16:14 20:17 20:21 22:6 24:2 26:25 27:5 42:5 165:19 166:12,18 175:13 216:20 218:16 259:2 directed 117:25 directing 139:7 direction 64:6 134:23 135:4 275:7 directions 73:6 directly 65:2,21 85:22 172:21 175:16 215:6 291:21 director 49:16 dirt 129:2 disagree 42:7 138:23 231:16 238:9 disagreed 221:13 247:3 disagreement 212:2 233:7 disappeared 295:24 disapprove 96:22 disavows 35:2 discharge 38:24 disciplinary 31:9 33:6 165:12 170:8 202:11 219:10 230:2 discipline 233:20	disclose 16:13 20:14 21:4,9 24:2 26:22 27:12,17 75:4 153:13,17 221:23 224:4 246:14 247:18 251:5 disclosed 250:7 disclosure 10:24 15:22 28:9 29:18 72:6,14 74:24 97:24 99:15 113:7 180:9 226:9 230:6 247:4 251:9 267:23 270:18 272:11,11 288:6 294:21 296:19 297:5 disclosures 14:2 297:4 disconcerting 274:22 discourse 264:4 discovered 246:19 discretion 40:8 49:7 87:14,22 88:8,13 191:5,9,9 205:6 226:14,21 226:22 227:2,3 240:8 304:4 discretionary 22:15 87:3,16,20 191:19,22 discrimination 55:12,16 discuss 11:11 39:11 40:2 41:20 89:16 112:13 230:15 257:9,22 discussed 15:17 17:23 64:22 65:2	100:24 109:18 116:9 220:10 230:24 292:21 discussing 34:15 122:24 146:22 220:21 discussion 52:7 58:13 88:20 114:5 150:16 164:24 167:21 189:25 192:5 292:7 discussions 93:5 103:4 207:13 296:22 disease 144:18 146:10 199:15 disenfranchisem... 261:16 disguise 267:16 disguised 267:15 disgusting 257:14 313:19 disingenuously 100:13 dismissed 12:13 15:24 dismisses 217:2 display 90:25 displayed 256:15 dispute 233:11,14 disqualification 193:2 198:22 204:14 232:4 disqualified 74:6 121:22 disqualify 42:12 73:5,7 122:4,14 123:17 209:21 210:7 disqualifying 193:12 205:7	disregard 171:15 178:21 211:22,24 220:24 262:18 disregarded 223:23 distance 125:12,15 125:25 126:10 127:6 128:16 129:5 130:22 131:2 134:13,15 196:5,8,8,12 203:13 298:20 distancing 253:14 distinction 232:15 distinguish 228:21 distinguished 190:9 distract 245:10 distressed 177:24 183:17 184:21 distribution 261:13 district 18:8 94:2 95:11 243:10 255:14 disturb 48:17 disturbance 146:16 147:5,6 199:21 200:5 diversified 254:2 diversity 274:25 division 35:23 38:14 216:8 305:24 doctor 255:17 doctoral 252:17 doctorate 303:8 doctors 256:2 document 81:18 84:8,12 90:18 96:25 102:10
--	--	---	---

117:19 144:23 145:23 147:21 155:13 160:3 163:21 documentary 43:22 documented 249:14 documents 66:8 66:16,22 70:13 72:16 90:24 98:7 110:24 117:14,16 doing 5:17 50:8 68:6 181:10 183:5 238:5 241:9,20 279:13 316:2 dollar 277:20 dollars 290:13 don 300:23 donation 255:5 door 134:2 175:7 294:14,19 doreen 293:9,10 295:23,24 double 275:15 doubt 240:7 doubts 23:15 draft 68:23 148:21 271:23 drafts 148:20,20 dragged 176:13 285:3 dramatic 132:6 137:4 dramatically 131:20 132:3,12 drastic 304:15 drawn 240:14 drinking 84:24 driveway 82:13	driving 240:19 duces 70:9 due 135:24 138:4 211:12,12,20 230:5 242:8 246:15 248:15 253:11 263:20 271:5 307:8,25 duly 45:9 76:7 271:2 duties 5:18 38:25 158:16,17 233:15 duty 38:23 39:5,22 42:10 175:16 188:25 189:23 233:10 234:11 239:15 304:17 315:3,3 dwelling 82:6	earth 48:17 easier 128:14 easy 117:8 283:10 economic 15:8 151:24 edge 132:4 133:6 133:20 education 55:15 158:18 160:10 educational 47:5 55:17 159:23 294:2 effect 125:18 194:10,12 205:10 218:5 247:6 268:13 277:16 288:7 effective 244:16 effects 288:17 effort 111:11 efforts 15:2,17 egregious 219:21 eiff 310:2,3 eight 78:25 288:3 302:22 either 10:9 37:2 53:16 71:11,12 80:16 87:23 108:14 161:22 178:25 180:9 191:17 199:5 210:19 226:10 elected 121:14 159:15 213:3 261:19 election 121:13 element 176:17 elements 38:12 elevated 132:8 elevation 134:8 197:17,24	elicit 208:22 eliciting 63:10 eliminating 237:20 elite 253:5,6 elites 263:5 ellen 181:21 eloquently 183:9 187:16 emails 119:12 246:17 emotional 285:7 empathetic 291:11 employee 26:17 86:25 87:7,10,23 154:15 159:14 191:16 263:15 employees 47:15 47:23 118:6 120:2 158:20 159:24 160:11 214:13 222:23 employment 78:12 78:14 enact 203:22 204:4,10 enacted 47:20 244:20 enacting 204:3 enacts 201:2 encounter 198:12 encouraging 15:14 ended 290:21 306:6 energetic 40:21 energy 120:14 284:20 285:5 enforce 298:14 enforced 270:24 engaged 205:4
	e 3:8 8:10 15:4 45:8,8 76:6 90:10 91:9 95:22 96:8 102:6,9,22 103:18 103:20 105:15 110:2,24 119:12 170:24 171:10,18 172:7 173:4 176:15 185:5 223:21,24 224:3 230:15 236:9 247:23 249:4 289:17 315:18,20 315:22 317:2,2 eagle 140:11 earlier 117:18 150:16 302:11 early 55:13 57:6 152:21 296:14 ears 145:8		

engagement 210:5	151:21,22 152:3	13:10,19,23 14:3	117:10,23,25
engaging 231:7	197:25 199:17,23	15:18,25 16:3,5,10	118:11 119:4
engine 145:3	epidemic 255:19	19:25 20:3 21:17	120:17 121:8
engineer 12:17	equity 177:25	21:18,20,21 22:5,8	122:6,8,9 123:7,13
13:3 117:24	183:18 184:22	22:11,25 23:18,24	123:21 124:4,8
119:20 212:22	equivalent 207:3	26:7 28:2,7,11,19	125:3,23 126:18
301:4	207:20 223:17	28:22 29:2,12,12	127:3 129:8,9,12
engineer's 141:12	279:10	29:19,21 30:3,11	129:22 138:18
enhance 19:4	erecting 205:16	30:12,14,16,23,24	139:11,21 141:4
enjoyment 25:13	error 300:25	31:3,6,13 32:3,5	146:18 147:3
139:15	especially 253:4	32:10,17,21 33:8	149:19,21 154:12
enlargement	262:12 266:14	33:21 34:4,6,8,24	155:9,10,15,17,22
163:2	esq 1:16,17,19,20	35:6 36:25 37:2,4	156:16 157:3,17
enormous 95:14	esquire 242:15	37:16 39:11 40:14	158:3,6,8,14,15,16
257:16,17 286:20	essential 263:18	41:2,3,10,11,12,21	158:22 159:2,6,9
enshrined 211:15	265:6	42:3,10,18,23,25	159:12,22 160:5
ensure 6:2 240:22	essentially 240:6	43:3,7,10,16 47:4	162:13 163:13,15
281:7 286:10	est 256:22	47:14 48:10 51:21	163:25 164:5,7,19
299:19	establish 195:17	51:25 52:11 54:15	165:6 167:12,12
entire 9:13 60:2	established 174:23	54:19 55:6,21	168:18 170:6,20
94:4 104:24	188:19 189:20	63:6,19 64:11	171:2,6,9,11,18,21
110:19 147:21	191:24 233:6	65:21 66:25 67:16	171:24 172:2,4,9
176:24 213:24	242:18 253:13	67:21 68:8 72:8	172:14,18,25
224:17 225:10	establishing	72:10 76:20 79:9	173:16,18,24
227:12 257:14	308:22	79:12 86:13 87:17	174:3,8,13,15,23
293:22 300:2	estate 104:23	91:12 92:12,13,16	174:25 175:4,13
310:16 313:7,22	124:16,18 174:19	92:19 93:21 97:5	175:15,22 176:2,5
entirely 44:18	311:17 312:12	97:11,15,21,22	176:10,19 177:7,8
298:7	estimate 199:13	98:2,4,14,22 99:10	177:12 178:5,8,20
entitled 221:9	199:14,14	99:12 100:7,11	179:2,10,14,18,22
265:14 307:25	estimated 95:7	101:12,15,19,21	179:24 180:12,16
308:3	ethic 237:24 238:2	102:2,8,19 103:10	183:3,6,20 184:5
entity 271:11	309:11	103:15 104:5	185:2,11 186:3
envelope 176:17	ethical 258:24	105:23 106:6,9	187:19 189:7
environment	278:6 293:6	107:17 108:3	190:8,11,24
50:22 148:3,16,21	ethics 2:4,7 4:16	109:11,13,25	191:13 192:16,19
200:2	6:14 7:25 8:16,18	110:3,23 111:8,13	193:25 194:3
environmental	8:19,22,25 9:7,11	111:18,24,25	195:8,15 197:13
15:8 50:5,19	9:14 10:2,21,25	112:4,12,17,20	198:6 200:8,11,18
83:25 148:7 149:8	11:4,9,14,20,21,25	113:4,5,9,12,14	200:21 201:4,8,12
149:14 150:12	12:5,8,23 13:4,8	116:21,23 117:2	201:17,21 202:3,6

202:17,19,20,25 203:2 204:7 207:17 209:18 210:14,16,23 211:3,25 212:13 212:14,16,25 213:5,8,12,14 214:5,9,10,14,18 214:21,23 215:21 217:2,7 218:19,25 219:4,14,16,20 220:14,18,19,23 221:2,6,13,15,21 222:15,19,20,24 223:2,3,20 224:6 224:15,18,25 225:3,4,8,10 227:7 227:8,16,17 228:2 228:4,9,10,18,23 229:2,7,25 230:4 230:10,12,14,22 231:2,15,17,25 232:5 233:8 234:17,21 239:12 240:3 242:7,11 244:3,10,16,23 245:2,9,21 246:2,7 246:18 247:6,18 247:21,24 248:12 248:16 249:15,17 250:2,10,12,17,21 251:6,15 252:19 252:20 257:22 258:15 259:5,10 259:18,20 262:14 262:16 267:10 268:18,21,23 269:2,4,7,24 270:3 270:9,16,18 271:6 271:13 273:4 274:19 275:12	278:4,9,16,20 281:20 285:9 286:9 287:2,14,20 287:22 288:8,16 289:4,8,15,18 290:5,22 291:15 291:25 292:9 294:3 295:16,20 297:13,16 298:7 298:13,15,22,24 299:5,7 300:3 308:22,23 309:3 309:10 313:10 314:2 ethics's 155:4 219:25 ettinger 112:12 160:8 165:15 219:15,19 262:17 269:24 evaluate 124:19 124:21 evaluation 228:22 271:21 296:13 evening 6:5 90:6 193:17 316:5 event 7:18 12:11 92:6 107:22 222:4 284:11 events 34:20 103:7 eventually 183:11 267:24 everybody 3:3 65:17 105:14 110:3 252:8 277:3 282:22 286:2 294:24 310:3 311:6 312:10 evidence 13:14 28:20 29:14 39:13 39:19 40:9 42:2	43:22 69:17 91:3 105:3 124:10 176:22 179:19 181:19 185:12,24 185:25 188:18 194:17,22,25 195:3,4,7 199:8 204:11 227:4 229:3 230:7 232:22,23 250:20 271:25 272:5 evidentiary 171:23 179:8 evidently 111:17 ex 259:10 exact 68:8 exactly 85:18 137:7 218:14 230:3 283:11 308:17 examination 45:12 62:13,22 63:9,15 71:7 74:21 76:10 115:23 182:4,14 examine 28:19 62:19 examined 45:11 76:9 229:8 example 46:5 68:12 193:16 226:16 269:12 examples 241:8 excellent 275:25 279:14 excerpt 86:22 excerpted 86:18 exchange 247:23 289:16 excuse 254:12 excused 79:20 208:18	executive 4:18,22 5:12 78:3,6 213:9 exemplifies 209:4 exemption 147:14 exercise 40:7 70:22 87:21 88:13 191:5,8 224:2 231:8 234:22 279:21 285:9 301:10 exercised 35:16 172:9 191:10 226:22,25 240:9 exercising 88:8 205:5 exert 165:9 169:13 219:8 exhibit 33:18,19 34:3 81:16,23 103:2,3,8 106:2 116:12 122:20 124:13 127:10,21 131:4 137:22 140:21 144:17 149:20 170:19 exhibits 34:2 125:21 131:9 exist 109:15 270:24 existed 174:10 existence 257:3 existing 82:4,13 82:16 91:18 130:23 142:17 143:9,19 exists 142:11 exited 192:12 expansion 84:18 expect 32:16,19 293:5
---	--	---	--

expecting 105:11 expense 18:22 28:15 95:14 257:9 257:14 expenses 253:5 285:25 expensive 14:16 experience 209:8 213:7 246:2 254:11 284:10 experienced 212:4 230:23 expert 12:25 92:18 93:21 109:25 126:24 127:8 174:8 190:9,23 193:24 201:5 212:4,12 222:17 223:14 expertise 12:17 212:15,24 300:20 300:21 experts 202:3,24 220:23 explain 100:14 158:7 211:8 251:2 252:22 explained 222:16 explaining 103:21 111:3,9 explanatory 105:6 exposed 256:11 express 99:4 238:25 250:8 expressed 42:4 299:3 extend 14:9 82:16 92:9 94:2,13 95:2 255:7 extended 5:13 15:2 17:18 85:23	94:15,19 101:10 extending 14:15 extension 15:15 93:15 94:24 extensive 189:9 extensively 202:12 220:10 292:21 extent 20:8,16 21:5,10,25 26:15 26:25 27:13,18 31:9 48:6 103:14 104:19 130:10 207:15 228:2 240:10 external 56:15 263:22 extraordinary 284:8 extreme 304:15 305:2 extremely 64:13 eyes 263:3	260:18 279:2 282:7 289:21 309:14 facto 259:10 factor 11:24 32:24 198:19,22 factoring 144:5 factors 11:17 151:24 152:2 193:7 196:18 243:4 facts 7:21 12:9 29:25 94:10 151:6 174:16 180:6 189:25 193:3 195:16 204:23 215:13,24 237:2 266:16 factual 10:4 13:21 fail 87:3 264:8 failed 100:13 121:13 164:12 failing 16:10,13,24 19:17 21:8 23:24 24:2,12 25:24 27:16 154:18 fails 201:9 failure 223:7 290:18 fair 3:5 172:20 204:22 280:13 288:11 fairly 234:12 fairness 121:16 fairway 133:2 135:7 faith 165:8 169:9 169:11 202:21 209:15 219:7 286:13 288:25 292:5	fake 253:10,11 fall 46:18 152:2 falling 67:4 121:11 familial 191:18 familiar 94:9 138:7 family 50:25 57:19 57:21,23 82:5 83:20 84:19,19,20 85:14 87:12 family's 57:22 famous 216:11 256:21 far 99:17 106:19 158:5 163:4 171:25 202:18 238:12 260:12 277:5 278:14 279:18 300:12 farce 285:18 farther 139:17 farthest 133:7 200:14 fascism 255:11 fascist 254:3,23,25 fascists 253:24 fatal 263:7 264:4 father 256:21 faulty 40:25 189:6 209:17 favor 162:18 205:24 206:2,18 206:21 favorable 304:8 favoring 256:9 fbi 262:21 fear 222:14 283:15 features 82:14 february 17:8 33:15 42:24 43:10 105:10,16,16,20
		f	
		f 317:2 face 41:17 116:15 facilities 161:9 facility 133:2,3 134:16 140:8,13 197:3 facing 279:25 fact 7:20 15:9 34:22 41:17 57:6 69:19 74:25 100:25 109:10 134:15 150:16,24 153:10 180:4 182:20 193:20 201:17 204:6,9 228:10 229:9 230:24 231:10 232:19 250:8	

123:4 164:7 287:2 305:18 federal 5:15 204:2 226:10 279:3 federation 242:13 feds 138:3 fee 279:14 feel 64:18,24 79:11 107:21,24 109:8 139:9 249:2 260:19 292:16 311:3 315:22 feeling 258:11 feelings 237:5 feels 313:19 fees 164:15,22 167:14 216:21,25 218:2 264:18 285:20 feet 48:18 51:16 51:17 73:6 94:18 126:3,7 127:14,18 127:22 128:2,4,5,5 129:4 131:3 132:8 134:11,16 135:20 137:12,16 140:14 140:17 196:6,10 196:10 277:7,7 feis 147:16,24 148:2,23 fellow 166:4 felt 79:13,14 95:3 162:23 fema 137:24 197:19 female 55:20 56:12 63:20 field 92:18 126:5 126:13 190:10,23 216:11	fields 126:12 196:11 fight 211:17 fighting 264:22 figure 56:5 105:17 106:17 213:5 246:17 310:23 filed 3:2 9:9 12:19 16:5 103:11 164:4 175:21,22 185:16 185:17 296:19 filers 270:19 filing 108:10 270:17 filings 77:8 fill 138:8 finagling 257:15 final 26:10 130:8 148:3,22 149:8 199:23 203:24 303:24 finally 39:9 42:16 105:20 112:15,16 146:12 148:22 189:4 199:21 209:6 230:19 245:25 263:20 308:21 financial 25:17 87:6 166:13 172:3 184:13 216:20 218:16 244:4,9 261:18 267:23 270:18 282:9 285:18 financially 17:2 24:14 154:20 306:7 312:5 find 49:20 59:7 78:14 115:3 116:13 165:4	183:5 192:3 195:16 219:2 237:15 244:24 254:11,12,13,13 254:14 295:10 304:7 310:5 finder 69:19 finding 13:7 148:10 171:14 221:14 225:5 253:17 313:17 findings 2:4 8:19 251:12 finds 99:12 181:12 fine 71:10 106:20 116:7 235:23 259:6 fingers 286:3 finish 236:6 272:7 314:13 finished 6:25 74:17,19 firm 177:25 183:18 184:22 249:6 313:10 firmly 174:8 267:9 271:24 first 9:21 33:17,18 34:2 35:4 47:20 55:24 83:5 91:21 102:13,18 112:23 113:10 116:18 118:4 129:24 131:16 132:14,15 142:3 146:16 153:2 160:23 182:23 189:23 196:22 236:14 237:10 249:13,25 254:24 260:17 261:23 267:11	275:9,16,23 281:20 286:9 293:15 299:12 302:10 firstly 76:5 fit 209:15 fitness 38:23 39:6 40:18 59:5 189:2 207:23 233:13 five 7:17 54:16 59:25 60:3 63:18 77:16 79:4 129:10 129:21 146:5 147:2 152:18 162:6 186:24 187:3,4,5,25 190:18 192:19 193:7 196:16,21 197:13 206:5,20 235:9,11 236:3,5 252:9 266:3 276:24 293:24 fix 45:3 192:17 280:14 fixing 45:4 flat 126:14 flesh 43:20 flies 41:17 flood 46:10 78:4 135:18,21 136:2 310:15 flooded 136:4 197:22 274:10 flooding 130:3 136:8,23,25 137:8 197:11,15,19 198:3 312:15 floods 274:5 310:18,25 floor 260:6
--	--	--	---

flourish 255:24 flout 98:21 220:25 flouted 98:13 flu 255:23 fly 237:6 270:17 focus 39:2 183:3 focused 31:10 147:2 foil 225:11,24 226:11 294:20 foil'd 225:9 folks 3:7 187:18 240:25 268:3 follow 50:22 51:10 51:12 62:8 74:17 77:11 181:8 210:5 234:2 242:9 301:18 followed 32:22 223:13 301:14 305:21 following 10:3 13:20 27:25 28:21 87:6 158:17 177:13 243:20 313:22 follows 16:6,18 24:6 26:13 45:11 76:9 food 255:2,4 foot 128:8 130:16 football 126:5,12 126:13 196:11 force 78:20 240:19 forehead 64:14 forgetting 169:23 forgive 59:2 133:12 form 50:9 232:23 270:18 271:23 272:11 292:4	297:6 formal 108:10,21 112:17 118:16 formed 56:22 59:4 former 177:3 267:13 294:14 forms 296:19 forth 105:15 119:13 257:15 294:9 fortunate 255:10 forward 106:16 109:10 121:24 122:9 186:12,20 248:16 252:3,4 275:23 forwarded 110:5 225:13 found 12:23 13:4 29:3 30:17 105:22 137:23,24 167:12 168:18,21 219:20 222:24 237:25 308:20 311:11 founded 221:10 founder 78:12,21 four 28:13,16 64:19 65:3,19,23 66:9,23 67:7 80:19 81:3 131:14 143:16 146:5,17 174:21 206:7 266:7 293:21 fragmites 135:5 135:10 frame 121:2 frankly 237:22 free 185:20 249:3 315:22 freedom 226:11 226:17 227:10,18	228:5,11 frequently 274:4 friday 70:11 102:23 friend 259:8 friendly 56:21 114:11 253:23 264:10 265:25 285:14,16 friends 56:21 120:20,23 fright 275:8 frightening 275:8 friele 267:12,14,25 front 96:6 134:2 260:7,21 291:13 fruition 291:7,7 full 9:3 28:17 59:23 250:16,19 270:13 288:2 fully 20:13 21:4,9 23:14 26:22 27:12 27:17 124:11 175:6 259:16 function 7:13 254:8 functional 207:3 207:19 223:17 fund 264:15 fundamental 307:11 funding 14:18 funds 261:12 264:14 funny 279:12 further 56:9 62:6 67:18 75:11 94:23 96:18 99:17 140:10 164:11,18 165:6 169:2 181:16 184:8	219:4,24 221:17 224:9 225:14 244:5 254:3 303:4 305:17 306:11 317:12 furthermore 40:12 further 222:11 fusco 1:21 future 64:10 143:19 181:3,14 233:25 243:19,25 264:15 288:9 292:23 297:9
g			
g 76:6 gainful 78:14 gala 77:19 gao 271:22 garbage 266:2 gardening 134:5 gather 11:15 66:16 gathered 213:4 265:22 gathering 12:9 114:12 gender 54:25 257:10 general 22:3,22 82:7 86:23 142:13 205:14,18 213:22 218:8,13 242:20 283:13 generally 23:10 46:16 58:21 61:4 118:4,5 gentleman 247:11 248:20 gentlemen's 255:11 257:7			

gently 271:24	112:19 115:11,13	191:15 192:22	112:25 113:4
gentrified 254:2	116:11 117:8	193:4,5,8 209:22	115:22,25 117:20
geographer 311:8	128:11 129:8	227:11 230:20	123:6 124:14
gershon 38:13	130:21 133:9,10	235:15,25 236:3	163:19 171:10,14
getting 105:17,19	143:7,21 144:16	236:25 237:3	171:18 178:17
283:20 301:11	164:16 167:11,18	241:22 248:16	180:4,11,14
306:11 310:7	172:19 177:20	250:19 257:6	181:17 182:5,6,16
gina 309:25	185:14 187:20	264:14,25 266:12	187:16 189:14
girl 79:6	192:24 210:3	281:12,17 285:8	190:3 192:7,13,21
gis 137:25	230:11,19 235:7	293:10,11 294:18	194:18 195:17
giselle 238:21	238:10 257:23,24	306:14 314:12	196:2 197:23
give 6:5 17:3 23:6	266:11 268:3	315:4,10	198:3,21 199:5
24:14 44:8 61:5	274:11,19 275:23	goldstein 1:7,18	202:18 204:24
64:3 73:19 92:21	286:23 294:22,24	2:5,10,20 3:19 8:4	205:11 207:8
114:18 119:15	307:16 312:24	8:20 9:11,20 10:6	208:7,10,21 209:4
142:10 154:20	314:12	10:7,17,23 11:5,10	209:15 210:6,11
156:8 186:23	goal 181:8	11:16 12:12,21	211:24 212:22
188:10 193:3,11	goes 6:20 47:23	13:25 14:22,23	216:18 217:9,19
195:14 201:9	69:20 148:19	15:7,13,19,21 16:6	217:20 218:14,16
205:7 228:25	177:17 182:18,23	16:8,17 17:23	220:8,12,24 221:9
239:10 280:4,23	183:14 257:20	18:3,4,9,15,24	221:22 222:25
295:12 300:14	301:12,12	19:5,10,21 20:20	223:5,15 224:12
310:6 315:4	going 3:4,12 6:4	21:3,14 23:19	231:20 232:2,3
given 8:4 31:12	31:23 32:16 39:2	25:2,12,16,19 26:3	237:11 239:2
45:2 120:9 229:17	49:20 52:8 56:7	27:5,11,23 28:2,6	241:10 248:12,17
242:15 284:7	68:18,25 70:17	28:9,14,17 29:15	250:15,23 251:11
gives 25:14 222:22	72:22 73:18,23	29:24 30:4,16	252:22 254:16
288:14,16 306:8	74:4,9 76:17,18,23	31:16 34:15 37:3	260:16,25 262:8
giving 12:3 70:12	77:2 80:24 86:15	37:15 39:5,15,23	262:19 263:23
260:6 274:25	95:13 101:11	40:2,12,12,20 41:6	265:20 266:14,21
290:22	102:25 103:6	41:18 43:15 45:15	267:7 268:5,6
glen 36:6 236:15	105:22 115:6,20	46:23 56:17 57:3	269:18 270:11,25
237:8 238:18	118:3 129:18	57:13 58:15 63:2	271:4,8 272:19
glitch 192:18	144:15 148:5	64:16 65:8 68:4	273:4 276:5
gmu 272:11	150:13 166:15	75:21,23 76:12,25	277:12 278:11,15
go 3:12 7:9 43:21	171:4,25 172:8	79:7 81:24 84:7	279:8 283:6
49:21 50:8 62:8	173:3,8 177:18,21	91:6 94:7 97:9,19	284:17 287:6,12
70:13,17 71:2	179:12 181:19	97:21 98:16 99:20	287:20 288:18
74:20 88:4 97:17	184:17 186:12,20	103:25 106:15	292:10,17 293:21
99:9 100:6 103:13	186:22 187:11	107:10 108:4,8,17	295:4,15 296:10
106:25 109:17	188:9 189:6	108:25 111:22	296:11,24 297:14

297:20 298:9,13 299:12 300:2,4 302:20 304:13 306:16 307:19 309:21 314:23 goldstein's 10:15 12:25 13:5,12 14:20 15:16 17:19 17:22 18:17 25:6 29:3 30:7 39:3,12 39:20 40:17 41:8 41:14,22 56:23 59:5 60:6,16,21 61:3,12,23 98:11 99:13 100:11 122:3 179:19 189:8 195:6 196:6 197:16 198:8,11 199:13 200:15 204:19 206:24 207:23,25 208:3 209:7 215:14 216:17 219:18,20 221:16,25 223:21 223:24 229:24 230:15 231:3 233:4,23 234:13 239:17 245:5 248:5 251:16 255:3 258:16 268:7,20 277:17 277:25 281:4,11 281:14,20 283:4 285:21 288:24 290:25 297:8 305:9 goldsteincomme... 8:11 236:11,13 315:9 goldsteins 12:20	golf 10:11 135:7 good 33:11,11 58:2 75:22,24 115:2 121:15 162:15 165:8 167:5 169:9,11 186:16,16 202:21 206:15 209:3,14 219:7 249:5 258:16,23 262:15 268:18 276:15 277:3 283:9 286:13 288:24 296:4 301:6 309:25 314:7 315:5 316:4 gotcha 271:4 273:3 gotten 228:17 government 4:25 39:19 45:18,25 92:17,18 93:21 174:25 193:25 211:21 212:15 214:2,5,9 224:3 225:23 226:4,7 227:21 252:20 256:14,15 260:24 262:25 263:8,10 264:6 292:4,5 307:8,9 governments 228:7 governor 4:18,22 grand 265:7 grant 209:24 great 40:24 46:22 157:4 193:18,20 248:9 281:15 316:2	greater 170:15 greatest 256:10 greed 233:9 greer 3:18 greta 258:3,4,5 grind 106:20 gross 304:17 ground 3:13 136:6 group 243:24 group's 140:24 groups 281:23 282:3,9 guess 106:15 258:4 guidance 47:5 175:4,13 222:22 243:2 guidelines 279:4 guilty 309:22 gut 79:13 h h 45:8 76:6 half 74:13,13 126:12 196:11 290:12 293:25 hallsthom 276:22 276:23 277:2 282:2 halpin 90:2,4 hampshire 9:21 9:23,24 10:10,14 10:20 11:3,8,19 12:15,22 13:6,13 23:17,22 24:5,19 25:8,10,23 26:2,11 29:6,8 59:17 60:7 60:10,12,22 61:13 73:2,3,3 101:22,24 102:4,16,21 103:22 104:11,13 104:18 109:23	113:21 114:16 117:7 124:23 125:4 127:14 128:9 129:11 132:24 134:21 135:13 138:9 139:24 140:5,25 147:6 150:9 151:15 152:5,12 154:7 158:9 163:6 163:8 172:3 173:6 173:13,23 174:5 175:24 177:22 178:7 181:6 183:15 184:11,20 192:15 194:20 195:5,20 198:4 204:20 205:9,12 220:20 223:12 249:8,11,18,25 250:8 251:3,7,14 253:2 254:4,15,17 264:24 268:10 269:23 270:4 277:13,16 278:13 280:5,9,15,18,19 280:22 281:5 283:6 290:2 291:3 292:17 299:13 301:9 305:22 hampshire's 10:16 251:12 281:13 hand 7:13,22 12:14 44:6 97:10 97:14 128:20 132:16 133:15 179:16 217:9 220:13 236:14 249:13 302:11,18 317:18
--	---	--	---

handful 140:15	44:22 49:6 61:8	43:1,23 44:1 45:1	149:1 150:1,18
handle 262:22	65:20 109:10	46:1 47:1 48:1,21	151:1 152:1 153:1
handling 114:21	142:14,14 172:21	49:1,4,11,22,24	154:1 155:1 156:1
hanging 293:14	173:23 186:17	50:1 51:1 52:1	157:1 158:1 159:1
happen 194:6	188:4 202:25	53:1 54:1 55:1,22	160:1 161:1 162:1
241:14 270:22	259:25 266:24	56:1 57:1 58:1	163:1 164:1 165:1
happened 160:24	283:16 302:4	59:1 60:1 61:1	166:1 167:1 168:1
216:16 241:10	heard 6:7 54:21	62:1 63:1 64:1	168:12 169:1
310:15	57:7,12 67:24	65:1 66:1 67:1	170:1 171:1,2,13
happening 66:18	68:2 109:20	68:1 69:1,24 70:1	172:1 173:1 174:1
95:12 103:20	111:22 124:12	70:2 71:1 72:1	174:22 175:1
255:21 258:14	150:15 158:21	73:1,24 74:1,5,9	176:1 177:1 178:1
285:13 313:18	160:17 189:11,25	75:1 76:1 77:1	179:1,20 180:1
happens 286:13	192:23 196:23	78:1 79:1 80:1	181:1 182:1 183:1
harbor 67:12	199:22 207:24	81:1 82:1 83:1,6,9	183:3 184:1 185:1
77:15 79:18	208:4,10,25 210:2	83:11 84:1 85:1	186:1 187:1 188:1
119:23 149:23	210:9 220:6	85:11 86:1 87:1	188:9 189:1 190:1
208:14 217:17	239:16 260:22	88:1 89:1 90:1	191:1 192:1 193:1
293:19 295:3	284:4 288:12	91:1,24 92:1 93:1	194:1 195:1,3
299:14	293:25 300:12	94:1 95:1 96:1	196:1 197:1 198:1
hard 72:12 82:13	303:5	97:1 98:1 99:1	199:1 200:1 201:1
184:25 185:5,9	hearing 1:6 2:1,3	100:1 101:1 102:1	202:1 203:1 204:1
285:4 291:13	2:6,8 3:1,17,21	103:1 104:1 105:1	205:1 206:1 207:1
299:18 302:9,16	4:1,2,11,17 5:1,2,7	105:4 106:1 107:1	208:1 209:1 210:1
308:21 315:5	5:9,25 6:1,3,8,13	108:1 109:1 110:1	211:1,2 212:1
harm 145:7	6:17,18,20 7:1,3	111:1 112:1 113:1	213:1 214:1,21,24
harmonized 192:3	7:12 8:1,7,12 9:1	113:15 114:1	215:1 216:1 217:1
harsh 120:3,6	9:3,6 10:1 11:1	115:1,5 116:1,24	217:12,13 218:1
121:19	12:1,16 13:1 14:1	117:1 118:1 119:1	219:1 220:1 221:1
hat 200:8	15:1,10 16:1 17:1	119:5 120:1 121:1	222:1 223:1 224:1
hats 302:9	18:1 19:1 20:1	121:7 122:1 123:1	224:5,7,21 225:1
haven 36:9	21:1 22:1 23:1	123:21 124:1,7	226:1 227:1 228:1
hczm 67:12	24:1 25:1 26:1	125:1 126:1,18	229:1 230:1,5,7
281:22	27:1 28:1,3,8,12	127:1,3 128:1	231:1 232:1 233:1
head 159:15	28:16,21 29:1,14	129:1 130:1 131:1	234:1 235:1,19,22
heading 132:23	30:1,9,25 31:1,3	132:1 133:1 134:1	235:24 236:1
health 147:8	31:14 32:1 33:1,4	135:1 136:1 137:1	237:1 238:1 239:1
255:18	33:22,23,24 34:1,9	138:1 139:1 140:1	239:21 240:1
healthy 316:5	34:21 35:1 36:1	141:1 142:1 143:1	241:1 242:1 243:1
hear 30:6 31:14	37:1,4,5 38:1 39:1	144:1 145:1,6	244:1 245:1 246:1
35:4 39:13 40:18	40:1 41:1 42:1,20	146:1 147:1 148:1	247:1 248:1 249:1

249:13,22 250:1,5 251:1 252:1 253:1 254:1 255:1 256:1 257:1 258:1 259:1 259:11 260:1 261:1 262:1 263:1 264:1 265:1 266:1 267:1 268:1 269:1 270:1 271:1 272:1 272:25 273:1 274:1 275:1 276:1 277:1 278:1 279:1 280:1,13 281:1 282:1 283:1 284:1 285:1 286:1 287:1 287:7,10 288:1,18 289:1,18 290:1 291:1 292:1,15,18 293:1 294:1 295:1 296:1,12 297:1,12 297:22,23 298:1 298:10 299:1 300:1 301:1 302:1 303:1 304:1 305:1 306:1 307:1 308:1 309:1 310:1 311:1 312:1,21 313:1,8 314:1 315:1 316:1 316:3 hearings 4:19 49:13 52:25 105:12 114:21 120:14 178:15 288:10 hears 50:6 heart 180:23 heavily 196:23 heavy 135:19 heeny 258:4,6 height 137:13 211:10,10,11	held 3:22 4:17,20 5:23 28:12 45:17 202:22 211:8 267:14 hell 268:3 294:22 294:24 hello 307:16 help 31:13 78:13 131:12 212:23 248:24 282:4 315:23 helped 57:4 helpful 63:11 hereunto 317:18 hesitate 303:17 hey 313:9 hi 272:16 291:18 310:3 hidden 136:14 269:8 270:7 high 104:21 293:17 higher 132:10 134:12 197:17 highest 57:5 58:17 58:22 59:8 61:5 61:15 92:16 207:18 208:4 258:24 283:23 302:23 303:11 highlighted 97:7 97:18 98:10 99:11 100:8 106:13 107:7 108:12 112:21 116:15,16 117:19 141:24 144:21 147:23 154:13 156:3,13 160:7 164:2 highly 40:20	hill 184:8 237:9 hired 127:8 historic 268:4 historical 256:20 298:16 history 39:18 43:12 77:3 187:25 189:11 202:23 233:4,24 252:21 256:9 280:4 hit 146:16 257:23 hoc 201:12 hold 5:8 28:7 45:3 51:21 263:23 264:2 holding 38:20 315:12 holdings 267:24 holds 39:7 holidays 46:18 home 13:16,18 14:14 16:7 17:9 17:24 18:11,22 19:12,14,19 20:6 20:22 21:11,17 26:5 27:7,19 29:9 35:18 48:10,11 77:18 83:20 91:19 91:23 94:16 98:12 98:15 99:14,19 110:8 126:2,10 127:7,17 128:3 129:6,12,23 130:2 130:11,12,22 131:11 133:7 135:16 136:6 137:14 138:12,23 139:15,20,25 146:4 147:8 160:19 161:15 162:20 175:8	194:22 195:7 196:6 197:16 198:3,8 207:7 215:4,12 254:21 284:12 296:16 313:3 homes 50:25 127:4 128:7 141:17 193:19,23 194:6 195:24,25 254:22 263:17 homework 69:3 homicide 279:20 hominem 266:20 hommocks 13:17 14:7,10,11,12 15:3 17:12,16,17 29:10 48:2,12 72:15,25 72:25 73:11 78:23 81:7,9,22 82:21 85:13,20 86:8 88:7,24 89:16 90:22 91:19 93:8 93:11 94:13,25 96:13,19,22 99:24 101:15 109:22 110:4 111:19 112:3,6 117:8 138:20,21 148:11 166:17 167:15,23 168:12 169:5,10 169:22 174:6,11 175:20,24 178:3 181:6 189:24 192:9 198:9 204:22,25 217:11 220:16 221:3,11 223:8 268:14 269:15 277:19 278:13 297:2 305:15
--	---	--	---

honest 287:18 302:11 honestly 155:2 honored 284:13 honoree 77:17 hook 94:21 hooked 236:18 hope 6:24 31:19 180:18 262:21 304:6 313:25 hopefully 111:14 314:13 horrible 254:19 horrified 273:19 horrifying 273:22 hospitals 263:16 host 44:21,25 hosted 242:12 hostile 117:22 120:10 223:23 245:5 285:10 hostility 231:20 hours 80:14,19 81:3 120:15 139:8 171:12 198:15 266:7 273:13,14 house 14:7 81:13 82:9 93:16 126:23 128:16 129:3 130:19 131:17,19 132:7,8,9 133:19 134:3,7,22,24 135:13,25 136:6,7 136:8,10,13,15 137:5,9 138:5 139:23 163:4,9 193:21 199:5 268:17 274:9 household 17:7 24:19 87:8	housekeeping 263:16 houses 93:17 128:7,10 196:7,11 274:5,9 housing 78:7,11 hr 230:23 huge 61:25 272:12 human 284:17 humble 262:4 hundred 130:16 140:9 hundreds 195:23 195:24 255:25 290:12 hung 200:8 273:5 hunger 78:20 hunt 185:22 273:15 274:17,21 313:20 hurricane 136:3 husband 14:22 17:22 93:14,24 133:22 135:23 176:14 274:6 296:10 husband's 57:16 hypocrisy 42:15 211:11 313:19 hypothesis 177:22 183:15,24 184:19 hypothesize 171:25 185:20	identified 59:14 129:10 146:19 192:19 193:7 200:10 identifies 191:14 identify 54:25 81:17 101:3 196:21 246:13 identifying 270:10 identity 268:24 ignorant 311:12 ignore 98:24 180:11 ignored 98:16 202:20 210:12 ignoring 202:18 ii 50:15,17,21,25 51:2 83:14,16,17 83:18,23 84:4,15 85:4,19 88:12,20 148:10 190:7 illegal 227:9 228:4 illness 255:20 256:8 257:7 image 274:8 imagine 73:4 269:10 immediate 145:7 262:10 265:19 immediately 173:12 174:7 215:4 262:20 267:25 292:11 impact 25:11 40:11 124:23 126:22 139:19,19 141:5 148:3,15,16 148:21,22 149:8 192:21 193:14 194:21 195:6 197:6,9 198:2,18	199:23 200:5 285:18 288:9 307:14 impacted 246:22 impacts 50:5 75:3 129:10,15,21,25 139:12 146:18,19 149:16 150:12 151:22 192:20 196:13,17 198:18 199:18 200:10 impartial 150:17 150:25 impartiality 23:15 121:16 151:10 305:6,9 impeded 139:10 implicit 41:25 231:8 importance 207:18 important 173:2 181:3 208:23 285:6,17 286:6 291:25 297:24 307:5 309:17 310:23 impose 33:5 170:16 imposed 22:20 209:11 219:22 225:25 impression 239:11 271:14 300:14 impressive 189:10 252:14 improper 99:20 99:25 194:2 improperly 218:20 268:23
	i idea 104:6 107:3 120:8 155:2 193:18 237:19 247:20 ideas 236:10 identical 21:21		

improprieties 313:14	incident 79:9	234:22 311:19	114:12,16,19
impropriety 22:11	include 15:16	indicate 35:8	118:15 171:19
22:19 24:16 25:16	103:23 190:13	39:14 128:7	173:12,16 174:14
92:22 93:2 154:22	256:13 299:6	251:21	179:5 208:23
154:25 155:24	included 17:14	indicated 34:7	224:5 226:7,8,12
156:10 202:2,8,17	297:11	62:12 66:23 95:9	226:15,16,17
306:21	includes 6:13	indicates 43:12	227:10,18,20
improve 267:20	including 9:8 28:5	indicating 80:25	228:6,12 239:6
improvement 18:8	84:21 85:15	142:19	260:20 270:11
improvements	257:21 286:2	indication 107:21	290:8,9,10 295:10
82:12 161:3	287:25 304:9	119:15	informed 23:14
impune 225:17	income 273:8,12	indirect 16:14	89:13 110:3 243:3
inability 264:3	incompatible	20:17,21 22:6	249:21 251:14
inaccuracy 289:23	34:18	24:3 26:25 27:5	informing 34:12
289:25	inconsistencies	individual 4:9	92:12
inadvertently 23:6	313:13	75:3 188:24	inherent 279:22
inappropriate	inconsistency	193:15 243:8	inhibit 187:11
42:5 65:24 185:14	291:4 312:18	individual's 189:2	initial 119:12
inappropriately	inconsistent 16:2	individually 4:12	initiated 249:17
245:22	21:25 215:20	87:23 129:20	injuncta 256:22
inaudible 19:19	inconvenience	individuals 54:4	inlet 104:17 135:6
23:9 72:20 148:14	162:17	66:9 67:7 77:7	innocent 308:20
220:23 238:6,21	inconvenient	industries 263:18	input 11:15 61:7
239:10,17,18	259:12	inevitable 234:4	282:5
241:23 242:3,15	incorporate	influence 42:19	inquiries 28:4
242:17,23 243:3	298:25	165:9 169:14,19	54:14 55:7 63:18
244:11 245:2	incorporation	170:3 207:14	67:20 109:16
248:14 249:7,9,10	77:9	217:24 219:8	inquiry 9:2 54:18
249:21 251:4,13	incorrect 289:19	281:8	65:22 66:9,24
251:20,22,25	300:5	influenced 191:11	67:15 125:3 175:8
252:18,24 255:17	increase 142:7	influencing 218:5	270:3
257:18 279:11,21	146:2	inform 174:24	inquisition 69:19
280:5 282:23	increased 130:4	informal 28:4	inside 144:22
290:18,21,24,25	142:9 144:6	105:13 112:23	insofar 150:11
291:5,11,14	263:18	113:10,11 114:23	installation 84:23
295:22 298:17	incurred 253:7	116:18,20 118:16	268:16
299:17 302:12	255:9	informally 11:10	installed 92:7
304:4,6,25 305:8	independence	information 1:23	222:5
307:7,9	303:2	10:22 11:15 13:24	instances 200:22
	independent	15:20 54:23 55:6	instant 267:11
	174:18 181:11	63:10 67:19 69:21	

institutions 55:17	194:8 195:15	intimidating 42:20	267:14
instructions 51:12	205:8 210:25	178:11	investor 269:23
integrity 239:12	216:20 218:17	introduce 34:3	invitations 313:6
258:23 259:9	223:16 233:9	42:22 69:18 76:18	invited 105:8
270:4 283:23	239:7 240:18	80:24 81:17,23	involve 85:14 88:7
295:8	242:4,19 243:5,6	181:19 234:6	88:13 205:5
intelligent 271:15	243:11,13,14,15	introduced 164:9	297:19
intend 43:20 62:19	243:17 244:2,10	166:2,6,6 169:16	involved 9:18
62:21	244:12 246:15,16	244:20	20:12 26:20 40:7
intended 34:7 52:8	247:5,13,19	introducing 168:8	51:7 52:24 60:2
94:13,25 224:7,11	261:11 268:6	216:23 217:4,6	61:19 65:14 66:3
224:14	281:21 290:7	introductory	66:16 160:18
intent 52:21	298:2,5 301:2	257:5	191:4 245:20
233:25	305:24 306:9,20	invalid 32:13	255:17 262:21
intention 110:4	312:17 313:15	216:5 227:9 228:5	283:20 286:2
280:16	interested 22:17	invalidated 216:5	305:3 310:17,21
intentionality	95:10 317:15	invaluable 248:7	involvement 61:15
256:4	interests 191:12	invasion 225:19	64:4
intentionally	240:22 248:15	226:19	involves 13:15
253:25	270:7 282:9 300:6	invested 311:21	38:12 181:5
interact 118:6,10	311:21 312:4	investigated 55:16	188:23
118:11,24 119:20	interfere 138:15	68:7	involving 87:21
231:11	138:22 139:14	investigation 9:2	296:23 297:13
interacted 119:17	interim 251:10	55:11 56:4,14	irate 221:5
interactions	internal 213:16	65:22 66:6,10,15	irene 310:19
118:22 119:3	interpretation	66:24 67:15,18	ironic 254:14
interest 16:14 17:4	42:8 212:6 231:18	69:22,23 92:14	irrational 216:4
20:17,21 21:5,10	233:12 289:9	103:16 109:14,22	irrelevant 176:12
21:23 22:5,10,21	298:15	113:15 116:23	irs 77:11
23:5 24:3,16	interprets 201:4	121:7 124:5,6	island 291:20
25:15 27:2,6,13,18	interrupt 112:25	155:19 176:9	issue 11:6,9 37:22
53:6 62:3 92:21	147:25	224:12 225:2,4	43:14,14 59:14
93:11 95:16	interrupting 71:15	247:2 249:18,20	70:9 89:16 111:15
100:14,22 154:22	86:17 121:2	255:15 263:21	119:16 174:6
154:25 156:10	intersection 14:12	270:12 290:14	202:12 273:17,23
158:9 165:20	interstate 142:14	investigations	292:20 298:2
166:13,19 174:10	interview 78:15	28:5 63:19 67:21	issued 4:22 5:13
175:12 176:23,24	interviewed 43:8	172:24 174:3	70:20 249:24
183:21 184:14	intimidate 255:3	288:9	251:8
185:6 186:8 191:6	intimidated 259:3	investment 177:25	issues 36:21 43:21
191:8 193:13		183:18 184:5	57:3 61:16 66:13

83:25 114:18 119:24 136:9 149:23 151:12 175:12 189:3 257:10 291:10 292:3 304:10 310:22 313:10 item 84:16 85:21 130:8 198:5	judges 23:10 37:7 201:23,23 judging 211:6 judgment 121:16 177:10,15 234:23 judicial 23:11 226:23 230:10 judiciary 181:12 july 16:18 110:22 111:2,4,6,8,17 112:2,4 junction 260:13 june 5:5,14 8:9,13 10:9 91:16 99:13 100:12 110:2,6,7 249:20 315:15 317:18 junior 77:20 jurisdiction 35:23 158:15 jurisprudence 257:3 jury 176:3 261:5 justification 212:9 216:3 justified 215:8 229:4 233:22 justify 192:14	kevin 259:24 260:9 key 272:4 278:3 kick 262:14 kicked 279:24 kills 255:24 kind 106:24 284:3 286:10 king 77:20 knee 262:10 knew 14:22 63:18 93:23 101:11 172:17 know 3:7 12:10 37:13 45:14 50:15 54:2 57:7 64:15 65:7,16 67:13,17 72:11,11 73:4 87:5 96:9 104:19 106:22 111:14 114:7,8 126:4 131:4 140:22 156:20,22 158:5 161:4,24 172:23 173:2 180:15 185:6,10,16 187:24 203:5,16 210:3 212:16,18 213:12,13 215:21 216:6 219:12,15 221:20 236:15 238:9 241:7 242:4 244:10 251:25 253:7,12 255:13 260:7 265:15 266:5,18 269:8 273:5 275:2,11 276:8 280:3 281:11 282:2 285:11,14,15 286:24 287:24	290:10,16 301:9 301:16 302:16 303:14 308:3,6,9 309:9,15 310:11 310:12 311:4,10 312:6,17 314:25 knowing 241:2 knowledge 19:10 34:20 35:3 53:18 53:23 54:12 153:20 162:11 170:20 180:5 309:5 knowledgeable 40:21 known 56:16,18 182:16 258:20 278:12 283:14,18 307:19 knows 20:8 26:16 87:4 krista 90:2 kudos 73:19
j			l
jail 279:5 january 10:21 103:17 105:8 173:3 290:6 jeffrey 1:20 jerk 262:10 jersey 23:11 job 2:14 58:5,6 71:11 150:6 177:3 183:11 238:6,6 274:24 276:20 279:14 308:12 316:3 jogged 55:23 john 34:10 88:25 152:13 160:19 256:25 join 93:25 joined 163:20 214:3 joining 44:13 journal 224:24 225:9 judge 34:17,18 35:11,14 176:3 209:22 227:11 234:10,12 261:4 judge's 23:15 judgement 87:13 87:21 304:5 308:14	k k 45:8 kafka 221:15,19 kathy 43:25 71:25 158:21 177:5 272:21 300:23 301:5 keep 91:3 144:15 145:13 252:2,10 266:16,16 302:9 307:12 310:9 315:5		l 45:8,8 76:6 lacing 273:20 lack 153:7 189:22 280:25 291:2 308:14,25 lacked 222:25 271:25 lacking 244:24 lacks 36:11 land 49:14 52:3,12 54:2,6,7,13 55:20 63:20 64:9 65:3,9 65:10,20 66:23 67:4,22 73:13 79:16 80:20 85:2 89:14 91:13 127:8 149:4 150:7

156:15,20 157:5,9 159:20 172:5 173:9 175:2,16,17 177:2,9,11 178:9 178:11 190:10,23 197:21 203:10 204:14 208:11 209:9 212:20 222:17 242:5,11 242:21,25 247:14 255:12 274:3,4 277:5 288:21 294:10 lane 10:8 14:13,19 15:3,16 17:20 25:3,6 93:17 127:7,18 136:12 136:16,19,20 137:15 138:21 141:14,18,19,21 141:22 143:8,8,10 143:14,22,22 144:12 145:16 196:15 197:6,10 197:22 198:10,12 199:4,4,19 296:14 296:25 language 98:13,22 179:15 184:15,16 220:25 221:5,6 230:25 259:17 288:22 larchmont 78:13 78:17,19 291:20 large 59:22 65:18 104:15 255:5 largely 245:8 larger 59:21 60:13 larry 267:12 268:5 lasted 59:25	lasting 271:14 late 6:4 102:23 lateral 134:13 latin 256:6 launch 247:2 law 2:10 3:23,24 5:2 9:9 22:3,20,22 35:18,19 37:6 38:5 41:23 47:20 47:22 52:9,21 59:23 79:25 88:10 88:17 109:25 122:16 153:25 155:17 157:20,22 157:24 171:15 174:8,17 178:21 181:9 190:17,17 190:19 192:2 193:10 200:18,20 200:21 201:5 202:2,24 203:7,10 203:19,22,24 204:5,12 205:12 205:15,18 209:11 212:4,11 213:18 213:19,19 214:4,8 216:6 220:21 222:16 224:22 226:2,10,12,13,17 226:20 227:6,10 227:18 228:12 230:5 234:2,6 242:18,20 243:2,3 244:7,13 248:4 249:6 255:12 256:9,23,23 259:10 275:9 276:4 278:3,22 301:7,15,18 308:23 313:10	law's 256:21 laws 174:25 204:3 204:4 205:17 228:6 299:21 lawsuit 274:14 276:13 281:13 lawyer 3:11 23:3 76:14 89:23,25 90:5 104:23,23 209:8 212:23 264:3 lawyers 108:18 201:23,24 301:4 311:17 lay 148:6 269:20 lead 56:3 leader 79:6 leadership 262:16 leading 202:5 215:22 216:7,12 270:11 league 184:10 learn 65:6,10 101:25 214:8 242:18 310:23,25 313:23 learned 102:19 180:7 246:8 250:2 260:15 300:22 304:20 310:13 learning 214:14 313:23 leave 218:13 292:11 leaves 130:14 131:23 201:11 leaving 206:11 led 240:7 leeway 229:18 left 57:20 96:15 110:9 132:16	134:19 136:7 143:18 144:22 192:12 218:23 236:8 271:13 legal 38:11,11 49:16 77:6 78:21 90:8 92:17 111:9 164:10,15,21 165:4 188:21,22 216:21,25 218:2 229:15 232:25 242:23 264:15,18 278:10 306:11 legally 2:16 281:15 legislate 278:5 legislation 20:18 27:2 166:2 201:3 244:17 246:6,23 247:16 legitimate 176:19 leisure 254:11 lend 212:23 length 126:4 lengthy 5:25 117:18 lesser 196:7,12 238:15 278:25 letter 42:25 43:9 43:17 90:21 91:7 91:8,15 92:12 95:19,20 99:13 100:4,11,20 101:4 103:21 110:5,9,12 110:17,19 122:21 122:22 123:4 171:17 172:10 178:25 181:20 182:24 184:25 210:12 221:17 230:20,21 231:22
---	--	---	--

246:7,12,25 289:16 letters 15:6 18:5 18:18 108:19 letting 12:10 level 50:13 59:11 60:6,8 61:15 132:9 135:12,21 137:12,14,17 144:4 146:8 240:7 258:13 261:20 264:12 283:23 284:3 303:13 levels 143:20 199:2,6,9,10 leventhal 1:19 31:15,17 33:10 38:8 44:9,17,22 45:13 62:5,11,18 62:23 63:7,14 64:5 67:25 68:15 69:15 70:5,16 71:13,19 73:22 74:3,16,22 75:10 75:14,20,22,25 76:11 84:3,6 90:23 91:5 93:20 109:24 111:3 112:13 115:10,15 115:24 122:2,12 123:3 151:11,13 181:15 182:2,24 182:25 186:21 187:5 188:5,9,11 188:13 192:23 228:13,19 229:14 229:21 232:9,14 232:20 235:22 252:15 257:22 264:4 277:24 279:13 314:15,17	leventhal's 115:21 leverage 178:6 lex 256:22,22 licensed 76:14 124:18 life 310:16 313:22 lifelong 293:16 light 29:25 56:10 251:18 262:12 263:6 likelihood 255:7 limit 127:22 128:16,20 129:6 252:9,11 266:3 limited 7:17 165:7 169:3,5,8 219:5 limits 33:3 line 14:10,15 15:2 15:9 17:15,17,25 18:2,9,16,20,25 19:8 72:18,23 82:16 85:24 92:6 92:8 93:15 94:2 94:14,18 95:2 100:24 101:10 104:10,13 139:24 156:11 161:17 173:11 200:13 221:13 222:5 227:25 268:16 293:15 306:12 lines 14:14 59:15 104:7 137:20 245:13 lining 253:22 link 6:11,14 list 33:20 34:4,5 34:23 35:7 36:24 37:18 43:8 50:23 51:2 83:18,20,23 84:4 85:5,8,20	86:6,18 88:18,19 148:13 176:11 297:11 listed 16:25 17:6 24:13,17 154:19 264:8 296:18 listen 108:7 221:4 221:24 listening 7:7 31:21 33:13 94:8 149:4 187:8 188:15 273:13 309:23 314:9 listing 84:13 litigate 229:19 litigation 187:18 litman 300:9,10 301:25 little 280:4 live 6:8 14:20 53:4 53:21 74:25 138:13 203:12,16 238:22 258:6 260:11 267:3 272:17 282:25 283:5 286:18 291:19 293:17 298:19 299:11 301:19 lived 52:5,13 75:5 96:4 283:2,19 299:15 lives 72:2 277:12 living 68:9 157:5 204:13 255:8 312:6 llc 9:22,25 10:21 11:8 13:16,18 16:7 17:9,24 18:12,22 19:12,14 19:19 20:6,22	21:11,18 23:17,22 24:6,20 25:9,23 26:2,5,11 27:7,19 29:7,9 48:11,11 98:12,15 99:14,19 110:8 249:8 267:15 load 46:18 local 4:24,25 65:15 77:7 92:18 184:3 212:16 214:5,8 215:23 225:25 226:4,7,13,21 227:20 244:10 258:13 307:8,8 located 10:9 17:12 82:7 313:2 location 11:18 25:5 140:4 161:4 197:8 locations 161:13 locher 291:17,18 291:19 long 6:20 39:17 56:16 159:8 167:24 172:8 182:17 209:8 217:19 233:4 270:25 307:20 longer 86:20 138:2 295:5 look 56:2,9 58:11 64:5 73:17 85:10 85:19 87:15 93:19 97:6 124:7 137:20 140:21 141:20 142:3,4 143:17 145:22 154:11 158:13 160:2 168:25 171:6 172:6 179:13
---	--	--	---

229:9,12 241:12 242:25 252:3 261:4 274:8 315:5 looked 36:20 54:3 55:4 64:12 132:25 306:10 311:4 looking 81:12,13 102:2,15,20 114:15 116:13 117:16 131:17,21 132:10 134:22 161:2 176:22 looks 135:4 136:5 136:17 314:10 loop 254:5 loose 236:18 losing 279:24 loss 40:24 61:25 248:9 lost 74:14 295:23 lot 58:4 60:13,14 73:7,8,19 84:20 85:15 104:7,10,13 107:2 120:13 133:8 138:3 149:7 151:23 229:18 275:4,5 277:4 279:7 300:17,20 300:22 305:22 310:23 313:13,23 lots 131:22 196:4 265:7 lou 300:23 loud 145:6 254:18 260:2 loudness 198:25 louis 164:6 love 273:9 312:23 loved 31:21 lower 10:13 134:18 137:19	144:22 lucak 286:16,16 286:17,17 lucas 216:9 luis 252:6 260:17 luther 77:20 lwrp 282:4,10 m macomb 36:3 mail 3:8 90:10 91:9 95:22 96:8 102:6,9,22 103:18 170:24 171:10,18 172:7 173:4 176:15 185:5 223:21,24 224:3 230:15 236:9 247:23 249:4 289:17 315:18,20 315:22 mailed 103:20 110:2 mailing 8:10 mails 15:4 105:15 110:24 119:12 main 303:24 maintain 76:15 maintenance 84:24 major 139:16 majority 206:9,13 306:18 makeup 73:14,15 making 20:12,25 26:21 27:10 69:2 129:13 165:10 169:15,20 209:20 219:9 228:16 232:15 245:6 269:21 280:21 281:6 295:21	297:21 301:22 311:24 male 55:20 67:14 67:22 231:14 mamaroneck 1:5 4:7 17:13,21 24:21 25:4 36:11 44:2 47:16 53:12 57:11 62:2,4 65:13 66:19 75:19 77:12,15 78:13,17 78:19,25 123:9 159:14,17,18 187:20 191:13 200:20,25 201:19 203:20,25 204:12 211:3 214:10,15 216:10,11,12 222:14 237:9 238:5,24 240:12 253:8 258:10 260:9,11,21 261:16,25 262:13 262:25 263:5,7,10 263:14 264:6 266:8 267:2 273:24 274:4 279:16 286:18 293:17 294:6 310:15 311:15 mamaroneck's 271:17 managed 240:17 management 67:12 77:16 79:18 119:23 147:20 149:11,17,24 208:14 217:17 237:12 293:19 295:3 299:14	manager 91:11 121:25 122:10,14 122:23 171:11 172:13 210:16,18 230:24 manages 78:9 mancini 304:23 mandate 22:9 177:7 204:14 244:18 248:14 mandated 88:10 mandatory 47:10 manhole 14:10 manipulate 178:9 manipulating 172:5 manner 119:16 287:19 manor 36:9 map 135:23 137:3 137:10,23,24 maps 103:23 138:3 196:3 march 11:11 12:12 13:23 14:20 15:11,14,23 16:12 18:11 19:6,16 48:3 81:11 82:23 86:9 89:7,8,23 90:12 91:16 100:16 101:21 105:21 106:5 109:18 113:11,17 114:5 116:19 173:20 190:2 191:2 marinas 161:9 mark 104:21 165:15 262:17 269:24
---	---	--	---

marriage 317:14	166:23 167:16	36:16,19,23,24	281:24 282:11,19
martin 77:20	168:10,17 169:5	37:11 38:4 44:3,8	286:15 287:25
mason 265:7	169:10,23 173:25	45:3,20 47:19	291:16,21,23
master 234:21	181:4,10,22	51:24 62:7,10,12	293:9 295:23
master's 303:8	188:22 189:23	62:15,19,20,24	300:8 301:24
match 85:21	195:21 200:25	63:5,11 69:14,23	303:15 304:2,7
material 22:7 37:9	201:3 204:6,21,22	69:25 70:24 71:6	305:13 307:15
37:12,13 97:18	204:25 206:16,16	71:8,10,14,18,20	309:24 314:10,20
98:10 99:11 100:8	206:25 207:2	71:21 73:14,18,23	315:16
106:14 144:22	211:6 215:9	73:25 74:4,8,16,19	mayor's 3:22 4:14
147:23 149:15	216:19 217:8,16	75:12 76:2,3 79:3	8:22 33:4,16 38:6
154:13 156:3	217:22 218:17,20	79:3 89:13 91:9	56:10 155:5
196:13 199:17	219:2 220:16,20	103:14 115:5,7,12	297:23
200:4 203:15	222:3,8 223:12	115:13,19 131:12	mccrory 164:4,11
226:2 245:14	224:23 225:8,15	150:17 151:9	266:23,24,25
246:15 247:13	233:2 243:22,23	170:25 171:11	272:8 275:25
306:17	245:15 246:9,16	172:12 175:18	294:20
materially 195:21	247:25 267:12	177:4 181:21,24	mckinney's 192:5
materials 6:16 9:8	268:10,14,22	182:8,12,15	mean 32:6,15
47:6 79:24 105:7	269:15,21 270:15	186:22,25 187:7	52:24 53:5 58:23
140:25 159:23	270:22 298:9	188:8 189:14	64:5 73:10 76:3
250:6	302:15 304:9	210:2,20 223:22	79:17 86:3 103:25
math 126:8	305:15,19,23	223:25 224:8	106:15,18 107:11
matter 1:6 2:5,12	316:7 317:16	225:3,6 228:16,21	109:5 128:23
6:7,15 7:22 9:18	matters 20:10	228:24 229:6,9,12	142:8 151:23
13:15 16:23,24,25	26:18 28:12 39:25	229:14,22 230:16	154:25 155:3
19:20 24:10,11	41:5 52:25 60:8	230:22 232:6,11	184:4 210:22
35:9,14 36:14,17	60:23 109:22	232:17 234:10	211:12 236:7
40:9 45:15 48:21	161:22,25 162:10	235:3,14 236:20	273:17 275:13,15
49:4 60:7,22	166:21 186:15	236:23 238:18	312:11
86:21 87:4 91:21	190:4 217:4	241:19 248:10,19	meaning 23:3
92:4,15,20 93:3	218:22 220:7	250:25 252:6	256:22
95:18 98:15,18	295:15 297:19	257:18,25 259:20	meaningful
99:25 100:10,17	maxim 256:22	259:23 260:2	284:24
101:7,16,22,24	mayor 1:15 2:2,15	261:21,23 262:2	means 83:24 86:4
102:16,21 107:11	3:16,16,25 7:23	262:17,24 263:4	142:12 210:17
112:3,6 113:22	8:3,9,16 28:24	264:2,12 266:5,10	227:13 299:10
125:5 126:19	30:8,13,21 31:7,25	267:5 269:12,13	meant 31:2,5
153:11 154:17,18	32:2,11,25 33:7,11	269:18,20 270:8	281:7
154:19 160:17	34:5,8,12,16,19	270:12 272:6,14	measure 205:22
164:19 166:12,18	35:13,21 36:11,13	276:21,24 277:14	205:24,24 206:19

206:22 304:15 measured 142:24 144:24 199:3 measures 139:6,6 149:10 media 254:5 meet 46:15 80:12 101:14,18 105:8 151:19 299:20 310:20 meeting 5:23 7:6 10:19 11:13 12:8 14:4,21 15:11,24 16:12 18:17 19:7 19:8,17 20:16 21:7,13 26:24 27:15,21 28:5 40:5 55:3 56:11 59:13 68:14 72:21 80:15 82:23 86:9 88:5,6 89:7,9,23 90:12,13 92:3 96:14 98:7 99:16 100:10 101:13 105:21,24 106:5 112:11 113:10,12 113:17,18 114:13 114:23 116:19,20 117:3 153:14,18 160:5 164:8,14 166:22 190:2,5 191:3 192:11,12 206:15 208:18 213:10 218:24 246:5 247:10,11 248:2 meetings 46:20,24 47:2 49:20 53:15 79:15,22 80:11,13 118:14 119:4 152:24 153:9	173:18 175:10 208:20,24 214:17 226:12 240:4 248:4 257:13 283:11,12 310:24 312:21 meighan 107:14 107:15,16,20 108:7,13,23 113:20 114:8 meighen 173:19 member 3:19 4:2 16:21 17:6,7 18:10 19:15,20 20:9,24 22:12 24:8,18,18 25:21 26:17 27:8 29:4 36:12 39:7,24 40:22 47:7 49:23 49:25 50:3 52:3 52:12 53:2,3 58:2 58:7,20 59:5,12 60:17 61:4 65:9 65:10,21 74:24 77:13 78:6 79:16 86:25 87:8,12,24 106:16 107:16 108:2 117:6 120:17 122:8 123:7 124:4 149:23,25 150:6 150:22 152:10 153:22 154:9,15 156:6,15,21 159:15 160:16,21 173:6 175:2 176:21 177:3,4,8 185:12 201:14 203:11 204:15 206:5,10,20 208:12,13 209:3,9	209:21 210:16 211:4 212:21 213:14 214:9 218:10 222:12 231:14 233:16 234:15,19 241:24 242:3 245:16 246:13 247:14 248:7 252:16 270:8 276:6 290:19 293:18,24 294:7 298:18 302:8 308:13 member's 41:24 members 4:8,9 6:6 6:25 8:8 11:9,14 12:5 22:13 35:21 37:22 42:13 46:12 46:20,21 47:6 53:20,25 54:8,13 55:20 57:23 58:14 63:20,25 65:4,20 66:23 67:6,14,22 68:4 73:13 80:18 101:20 105:12,24 106:6,9 108:6 114:14 119:5,22 149:4 154:3 157:5 157:12 158:19 160:10 161:10 172:5 173:10,16 173:19 175:17 176:10 177:11 178:11 179:10 183:20 184:3 206:7,9,11,17 209:12 210:23 213:2 214:16 218:6 223:2,19 238:13 242:5,7,25 243:9 252:23	253:18 266:15 271:15 283:15 299:2,9 312:20 313:6 memo 111:3 155:14 157:19 174:2,17 178:18 220:21 234:6 memorandum 9:9 111:9,12 memory 55:23 77:2 103:5 136:22 250:13 memos 110:24 men 54:8,10,20 257:10 275:3 mental 255:19 256:8 257:7 mention 277:4 303:7 mentioned 3:16 9:4 61:24 63:17 65:12 67:5,23,25 72:17,22 96:15 110:6 147:3 152:17 194:16 197:12,14 198:5 257:11 273:2 292:12 304:11 mentions 305:25 305:25 mentor 295:7 mere 38:17,19 177:7 218:4 270:2 merely 106:21 229:6 merit 257:4 merited 170:7 merits 166:11,24 167:23 168:22 169:21 192:8
---	---	---	--

205:2 216:22 217:8,10,15 218:18,23 223:11 mess 269:9 message 170:24 284:22 met 11:10 12:6 13:23 15:19 97:21 101:20 110:22 113:4 119:22 123:12 173:15 220:17 261:23 302:20 312:7 metaphor 253:8 metro 142:14 microphone 252:11,13 middle 180:3 185:4 mike 108:14 mile 217:10 miles 311:5 million 178:2 183:19 184:23 310:9 mind 144:16 145:13 180:17 248:23 307:13 315:5,6 mine 177:16 193:22 minimal 125:20 minimize 198:18 minimized 254:4 minimum 34:25 80:11 253:21 minimus 243:14 ministerial 40:7 167:8 190:4 191:4 205:4 223:9 290:20	minute 115:3,8 145:9 187:4,25 235:6,9 252:9 minutes 7:17 55:2 55:4 60:11 110:13 110:16 124:8 152:23 153:9 160:4 162:2 186:24 187:3,5 235:11 236:4,5 266:3 273:2 276:25 misconduct 304:19 misguided 177:5 286:8 misleading 289:20 mismanagement 261:12,18 misrepresentatio... 99:22 100:4 171:22 179:8 missed 79:15 177:19 208:17 missing 272:13 mistake 79:14 mistaken 298:7 mistakenly 271:7 mitigated 150:14 mitigating 32:24 mitigation 78:4 147:16 149:9 183:14 185:8 266:17,18 304:11 mitigations 148:8 model 233:25 283:25 284:7 mole 184:8 moment 35:12 171:5 179:15,16 193:9 205:9	228:14 momentarily 35:5 moments 253:9 money 165:21 169:17 241:17 264:17,20,22 265:2 273:20 279:24 monitored 240:17 month 46:16 80:12,12 251:7 months 14:24 109:11,20 122:16 130:14 153:2 173:24 176:3 239:23 262:9 263:13 288:3 290:11,11 292:13 moot 225:9,15 moral 223:7 276:9 morning 33:11,12 39:2 75:22,24 272:22 277:3 302:11,13 mother 57:10 motion 42:12 49:24,25 122:4,14 123:16,20,24 209:20,23,25 210:7,11 232:4,10 motivated 172:2 223:15 286:7 motivating 185:21 motivation 259:19 motive 268:25 269:10,20 motives 204:19 motor 145:3 mountain 184:7 move 67:9 106:16 109:9 128:25	moving 147:13 mud 176:13 285:3 multiple 28:6 29:11 124:9 multitask 302:16 municipal 22:3,22 35:18 77:20 109:25 158:19 190:11,24 212:17 214:4 215:23 219:23 222:16 242:20 279:11 municipalities 5:16 municipality 226:13,21,25 murphy 1:15 2:2 44:3,8 45:3 62:7 69:25 70:24 71:8 71:18,21,23 73:25 74:19 75:12 76:3 79:4 115:5,12,19 151:9 181:24 182:8,12,15 186:25 187:7 188:8 229:14 232:6,11,17 235:3 235:14 236:23 238:18 241:19 248:19 252:6 257:18,25 259:21 259:23 260:2 261:22,23 262:3 262:24 264:12 266:5,10 272:6,14 276:21,24 281:24 282:11,19 286:15 291:16 293:9 295:23 300:8 301:24 307:15 309:24 314:10,20
--	---	--	--

315:16 mute 252:12,12 myriad 196:17	nearby 14:17 nearest 126:2 127:25 140:12 141:17 144:12 196:5,9 necessarily 25:11 281:19 necessary 84:21 85:16 210:10 305:3,4 necessitated 235:21 necessitating 270:21 necessity 230:12 need 7:5,12 29:22 44:5 51:10,11 91:3 94:15 115:3 138:20 177:18 178:4 189:13 193:24 206:21 208:5 241:4 250:16 309:7,9 needed 6:24 99:7 213:13 247:4 252:25 269:3 needs 106:25 115:14 222:14 292:22 309:6 negatively 311:10 neglect 38:22 39:5 39:22 42:9 188:24 189:23 233:10 239:14 negotiated 113:13 116:21,25 negotiating 257:8 neighbor's 197:15 neighborhood 127:15 243:10 245:12	neighborhoods 265:10,19 neighbors 14:24 15:4 18:4 51:16 81:22 93:25 95:4 95:8 197:12,20 243:24 261:17 263:12 neither 59:25 62:24 223:23 243:21 nerve 254:20 networking 78:16 never 68:7 79:10 96:5 119:18 120:6 121:20 123:24 175:11 180:18 184:12,13 202:8 202:10 241:11 244:20 251:14 280:15 283:22 286:13 295:6 nevertheless 92:23 150:18 new 2:9 3:23 5:15 22:24 23:11 38:5 45:10 76:8,15 77:8 82:6,11 84:10 85:9 88:17 91:19 104:16,24 104:25 110:2 114:20 147:12 149:13 159:2 199:25 200:23 202:7 205:13 211:16 213:21,23 237:9 242:2,12,17 242:24 248:3 278:8 300:22 309:2,8 317:4,8	newgaard 107:23 107:25 108:20,24 113:19 114:8 173:19 news 15:10 224:24 225:9 254:3,24 nexus 172:3 night 83:5 night's 56:11 nil 125:20 noel 317:7,23 noise 130:8 139:12 139:14 140:24 141:7,9 142:12,13 142:16,17,20,22 142:24 143:9,9,14 143:20 144:2,3,6,6 144:11,19 145:4,6 145:15 146:3 198:23 199:7,8,9 199:18 254:21 non 165:7 169:3,6 169:8 207:11,19 219:6 256:22 nora 286:15,17 normal 144:25 145:10,19,24 146:6,13 198:25 199:10,11 normally 4:17 59:21 norms 258:12 north 142:15 northerly 12:21 northport 36:5 nose 140:11 notary 45:9 76:7 317:7 note 37:19 297:20 306:4 307:2
---	--	--	--

noted 70:25 71:18 71:22 160:8 210:3 244:15 305:10 notes 69:6,12 70:15 317:11 notice 16:17 23:19 51:8,11 52:5,14 53:22 72:3 74:25 75:5 82:2 85:11 102:13 109:21 111:20 196:4 201:10 203:12,16 204:13 248:2 250:4 277:5,6 280:19 299:16 noticed 105:13 271:2 277:10,13 280:18 298:20 299:12 notices 51:3,14 notification 81:21 91:23 102:14 notified 112:2 notify 112:4 notion 200:12 novel 221:15,20 november 28:13 28:22 171:13 183:2 242:14 246:3 249:25 250:24 251:9 262:13 number 54:24 65:9,11 84:16 128:7 129:3 137:16 144:16 194:4,13 205:21 205:23,25 206:2 243:6,10,15 246:17 261:9,11 261:14 307:23	numbers 55:25 66:12 255:5 numerous 195:18 nursing 263:16 nyclu 252:16 o o 45:8 76:6 oak 10:8 14:12,19 15:3,16 17:20 25:3,6 93:17 127:7,18 130:16 136:12,16,19,20 137:14,18 138:21 141:14,18,18,21 141:22 143:7,8,10 143:14,22,22 144:12 145:16 196:14 197:6,9,21 197:22 198:9,11 199:4,4,19 296:14 296:25 oath 8:3 89:6,7 162:14 objection 69:15 70:24 71:16,21 73:22,23 objections 210:2 objective 53:7 60:19 157:11 210:8 301:8,13 objectively 234:13 251:17 305:7 objectivity 60:16 60:22,23 208:9 287:24 303:2 obligation 210:18 293:4 obligations 15:22 23:8 123:10 211:25	observe 60:5,20 observing 4:10 obtain 125:2 267:22 270:8 obtained 174:18 obvious 59:3 61:16 118:3 239:20 255:23 obviously 32:16 64:16 66:4 132:14 275:19 292:19 315:22 occasions 28:6 93:15 119:22 158:11 occupied 206:4,23 233:16 occur 89:3 129:22 133:25 143:14 196:14 198:2 occurred 136:23 148:11 158:23 159:7,13 199:3 251:10 occurring 252:2 october 28:13 123:5,12 offense 259:16 offered 214:12 offering 91:2 245:23 office 40:18,23 51:20 55:14,16 87:2 102:7 170:22 189:2 207:23 209:16 219:24 222:12 233:13,15 233:23 234:18 291:24 officer 20:9 26:16 86:24 87:7,10,22	154:14 159:14 183:9 191:16 officers 47:15 118:6 158:19 159:24 160:10 214:12 222:22 official 4:24,24 5:8 20:14,18 21:6,12 26:22 27:2,14,20 87:2 159:16 244:5 244:18 245:24 252:23 261:19 292:20 293:4 officials 213:3 240:11 264:13 oh 39:8 73:3 134:11 136:14 163:20 okay 73:25 108:4 108:17,25 109:2 115:9 116:11 122:19 140:19 141:3 147:19 149:18 156:2 166:17 180:3,14 185:23 186:25 229:21 249:4 273:25 276:23 277:2 282:11 301:25 314:10 omission 272:4 omitted 254:5 once 32:2 79:21 82:23 137:5 141:3 146:12 236:12 291:7 315:8 onerous 284:22 ones 31:21 108:15 ongoing 296:17 online 137:23
--	---	--	--

<p>open 2:11 3:5 10:12 49:24 83:6 83:10 88:6 90:13 168:11 190:5 217:12 225:23 226:12 236:9 248:3 306:6 310:10 315:5,13</p> <p>opened 91:24 92:13 174:4</p> <p>opening 43:24 49:22 61:24 83:9 88:5 166:22</p> <p>operate 228:8</p> <p>operating 161:5</p> <p>operation 180:17</p> <p>opined 225:24</p> <p>opinion 2:7 7:22 35:8 48:10 52:8 52:16,19 56:22,25 57:25 59:4 61:21 120:10 126:21 151:4 163:25 174:19 187:19 218:7,7 221:10 265:14 283:24 288:24,25 297:24 298:10 314:8</p> <p>opinions 41:25 213:21,23 218:10 250:17 271:9,13</p> <p>opportunity 6:6 8:5 28:18 58:3 115:2 152:23 225:16 300:18</p> <p>oppose 165:11</p> <p>opposing 265:14</p> <p>opposite 134:3,23 163:3,7 215:12</p> <p>opposites 134:20</p>	<p>oral 7:19 8:6</p> <p>orange 317:5</p> <p>order 4:23 5:12,14 7:5,14 31:6 44:6 58:18 92:23 101:5 124:22 176:12 184:8 205:19 224:20 263:23</p> <p>orders 4:19</p> <p>organizations 77:8 77:10</p> <p>organize 256:5</p> <p>orienta 161:16 162:7</p> <p>outcome 15:10 16:15 24:3 42:19 121:21 268:11 304:7 317:15</p> <p>outcomes 312:8</p> <p>outdoor 82:11</p> <p>outlined 149:10</p> <p>outraged 172:10</p> <p>outrages 259:5</p> <p>outset 111:23 194:16 201:20</p> <p>outside 248:2</p> <p>outstanding 238:13 258:20 276:6,13</p> <p>overall 208:15 285:25</p> <p>overstep 303:19</p> <p>overturn 30:14 33:8</p> <p>overwhelming 29:13</p> <p>owned 104:16 163:8 246:20</p> <p>owner 14:9 48:2 82:10 94:12,25 268:15</p>	<p>owners 51:4 81:9 311:18</p> <p>ownership 267:16</p> <p>owning 243:21 244:21</p> <p>owns 10:7 104:20 247:11</p> <p>p</p> <p>p.m. 115:18 188:7 235:12,13 316:6</p> <p>pace 77:25 277:25 278:3 303:5,9</p> <p>package 304:22</p> <p>packet 304:25</p> <p>page 6:12,13 9:5 97:6,17 98:9 99:9 100:6 107:19 112:20 117:9,17 129:9 149:18,20 171:7 177:17,18 178:4 179:13 195:11 259:14</p> <p>pages 214:22 287:17</p> <p>pagination 117:15</p> <p>paid 168:8 279:14 285:21</p> <p>pandemic 259:12</p> <p>paper 72:15 286:25</p> <p>papers 210:9 232:10</p> <p>paperwork 121:24</p> <p>paragraph 84:22 113:2 179:17 183:4 236:8 245:11</p> <p>parcel 294:17</p> <p>parents 57:19</p> <p>park 272:17</p>	<p>parkway 258:6 282:25</p> <p>part 8:24 52:7,21 76:19 114:6 122:5 135:24 136:18,19 138:4 140:24 151:4 180:2 183:4 194:8 231:22 242:12 244:23 278:23 281:5 294:17 303:9 308:4 315:20,21</p> <p>participants 33:3</p> <p>participate 25:21 35:9 75:16 82:20 83:3 93:5 96:21 124:11 152:4,15 152:20 164:22,25 167:19 168:5 169:18 170:2 207:13 218:18 249:12 283:17 284:23</p> <p>participated 9:21 10:18 11:2 14:4 15:12 20:24 25:20 27:8 83:4 124:9 167:7 175:7 207:9 215:2 216:19,22 217:3 218:21 223:8 239:9 246:9 270:6 290:20 314:19,22</p> <p>participates 20:11 26:19</p> <p>participating 19:13 31:20 33:13 40:5 43:14 73:8 88:22 121:6 154:6 168:9,11,14 206:8 206:11,25 213:10</p>
--	--	--	--

<p>296:22 297:18 participation 11:7 12:2 29:4 39:18 58:20,23 92:14,20 96:11 99:18,24 102:3,15,20 111:15 125:4 156:7 164:18 165:8 166:9 169:4 169:4,9,10 173:5 173:22 207:11 208:2,3 217:6 219:6 233:5 239:5 270:14 particular 51:13 84:11 129:10,15 146:20 155:23 191:14 192:19,21 193:15 202:4 268:12 particularized 194:10 particularly 41:6 199:24 259:4 261:17 314:14 parties 69:17 175:22 210:9 317:13 partly 136:14 parts 191:25 party 69:16 70:21 121:12 269:6 pass 138:11 198:7 243:20 passage 292:15 passed 72:10 255:10 passing 260:23 patience 5:21 43:23 188:15 236:19 310:6</p>	<p>patricia 190:11,25 222:17 pattern 41:4,5,8 56:2,7 66:13 220:4,5,11 304:18 paula 307:16 pause 288:14 pavement 216:21 pay 92:11 94:4 169:17 218:2 263:11,14 281:17 285:17 payer 251:4 284:22 payers 279:15 281:16 285:19 paying 264:18 payment 164:10 165:4 216:24 payor 261:12 264:17 pear 104:17 135:6 pecuniary 22:6 pejorative 245:23 penalty 165:12 170:9,12,15 219:11,22 234:18 279:12 pending 20:18 27:3 people 33:2 54:25 55:8 57:9,11 62:2 64:4,22 65:23 66:5,16,19 67:8 73:7 78:13 93:18 104:6 107:2 120:4 139:7 149:3 187:22 212:18 236:15 237:23 255:6,25 256:5,12 257:12 265:16</p>	<p>276:8,10 282:8 286:4 288:12 295:25 309:2 310:20 311:16,20 312:3,19,19 313:9 313:17 314:7 people's 292:5 perceive 25:5 231:12 perceived 101:9 percent 73:21 74:13 139:16 263:19 315:25 perfectly 253:18 performance 61:3 61:12 233:23 performed 233:15 297:7 perimeters 73:6 period 4:13 8:7 53:24 67:16 145:5 251:8 293:21 297:4 permeates 221:8 permission 64:20 106:10 permit 17:11 18:14,23 48:5,15 81:14 91:17 93:7 169:25 permits 46:7,8 permitted 227:21 persecution 284:16 person 4:18 16:25 23:14 25:4 35:6 38:19,23 56:15 66:3 72:2 97:11 230:8 238:19 258:23 284:19,23 295:7 309:16</p>	<p>311:13,25 312:12 313:21 314:5 person's 66:2 191:10 269:10 personal 34:19 41:24 87:5 165:19 166:12,18 171:24 179:9 213:7 225:19 234:14 239:7 243:6 244:4 244:9 246:2 267:21 268:6 275:19 284:9,10 307:2 personalities 234:12 personally 95:23 165:23 285:2 294:25 295:11 302:24 310:12 312:5,24 persons 17:5 24:13,17 86:19 87:7 154:19 perspective 133:6 267:10 persuade 220:18 persuaded 41:18 persuading 93:25 persuing 178:10 pertaining 46:10 petition 224:3 255:6 pets 134:5 petulant 221:5 phase 125:19 philosophers 256:11 phone 7:8 99:5 102:24 293:11,12</p>
---	--	--	--

phonetic 36:4 135:5 190:12 231:21 258:4 267:12 photo 132:14,20 photograph 131:18 132:15 134:9 197:18 photographs 131:14 135:15 photos 125:21 phrase 120:9 141:8 153:6 154:23 155:23 188:20 191:21 218:19 picked 282:3 piece 229:8 239:12 pieces 272:13 place 5:4 23:4 32:8 114:5 140:6 154:8 198:10 258:10 273:24 280:12 286:9 308:8 placed 7:15 176:16 places 207:18 273:25 plain 184:14 plains 224:23,25 227:6 plan 6:21 46:7 82:15 147:16 149:11,12 161:2 planned 14:9 237:17 315:2 planner 301:4 planning 1:18 3:20 4:3,6,8 9:19 9:25 10:7,18 11:4 13:18,22 14:5,21	15:11,23 16:12 17:9 18:10,12 19:16,19,21 20:23 20:25 24:20 25:22 26:3 27:7,9 29:5 30:5 34:10 36:13 37:21 39:7,24 40:8,19,22 44:2 45:21,25 46:2,11 46:14,19,24 47:6 48:3,5,7,20 49:5 49:16,17,21 50:3,4 50:10,20 51:6 52:22 53:3,10,14 53:19,20 58:2,7,20 59:6,12,18,24 60:3 60:17 61:3,13,22 67:11 68:11 72:21 73:16 77:12 79:17 79:23 80:9,17 81:3,10,14 82:18 82:20,25 83:2,8,12 85:5 86:4,7 88:6,8 88:14,23,25 89:22 90:6,15 91:11,20 96:12,18 98:17,25 99:3,16 100:17 102:3,14 105:4 110:8,13,15 117:6 119:2 148:4 149:25 150:8,23 151:16 152:10,24 153:3,9,15 154:2,6 160:18,20,22 166:25 167:22 168:23 169:18,19 170:3 173:5 175:6 175:10,19 176:8 176:21 177:3,4 181:4 184:3 190:2 191:3 192:14	205:2 207:24 208:13 209:3,12 217:14 219:18 223:10,18 237:13 239:3 242:13 248:9,13 251:19 251:23 254:15 267:13,17 268:2 269:16 270:5 275:3 279:23,25 280:5,10 292:11 294:15 300:5,16 308:12 planted 132:5 played 239:22 please 3:14 45:16 71:2 76:12 77:3 81:24 84:4,16 85:10,20 86:22 87:15 91:6,15 97:7,18 98:10 99:10 100:7 103:13 105:5 106:2,13 107:6,9 107:18 108:11 109:17,19 112:9 112:21 117:19 123:2 125:7,20 136:17 144:21 147:22 149:2 154:13 156:2,24 158:13 160:6 164:2 179:17 186:25 189:4 211:23 229:17,19 236:6,24 249:3 252:10,12 254:23 266:22 272:7 301:20 310:5 315:18	plus 145:15 193:6 193:6 pocket 95:13 165:22 point 2:18 41:16 94:12,14,21,24 104:20 105:5,11 123:16 146:13 160:15 161:18 162:6,21 181:18 209:6 227:23,25 239:13 247:22 270:23 276:2 285:16 286:3 289:4 pointing 74:14 points 69:7 146:17 146:21 147:3 197:14 235:17 245:10 278:3 poking 197:3 police 223:3 255:13 policy 240:18 polite 118:18 119:6 politely 267:9 political 311:12 politics 65:16 255:18 pond 10:14 pools 161:9 poor 255:3 populated 212:17 portion 7:8,11 82:8 86:21 97:8 111:23 112:21 116:16,16 117:18 117:20 147:22 160:7 164:3,14
---	--	--	--

portions 107:7 portrayed 231:19 231:21 pose 147:7 position 23:4 38:20,25 39:6 43:16 87:2 190:15 190:16 212:3,11 238:16 293:3 position's 293:4 positions 45:17,17 288:22 302:21 positive 104:22 positively 311:9 possesses 58:16 possession 66:7 181:25 182:3 265:18 possible 6:25 248:21 278:6 286:23 292:24 possibly 94:20 210:22 243:13 266:17 post 259:10 posted 55:3 81:16 224:18 234:7 postponed 5:5 posture 272:8 potential 11:12 42:21 89:17 180:11 246:14,19 247:19 267:20 294:18 297:12 potentially 86:19 power 3:25 30:13 33:4 35:17,20,25 36:2 38:18 70:23 178:8 261:7,9 powers 158:16,17	practical 53:8 practice 56:3 66:13 76:16 202:2 practices 212:5 precludes 271:11 preempted 227:9 228:5 preempts 225:24 preferably 292:24 prejudice 5:6 233:9 preliminary 218:21 premises 17:11,16 24:23 preparation 46:19 46:22 59:11 60:7 60:8 68:15 78:15 80:14 208:9 prepare 46:23 79:22 148:15 251:11 prepared 33:21 34:23 47:3 59:13 60:10 68:25 208:21 prepares 208:20 preparing 127:2 presence 218:4 270:2 283:14 present 28:20 53:17 96:17 175:10 206:7,10 232:21 235:22 261:10 268:18 presentation 242:14 presented 13:14 58:12 212:13 215:24 216:14 232:23	presenting 7:21 217:5 preserve 65:25 117:5 176:6 305:4 preserved 176:18 preserving 302:25 president 78:12,17 78:23 177:13 233:22 242:24 244:7 296:9 305:21 pressing 292:3 presuming 231:16 pretty 49:18,23 137:3 170:17 184:15 229:18 294:12,23 304:15 prevail 314:5 prevailed 112:22 113:9 116:18 prevails 289:3 prevented 255:5 preventing 255:20 previous 190:16 282:15 290:19 304:3 previously 12:19 16:16 292:12 294:9 prickly 104:17 135:6 primary 249:10 281:12 principal 17:24 191:24 principle 216:8 233:7 principled 212:2 principles 242:8 prior 5:14 17:21 18:16 77:14 79:21	123:20 158:25 215:25 216:2 privacy 225:20 226:19 229:24 private 20:21 27:6 176:23 177:24 183:18 184:22 302:7 privately 227:13 pro 77:6 78:22 probably 80:13 107:20,23 126:11 137:18 264:13 290:13 304:11 problem 163:5 308:9 procedural 10:4 13:21 165:2 167:9 168:6,14 217:3 218:22 procedures 7:10 240:4,6 proceed 187:2 proceeding 1:12 3:13 30:18 62:25 69:16 94:9 165:3 168:15 171:20 234:5,8 282:18 proceedings 61:17 112:14 168:6 179:5 212:25 250:21 283:17 303:4 process 3:5 20:13 21:2 26:21 27:10 30:25 70:14,18 77:11 84:2 113:16 116:24 157:9 177:2 178:9 185:10 211:12,12 211:20 230:6
---	--	--	--

235:19 239:21 242:9 248:15 253:12 271:5 286:20 287:4 288:11,18 294:11 307:8 308:2 processes 240:14 produce 224:8 produced 110:23 148:13 producing 98:7 productive 31:14 profession 23:8 professional 22:25 57:14 76:13 106:12 114:10,11 118:17 119:7 124:22 202:6 234:14 300:20 301:14 306:3 professionally 118:8 119:21 285:2 289:22 professions 311:17 professor 190:17 202:4 profit 78:8 profits 77:10 progress 301:22 progressive 233:20 prohibited 87:10 191:7,15 201:10 201:13,18 222:23 226:9 prohibition 86:24 prohibitive 95:3 project 19:9 40:10 72:15 75:4 82:3,8 106:22 124:24 126:22 129:11	130:5 139:5 141:12 148:8 177:22 183:16 184:8,20 195:21 195:25 197:5 198:4 199:19 203:14 207:21 239:6 253:2 265:3 277:16 292:18 projected 143:10 144:11 145:14 projects 46:4,6 50:24,25 120:22 265:8 277:9 prolonged 145:5 prominent 92:17 93:21 promised 293:7 promote 58:13 157:8 promoted 45:6 promptly 118:13 154:16 174:14 prongs 189:5 proof 265:24 proper 262:11 properly 38:24 105:13 227:15,16 properties 78:10 144:12 145:16 146:4 157:6 161:6 197:12,16 203:14 267:21 277:7,10 311:22 property 10:14,16 11:18 12:14,15,22 12:23 13:5,12 19:5 25:6,9,13 29:10 51:4,17 53:4 57:20 81:10 92:7,9 103:23	104:3,11,14,18,18 124:19,21,25 129:16 131:19 133:6,8,13,17,20 133:24 134:4,21 135:18 136:18,19 138:16 139:24 140:5 141:13,17 146:20,25 157:13 160:19 161:3,17 161:20 163:8 173:10,13 196:23 197:8 200:13 215:11 222:6 243:21 244:19,21 246:20 247:12 267:15,24 268:13 270:20 277:11,17 280:17,20 298:21 312:14,16 proposal 52:10,17 155:8 177:6 203:18 propose 244:11,17 proposed 14:8 18:16,20,21 25:7 25:10 82:9 92:8 127:14 128:2 138:8 140:6,10 157:16,20,21,24 158:4 162:25 177:23 183:16 184:20 246:6 272:2 proposes 24:25 proposing 82:11 133:4 proprietors 311:19 propriety 17:5	prosecutor 176:2 protect 211:19 224:11 275:14 protected 275:13 protecting 268:24 protocol 44:9 proud 59:8 278:2 307:6 prove 263:6 provide 3:4,7 8:14 33:16 68:19 70:15 123:13 153:25 156:11 157:4 158:18 160:9 177:23 178:14 183:17 184:21 258:19 303:15 provided 6:12 12:6 16:17 23:19 28:17 47:4 57:13 79:25 84:22 123:9 125:22 159:23 174:15 175:5 203:25 204:4 249:23 provides 20:7 21:24 26:15 53:13 122:6 183:25 241:21 providing 19:3 265:4 294:4 provision 22:2,4 84:21 85:16 86:18 97:25 113:8 155:23 204:8 222:19 233:13 provisions 21:23 22:21 51:8 171:21 277:5 provost 190:15 222:17
--	---	--	---

proximate 200:15	66:1 67:1 68:1	183:1 184:1 185:1	287:1,7 288:1
proximity 11:23	69:1,24 70:1,2	186:1 187:1,8	289:1 290:1 291:1
12:2 13:11 72:3	71:1 72:1 73:1	188:1 189:1 190:1	292:1,14 293:1
103:21 106:21	74:1 75:1 76:1,8	191:1 192:1,12	294:1 295:1 296:1
107:5,10 109:7	77:1 78:1 79:1	193:1 194:1 195:1	297:1 298:1,10
114:17 129:14	80:1,4 81:1 82:1	196:1 197:1 198:1	299:1,24 300:1
139:22,23 146:25	83:1,6 84:1 85:1	199:1 200:1 201:1	301:1,2,25 302:1
177:8 192:23,24	86:1 87:1 88:1	202:1 203:1 204:1	303:1 304:1 305:1
193:5,6,6,11,13	89:1 90:1 91:1	205:1 206:1 207:1	306:1 307:1 308:1
195:10,13 200:12	92:1 93:1 94:1	208:1 209:1 210:1	309:1 310:1 311:1
200:13 237:20,25	95:1 96:1 97:1	211:1 212:1 213:1	312:1,20 313:1
243:21 244:22	98:1 99:1 100:1	214:1 215:1 216:1	314:1,21 315:1,7
270:20 274:6	101:1 102:1 103:1	217:1 218:1 219:1	315:13 316:1
pt 78:17	104:1 105:1 106:1	220:1 221:1 222:1	317:8
pta 78:23,24	107:1 108:1 109:1	223:1 224:1,21	publication
120:22	110:1,18,20 111:1	225:1 226:1,16,20	259:14
public 1:6 2:1 3:1	112:1 113:1 114:1	227:1 228:1 229:1	publicly 57:9 75:5
3:17,21 4:1,2,13	115:1 116:1 117:1	230:1,5,13 231:1	93:14 110:11
4:17,19 5:1,2,9	118:1 119:1 120:1	232:1 233:1 234:1	174:11 248:2
6:1,6 7:1,2,11 8:1	121:1 122:1 123:1	235:1,7,10,15	250:7
8:8 9:1 10:1 11:1	124:1 125:1 126:1	236:1,2,3 237:1	publish 288:5
12:1 13:1 14:1,9	127:1 128:1 129:1	238:1 239:1,19	published 197:18
14:14 15:1 16:1	130:1 131:1 132:1	240:1,19 241:1	pull 274:20
17:1 18:1 19:1,3	133:1 134:1 135:1	242:1 243:1 244:1	pulling 273:16
20:1,15 21:1,7,13	136:1 137:1 138:1	245:1 246:1,5	punch 79:13
22:1 23:1 24:1	139:1 140:1 141:1	247:1,9 248:1	punish 271:8
25:1 26:1,24 27:1	142:1 143:1 144:1	249:1 250:1,4,5	punishment
27:15,21 28:1	145:1 146:1 147:1	251:1,3,7,24 252:1	183:12 187:14
29:1 30:1 31:1,4	148:1 149:1 150:1	253:1 254:1 255:1	219:23 261:6
32:1 33:1 34:1	151:1 152:1 153:1	256:1 257:1 258:1	278:22 279:2
35:1 36:1 37:1	154:1 155:1 156:1	259:1,13,15,17	purchased 10:8
38:1 39:1 40:1	157:1,8 158:1	260:1 261:1 262:1	138:5
41:1 42:1 43:1	159:1 160:1 161:1	263:1 264:1 265:1	purchasing 296:15
44:1 45:1,10 46:1	162:1 163:1 164:1	266:1,3 267:1,25	purely 146:24
47:1 48:1 49:1,4	164:23 165:1	268:1 269:1 270:1	purpose 12:9
49:10,19,19 50:1	166:1 167:1,19	271:1 272:1 273:1	34:14 114:13
51:1 52:1,25 53:1	168:1 169:1 170:1	274:1 275:1 276:1	203:23 224:7
54:1 55:1,2,7 56:1	171:1 172:1 173:1	277:1 278:1 279:1	267:4
57:1 58:1 59:1	174:1 175:1 176:1	280:1 281:1 282:1	purposes 83:13
60:1 61:1 62:1	177:1 178:1 179:1	283:1,16 284:1	91:25 166:23
63:1 64:1 65:1,15	180:1 181:1 182:1	285:1 286:1,22	168:13 190:7

217:14 pursuant 3:22 pursue 185:24 pursued 178:5 263:22 purview 82:18 put 58:10 76:17,25 84:3 93:3 95:18 106:2 122:19 124:13 126:8 127:10 147:19 158:12 163:17 165:21 179:16 187:21 222:8 226:3,5 234:11 272:24 277:20 281:15 285:24 293:11 314:3 puts 61:6 308:7 putting 72:18,23 76:21 103:2 273:11 puzzle 268:21	259:19 263:12 273:8 295:8 303:24 312:11 questionable 241:7 questioned 71:17 questioning 115:21 173:5 240:5 questions 8:5 59:2 62:6,10,16 63:7 68:18,20,24 69:2 69:11 71:3,5,24 75:11 80:3,7 108:6 149:22 150:4,19,23 165:16 173:17 176:20 181:16 182:9,11,22 184:4 186:18 208:22 234:25 236:10 283:14 286:20 287:23 294:8 299:19 303:16,22 305:11 queue 241:21,22 296:3 quickly 303:21 quiet 139:15 quiros 252:7,7,11 252:14 257:19,25 260:17 quite 114:8 237:22 268:9 quorum 105:23 206:8,12,14 quote 156:8 157:2 164:8 176:6,7 256:9 292:2	r r 317:2 rabbits 151:23 racial 255:16 radius 53:4 91:23 127:13 128:8,15 196:3 241:3 rails 42:3 raise 7:13 44:6 150:4 237:24 raised 97:10 149:22 269:13,16 269:17 raises 287:23 raising 30:19 269:6 302:10,17 305:11 ran 2:15 66:11 121:12 291:23,24 random 213:2 range 137:18 rate 61:2,11 294:25 rating 61:6 ratio 74:11 rational 195:2 212:9 reach 20:4 26:8 29:23 180:23 195:16 198:9 reached 12:11 29:20 55:19 205:2 223:11 301:15 reaching 31:7 react 231:11 reaction 262:11 read 9:13 20:2 26:9 68:3 80:3 81:25 84:16 86:12 86:16,22 91:6,7,15 97:7,18 98:10	99:10 100:7 106:13 110:12,17 110:19 111:23 112:21 113:21 114:2 116:17 117:19 123:2 125:7,10 144:21 147:22 154:13 156:2,12 158:14 160:6 164:2,9 166:6 169:16 171:4,8,9 172:11 172:15,22 179:15 179:17 180:2 181:20 182:24,25 184:16 186:3 187:18 192:2,11 201:20 210:9 232:10 238:19 245:4 249:2,3 250:6 277:14 287:12,17 reader 245:10 readily 100:18 reading 12:17 48:9 58:11 108:11 109:3 155:3,5 156:14 166:14 168:7 184:14 ready 69:3 110:9 188:11 314:16 real 104:23 124:16 124:18 174:19 255:19 311:17 312:11 realize 300:12 311:13 realized 213:12 243:14 really 33:5 51:7 59:20 72:8 108:18
q			
qualification 258:22 qualifications 58:8 qualified 147:13 174:19 177:15 qualities 259:3,6 quality 50:23 question 12:4 31:11,24 36:22 37:8,11,20 39:4 73:12 74:17,23 76:22 118:4 119:19 121:15 151:3,7 153:6 181:3 186:2 188:25 195:16 229:23 241:11			

134:2 241:11 258:8 274:21 290:2,4 291:13 300:19 301:6 303:17 307:13,22 310:10 realm 7:20 rear 10:13 131:17 reason 35:4,13 38:10 64:11 87:5 101:4 109:8,9 116:12 121:15 124:20 137:11 153:13,17 167:6 178:19,19 191:5 215:7 221:23 223:6 244:2 265:21 266:20 277:6,11 280:4 295:13 314:2 reasonable 17:3 22:9,18 23:14 24:15 25:4,14 92:22 93:2 106:18 151:2 154:21,24 155:3,24 156:9,17 174:9 201:6,16 212:10 222:18 259:15 306:8 311:25 reasonableness 231:5 reasoning 39:10 40:25 189:7 209:18 reasons 20:19 27:4 33:17 220:10 222:16 rebuild 81:13 recall 47:11 136:22 162:12	receipt 123:4 receive 36:15 111:20 122:18 242:7 247:17 265:24 received 10:22 13:24 15:20 34:11 69:12 70:10 72:14 72:17 77:22 81:2 92:11 102:6 103:18 109:21 112:17 123:5 173:4 174:2 175:3 203:3 242:10 280:18 289:20 297:15 receives 72:3 recess 115:2,6 235:5,9 recesses 6:22 recognize 81:18 81:20 84:7 90:18 90:20 96:25 97:3 106:3 122:20 124:15 127:11 131:8 144:17 149:5 155:12 160:3 163:21,23 recognized 7:14 recollection 94:17 137:2 recollections 89:5 recommend 56:8 56:13 203:8,9 230:2 249:10 recommendation 4:15 7:24 8:18 9:7 9:15 10:2 13:19 28:24 30:22 32:10 41:22 42:4,11,17 63:6 97:5 99:17	117:10,13,17 171:8 172:17 220:2,3 221:18 222:11 224:8 229:5,11,13 233:19,21 245:3 249:24 250:3,15 251:6,8 267:6 272:2 287:4 291:10,15 298:8 298:23 299:2,4 300:4 303:23 313:25 recommendations 13:9 41:13 112:20 248:11 recommended 30:4 40:16 68:6 170:12,21 204:10 234:17 recommending 219:17 292:10 record 2:19,20 6:15 8:12,24 9:3 20:14 21:6,12 26:22 27:14,20 30:23 31:6 68:13 71:14 76:19 91:2 91:22 100:19 104:10 110:11 115:17 122:3,5 171:23 179:9 180:6 188:6 189:12 190:8,13 194:23,25 224:17 225:10,20 227:12 230:13 231:22 233:22 235:12,24 236:8,22,25 248:24 249:16 250:17,19 258:18	259:14 269:13 270:13 282:15 283:5 286:22 287:6,12,18 288:5 299:17 300:3 315:20,21 recorded 6:9 recording 6:9 records 55:2 226:4 227:7,14 228:3,17 230:11 291:8 recreation 9:24 10:20 11:8 23:17 23:22 24:6,19 25:9,23 26:2,11 29:7 133:23,24 249:8 recreational 161:7 recreations 9:22 recusal 10:24 11:12,24 14:2 15:22 22:9 28:10 29:16 33:16 37:19 38:6 40:13 43:13 72:4 89:18 90:21 91:7 95:25 96:7 97:25 99:15 100:4 100:13,20 101:4 110:5,9,12 113:8 141:6 153:14,18 154:14 156:4 157:11 164:13 165:2 168:5 177:7 180:9 191:20 192:11 206:24 220:19 221:16,23 222:10 223:16 244:18 270:21 272:10 280:24 281:2,6 294:8 298:3 304:25
---	---	--	---

recuse 16:10,21 19:11,17 23:24 24:9 25:24 34:16 34:21 36:14,16,20 41:18 52:4,12 53:21 90:7 92:3 93:4 94:6 95:17 99:7,21 104:8 109:8 110:4 117:6 121:23 152:11 154:16 156:6 161:21 162:10 173:10 174:11 178:7 193:20,22 203:11 222:2,9 244:3 268:8,10,14 275:17 294:12 299:10 recused 40:2 41:7 90:16 96:10,15 98:19 99:2 100:9 100:16 101:13 152:13,19 153:21 154:5 160:12,14 167:24 175:25 178:3,4 192:7,10 204:21,24 207:6 217:19 218:22 220:8,15 221:4,14 275:18 296:21 297:2 recuses 206:10 218:11 recusing 88:22 89:20 99:14 101:16 107:4 152:16 166:3 175:20 204:20 205:11 217:21 297:17 298:19	red 253:21 reduce 19:2 reduced 86:20 refer 65:8 210:14 244:7 reference 289:25 290:2 referenced 240:8 references 245:4 referencing 240:25 referendum 35:16 37:24 38:2 referred 48:10 56:12 57:9 113:18 229:24 referring 69:5 185:2 217:16 refers 244:3 reflect 153:10 reflected 299:17 reflects 151:3 refrain 121:6 164:17 refuse 98:3 220:13 refused 97:22 113:5 178:24 246:10 289:3,5 refuses 171:16 regard 111:19 242:19 302:23 303:11 regarding 11:6 29:7,9 37:6 43:15 92:14 171:20 175:11 179:5 181:22 242:21 243:5 245:12 246:5 247:5,15,24 296:25 298:8,12 298:17	regards 68:3 regular 20:15 21:7 21:13 26:23 27:15 27:21 regulate 201:14 223:4 271:7 regulated 198:14 198:15,17 regulates 180:16 180:20 223:5 regulating 271:12 regulations 83:18 84:9 88:12 150:11 190:10,24 200:4 299:21 rehash 250:16 reiterate 187:9 235:18 311:2 reiterated 43:16 reject 97:14 220:12 248:11 251:19 267:5 292:17 rejected 97:10 relate 228:15 related 21:17 24:5 26:10,12 46:4 65:15 66:22 89:17 149:17 191:17 317:13 relates 21:22 23:17 relating 7:21 38:22 233:3 relation 25:7 relationship 56:20 120:16 275:19 relative 11:18 55:19 137:13 161:14 300:22	relatively 62:22 release 225:20 291:8 released 66:4 147:18 225:6,12 226:19 258:17 relevant 11:19 61:7 86:21 147:21 220:22 237:2 278:17 reluctance 288:4 reluctant 262:7 287:6 rely 193:4,5 195:9 218:6,7 remained 217:21 301:13 remains 38:4 remarks 271:20 remedied 66:20 remedy 305:2 remember 146:2 149:3 150:19 162:22 remind 33:2 252:8 reminded 309:7 remote 1:12 114:21 remotely 5:9 33:23 removal 4:7 31:11 37:21 38:3,9,11,16 38:18 40:23 61:23 62:3 68:6 75:7,8 130:7 168:22 170:13 176:8 183:12 188:19,21 192:14 219:18,24 232:25 233:21 234:18 235:20 245:7 252:21
--	--	--	--

262:9 265:20 273:14 287:22 304:14 remove 4:2 36:2 36:12 248:12 267:6 275:24 300:4 301:2,21 304:2,3 removed 2:11 3:20 30:5 38:24 170:22 221:18 222:12 233:18 239:3 249:11 250:16,24 280:3 removing 248:8 rendered 230:18 renewing 33:14 renowned 190:22 rent 263:11 reparation 263:9 repeat 31:2 189:13 repeatedly 35:25 225:24 repetitive 300:11 replace 14:6 140:8 replaced 153:22 replied 105:7 report 124:17 125:8,14,23 126:17 131:7,10 147:20 194:19 245:24 259:17 267:10,23 271:22 272:3,12 reporter 6:16 315:24 reports 80:3 190:21 271:22 represent 103:8 143:25 194:7 249:7	representatives 240:11 represented 28:14 240:23 representing 90:5 reproach 39:21 248:6 repudiate 267:9 271:18 reputation 117:5 176:7 234:15 273:6,11 reputations 234:14 repute 254:9 request 33:14,17 36:16 38:6 69:10 70:6,21 118:14 121:5,22 173:14 204:6 247:17 272:10 294:20 296:23 requested 173:17 246:11 requesting 70:14 require 50:18 52:11 72:13 120:13 122:17 203:10 298:3 required 5:3 11:13 36:20 46:20 48:24 49:2 50:12,13 52:4 59:23 65:25 80:2,18,21 99:21 148:15 164:19 220:20 224:21 242:5 282:22 297:5 requirement 22:19 40:14 53:9 209:11 224:10,13	requirements 10:24 14:2 28:10 29:17,18 46:9 97:24 113:7 123:11 199:25 227:19 299:20 requires 16:20 22:12,17 24:8 72:4,5 87:13 156:5 160:9 230:5 230:6 requiring 11:24 46:6 49:10 287:22 requisite 243:4 research 37:23 70:3,4 73:12 79:25 researcher 289:21 reserved 304:16 reside 157:12 194:5 262:6 residence 17:20 18:3 82:5 84:20 85:15 130:20 197:23 299:16 residences 18:3 25:2 129:2 resident 241:24 246:4 247:4 260:10 263:14 267:2 274:2 283:13 287:16 293:16 296:6 302:6,19 307:7 310:16 residential 78:10 196:3 residents 14:17 19:4 42:14 194:5 194:14 195:22 240:16,23 241:15	264:21 288:20 306:19 309:12 resides 10:8 25:3 resign 262:20 resigned 225:7 267:25 294:21 resolution 113:13 116:22,25 164:9 164:21,23,25 166:7,15 167:13 167:20,21 168:8 169:17 216:24 217:5 resolved 42:13 268:22 resource 261:25 respect 9:22 13:16 16:7 17:11 18:19 19:11 20:5,10 21:2 22:15 23:16 23:21 24:23 26:17 27:10 28:11 36:22 48:12 70:11 129:22 162:24 165:24 179:23 180:8 190:4 192:15 265:11 289:11 respected 190:22 234:15 respectful 118:17 119:6,25 262:3 respectfully 118:8 178:16 respond 36:18 responded 122:16 173:12 respondent's 33:19 response 43:4 263:7 314:14
--	---	---	--

responses 68:23 responsibilities 123:10 309:6 responsibility 187:13 278:25 279:6 309:11 responsible 253:3 253:17 responsive 118:13 rest 93:3 95:18 222:9 250:3 restore 292:4 restricting 139:8 restrictive 22:4 rests 307:22 result 19:7 43:5 87:5 130:4 196:15 198:3 207:12 226:18 243:23 261:18 280:25 283:20 306:2 resulted 225:4 results 261:13 resume 115:9 190:12 235:15 resuming 188:8 retained 109:24 124:19 174:7 220:22 retaining 124:20 retrying 2:6 return 181:23 reuse 149:15 reused 223:10 reveal 246:11 revealing 308:15 reveals 114:6 revenue 178:2 183:19 184:23 252:25 265:5	reversal 227:5 review 46:6 50:12 50:13,14,19,23 59:23,25 60:11 61:13,18,19 79:24 102:4 106:24 141:2 152:23 176:20 190:19 204:23 226:24 227:12 230:10 251:17 259:16 reviewed 58:25 113:23 153:8 162:2 210:8 239:22 reviewing 252:4 271:21 reviews 46:3,7 50:10 59:14 242:10 245:18 revolution 77:23 211:18 253:16 rewrite 30:15 282:4 rewriting 281:23 rezone 193:19,21 193:22 rezoned 193:23 194:3 rezoning 280:9 richard 300:9 rid 38:19 right 63:12 75:18 95:21 116:14,15 119:10,11 123:22 126:12 127:19,23 128:3 130:24 132:21 133:15,18 134:10 135:2 136:4,8,20 137:6 140:2,3,14 141:10	141:25 142:5,17 142:22 143:21 144:7,13 145:23 148:2,17,24 150:2 150:3 159:10 163:9 167:9,16,25 168:19,23 170:9 170:10 171:8 180:20 181:11 211:20 213:16 221:19 224:2 247:9 256:20 264:6 265:12 275:7 276:11,14 279:22 308:6 314:4 righted 276:15 rights 45:2 55:14 211:14 289:7 rise 12:3 92:21 120:9 142:10 193:3,12 195:14 205:7 risk 147:8 273:12 281:15 road 13:17 14:7,10 14:12 15:3 17:12 17:16,17 24:24 29:10 48:2,13 72:15 81:8,9,22 82:21 85:13,20 86:8 88:7,24 89:17 90:22 91:20 93:8,11,11 94:13 94:20,25 96:13,19 96:23 99:24 101:15 109:23 134:21 138:20,21 140:11 167:15 174:6,12 175:25 178:3 189:24	192:9 198:9 214:2 217:11 268:14 269:15 297:2 robert 34:13 roberts 1:22 rock 94:20 130:7 rockland 238:23 role 34:17 35:11 45:24 62:25 239:13 283:24 284:7 roof 133:16 197:2 roofs 137:20 room 96:16 110:10 168:3 213:4 218:13 rooney 293:10,13 round 10:12 route 138:8,11 198:7,11 roving 69:18 roy 202:4 rule 35:18 156:11 192:3 201:22 243:12 270:23,25 271:2,3,4 ruled 35:25 36:3,8 123:24 216:2 225:21,22 rules 3:13 210:4 213:25 215:25 244:12 270:16 276:3,24 278:9 313:22 ruling 30:9 181:13 215:20 run 55:25 running 145:3 runs 281:20 ryan 307:16,16,17
--	---	--	---

résumé 76:18,19 78:15 189:12	209:13 210:12 293:15 299:12	second 13:15 20:5 35:12 44:8 49:25 49:25 83:6 103:24 105:25 125:11,13 130:2 132:20 142:4 143:4 163:24 270:15 276:2 304:23 305:7 310:5,6	224:20 226:24 235:10 236:14 240:24 254:22 261:7,8 264:9,11 265:9,23 275:4 309:20
s	saying 31:18 91:4 130:3 153:8 154:2 194:19 209:24 217:2 230:13 234:9 237:10 238:25 260:5 265:9 271:20 282:21 293:23 305:17 313:9	secondly 308:13 seconds 236:17 secrecy 224:15 secret 93:13 228:8 269:11,25 secretary 78:2 section 3:23 16:19 16:20 17:2 19:22 19:25 21:15 22:2 24:7,13 26:4,6,12 26:14 27:24 29:17 29:18,24 35:19 86:15 87:17 123:12 154:12,20 156:4 158:13 164:20 191:20 194:3 205:19 214:4 228:9	seek 48:2 81:10 117:2 230:10 288:21 seeking 11:14 167:2 298:14 299:8 seen 44:11 57:2 96:5 197:3 295:6 312:19 313:16 selected 57:23 self 189:10 212:9 223:15 233:9 289:10,11 seminar 242:12 seminary 252:18 send 8:8 51:11 91:8 170:24 172:10,16 280:10 sense 32:23 58:9 120:12 213:16 244:6 314:4 sent 18:5 51:3,14 69:13 90:10 91:9 95:20 105:6 171:10 172:7,12 217:18 246:7 289:17,17 315:8 sentence 125:11 125:13 168:25 sentences 156:13 177:19 sentencing 278:19 279:4 287:9 separate 117:14 117:15 228:22
s 45:8 76:6 sacrificing 189:10 safe 31:22 316:5 sake 248:17,18 salem 274:2 salkin 190:11,25 201:6 222:18 salkin's 190:12 sally 1:22 sanction 165:11 170:8 219:10 sandra 317:7,23 sandy 136:3,24 197:20 274:10 310:19 santoro 163:24 164:6,12,17,20 165:19 166:10 168:17 169:3 177:13 215:15,16 215:19 216:16,18 218:15,20 219:2 233:18 305:19 santoro's 165:7 170:7 219:5 sara 242:15 sat 214:24 saturday 286:23 savolt 43:25 44:14 44:17,19,24 45:6 45:14 63:17 71:9 71:25 74:18 75:13 75:14 80:10 152:17 158:21 177:5 207:25 208:25 272:21 saw 173:21 196:2 197:17 198:23	says 44:20 166:5 168:4 191:25 200:19 202:7 203:6 204:16 205:18 210:3,13 213:25 216:13 218:13 305:22 306:16 scape 82:13 scheduled 5:3 6:22 105:21 235:5 schedules 49:13 scholarship 202:23 school 4:25 14:11 78:23,24 139:2 190:17,18 198:13 257:2 260:12 schools 265:5 scope 59:20 scout 79:6 screen 44:10 76:21 87:18 102:11 103:5 163:17 sea 132:9 135:20 137:12,14,17 season 105:18 seat 206:3 207:4,5 seats 206:2,22	sections 8:21 29:21 30:15 192:6 see 55:5 56:2 59:22 66:12,17 73:17 108:20 115:15 124:10 125:20 131:24 132:25 133:10 135:5,9,11 136:4,7 141:21 155:6 173:20 174:17,20 175:5,23 176:11 177:13 184:25 188:2,3 193:25	

302:9 separates 104:17 september 23:18 111:20 112:7,16 septic 84:25 110:25 273:20,23 274:11 296:13 seqr 59:23 segra 83:7,13,15 84:2 88:12 91:25 148:5 150:11 151:20 166:23 168:13 190:7 217:13 series 103:6 serious 136:8 250:12 287:21 seriously 99:8 188:17 serve 17:16,19 18:2 35:13 59:8 67:8 124:3 214:6 234:23 300:15 served 53:25 54:5 72:9 77:25 79:19 159:19 176:14 177:9 178:6 208:11 293:20 service 5:12 14:17 19:3 27:25 59:11 60:16 64:8 65:15 77:21,23 93:16 94:15 182:17,21 186:19 189:15 262:5 284:2 299:25 services 57:14 serving 42:25 54:6 234:10 286:12 session 6:4 47:9,13 47:21 106:11	239:4 304:21 sessions 47:12 174:22 250:22 254:16 set 105:9 229:8 256:5 317:18 setting 97:20 113:3 settings 118:16 seven 79:19 159:19 208:17 severe 136:23 170:17 185:7 severity 250:11 sewage 273:17,20 273:23 274:8,11 296:25 sewer 14:9,14,15 15:2,9,15 17:15,17 17:25 18:2,9,16,20 18:21,25 19:3,8 72:18,23 82:16 85:23 92:6,8 93:15 94:2,14 95:10 100:24 101:10 222:4 245:13 268:16 shady 278:8 sham 264:5 shame 266:8 shameful 285:12 share 95:4 104:7 104:10,12 245:25 shared 173:16 243:9 shares 161:16 shell 294:16 shockingly 215:19 shore 273:21 short 62:22	shorten 227:24 shortly 13:22 252:5 shot 296:3 show 40:10 42:2 86:15 178:17 179:20 showed 12:20 288:4 289:6 showing 131:10 282:5 shows 127:17 137:10 269:13 shroud 224:14 sic 217:20 side 132:5 134:3 135:2 140:10 161:18 163:3,7 187:15,24 199:5 215:11 235:22 283:7 sides 280:12 290:14 301:11 sight 137:20 signature 317:23 signatures 265:18 265:22 signed 71:12 165:14 219:14,17 significance 83:22 significant 8:23 40:11 75:3 83:25 139:19 147:15 149:16 150:12 151:21 193:14 197:6,7,9,25 198:20 significantly 137:19 287:8 signifies 143:3	signing 255:6 similar 5:11 68:5 181:5 186:15 215:13,24 216:15 241:9 288:16 similarly 36:8 99:12 simon 202:4 simple 56:4 176:15 306:12 simplest 298:12 simply 7:22 52:4 52:13 285:3 291:6 single 82:5 83:20 84:19 85:14 175:2 singled 247:20 sir 188:12 258:2 260:3 276:25 281:25 sit 150:22 166:3 214:17,18 257:20 303:4 site 46:7 51:5 82:8 82:12 125:16 126:2,11 127:5,6 127:19 128:9,17 128:20,25 129:6 129:25 130:9,11 138:9 140:18 142:21 161:2 163:7 196:9 200:6 200:14,16 215:10 sits 211:6 295:19 sitting 207:5 218:3 218:4 238:4,14 305:18 312:13 situated 246:21 situation 260:15 265:17 285:11 292:25 293:23 294:13 301:17
--	---	--	---

situations 239:15 six 77:14 78:11,18 153:2 162:7 251:7 262:9 292:13 308:5 slaves 253:21 slide 88:2 107:6 128:11 130:21 158:12 160:3 189:4 211:23 slope 132:6,7,12 sloped 132:11 slopes 131:19 132:2 sloto 1:17 small 53:7 55:8 57:21 65:13,18 241:2 253:25 296:8 smart 258:25 271:15 smearing 284:3 smoke 176:10 social 120:23 151:24 161:8 253:14,20 254:8 255:14 society 253:19 276:6 soft 146:9 softer 132:12 soil 147:5,6,16,19 149:17 199:21 200:6 soils 130:9 147:13 147:14 soldiers 211:18 solely 13:11 253:14 solemn 234:11	somebody 68:9 108:10 203:5 237:20 238:3,10 241:9 280:16 313:11 somebody's 180:17 someone's 268:24 somewhat 5:25 301:17 soon 181:9 292:24 sooner 105:18 sorely 252:24 sorry 47:18 51:23 52:23 71:25 72:25 86:17 111:6 112:24,24 120:25 128:5 132:2 147:25 254:13,24 261:20 314:24 sort 55:23 132:10 278:17 280:2 sorts 52:25 sought 113:13 116:21 274:7,7 soul 180:23 sound 77:18 144:24 268:9 273:21 274:12 284:12 soup 149:7 sour 275:20 source 14:18 54:22 137:21 246:10 247:7 263:23 sources 144:19 270:10 south 273:25 southern 82:7	sovereignty 256:11 spark 58:13 speak 38:3 42:17 45:5 61:7 66:15 68:17 80:5 88:3 88:21 89:19 116:2 175:19 236:4 252:21 266:4 275:2 283:3 speaker 7:17 8:2 266:12 282:15 293:12 speakers 248:21 266:13 speaking 98:6 247:3 272:18 291:20 speaks 37:8 61:8 special 18:8 46:7 94:2 212:14 271:3 specific 7:10 16:4 16:16 24:4 38:12 243:8 298:23 specifically 3:24 4:21 14:19 20:13 21:4,9,24 26:21 27:12,17 31:2 118:5,9 162:22 specifies 51:8 spectrum 256:19 speculating 243:22 speculation 92:5 92:24 101:6 222:3 222:7 speculative 101:9 243:16 speech 252:15 spelled 46:4 49:11	spend 80:9,13 315:3 spending 227:22 264:22 274:15 spent 77:14,24 78:3,11 79:4 98:6 250:18 271:20 spirit 41:23 52:9 98:14,22 171:17 178:25 221:2 231:4,4 spoke 66:3 90:9 104:4 201:22 208:2 215:18 260:18 spoken 64:3 121:14 205:14 spolzino 34:13 89:14,19 90:3 91:12 102:24 103:19 104:4 112:13 119:9 173:7 175:14,18 spot 61:16 126:8 135:13 193:19 300:13 spouse 15:12 spring 77:18 square 273:6 311:5 ss 317:4 stabile 282:13,14 282:21,24 staff 50:11 80:6 90:8 314:23 stage 290:15 stages 152:21 stake 234:16 268:7 stakeholders 245:20
---	--	---	---

stalling 264:23 stand 259:21 272:3 standard 23:3,9 23:11,13 49:23 156:17 157:11 201:7 202:10 232:25 237:24 243:20 275:15 306:23,24 standards 86:23 92:16 151:20 258:24 292:20 293:6 306:14 standing 249:12 270:25 stands 84:2 starr 224:16 starring 116:14 start 7:10 112:25 145:5 209:19 236:7,23 237:10 238:24 started 55:22 152:18 185:19 269:9,18 310:20 310:24 311:13 starting 273:16 state 2:9 4:24 21:19,21 22:5 30:19 45:10 50:22 71:13,15 76:8,15 77:9 83:18 84:10 85:9 88:17 100:20 104:16,20,24,25 110:2 147:12 149:14 162:9 200:2,21,24 202:6 204:2,5 205:13 209:11 211:16 213:18,22,23	214:3 224:21 226:10 236:21,24 239:20 241:4 242:17,18,24 248:3 252:15,17 282:16 283:4 297:24 301:14 317:4,8 stated 20:20 27:4 43:11 89:6,7 91:22 183:9 186:7 187:17 195:9,11 240:2 304:4 statement 43:24 44:23 61:25 148:4 148:16,16,21,23 149:8 188:10 199:24 232:24 256:24 287:14 290:6 305:12 statements 19:7 245:23 256:2 states 3:24 4:23 149:19,21 200:23 211:15 253:10 256:16 stating 174:3 201:6 246:7 status 109:13 151:14 statutes 192:6 statutory 191:24 192:4 stay 31:10 117:5 164:16 316:5,5 stenographic 317:11 step 66:14 108:9 164:12 294:6,7 stephen 17:23	steps 127:3 174:24 198:17 steve 14:23 264:3 296:23 steven 1:19 31:15 296:10 sticking 289:12 stiler 181:21 stolorow 1:16 3:11 3:12,14,15 31:24 32:14 34:2 36:15 43:4 44:5,12 48:9 62:9,11,15,21 63:3 63:13,16 69:10 70:7 71:4 74:3,8 75:25 90:23 111:23 114:25 115:7 182:10 186:22 187:3 201:20 228:13 229:16,22 236:20 315:12 stolorow's 42:24 stone 272:15,16,17 stood 132:24 stop 76:4 103:24 105:25 109:2 111:6 184:2 228:14 232:6 stopped 299:7 stopwatch 260:7 storm 136:24 149:11 197:11,14 197:20 storms 135:19 straight 302:18 streamed 6:8 street 107:13 138:13 161:18,19 162:20 215:7,10 237:9 265:7	277:17 293:18 stricter 200:20 strictly 46:13 72:19 string 273:16 274:20 striven 301:7 strong 309:20 strongly 43:12 179:24 180:10 247:2 307:23 structures 91:18 struggling 302:14 studies 190:21 study 140:24 202:23 stupid 313:9 style 230:19 styler's 231:21 subdivision 24:22 25:11 46:6 84:23 102:4 194:20 195:5 subject 54:14,18 67:15 82:3 125:18 126:14 130:23 157:6,13 215:22 224:11 226:23 296:11 subjective 155:6 245:13 submerged 136:21 submit 28:20 249:3 270:13 submitted 28:23 111:3,7,12 126:17 141:2 178:16 181:20 194:18 220:21 230:21 submitting 248:23
---	---	---	--

subpoena 70:9,19 70:23 176:14,16 subsequent 96:14 99:15 113:11 114:23 116:20 117:2 subsequently 173:15 substance 38:21 169:21 188:23 233:2 substantial 194:4 194:13 198:20 199:16 243:11 substantially 14:16 207:12 substantive 165:7 168:9 169:3,6,8 219:6 244:25 substantively 164:22 167:19 substitute 177:10 177:15 subterfuge 38:19 suddenly 254:20 sue 167:6 275:25 sued 274:12 sufficed 96:9 176:15 sufficient 6:2 192:25 201:9 205:21,23 sufficiently 221:22 suggest 284:6 suggested 92:3 117:4 176:6 184:12,13 222:2 suggesting 10:22 13:24 297:17 suggestion 97:13 185:13 247:7	295:9 suggests 179:25 180:10 summarize 9:16 123:15 summary 8:15 10:3 13:20 summer 132:19 134:23 155:16 summertime 131:22 133:17 super 136:23 197:20 supercede 35:18 supplement 31:5 support 14:25 15:15 234:8 239:2 239:2 265:20 271:25 272:18 307:18 309:20 310:11 supported 174:17 212:3,11 223:14 256:2 supporting 78:14 252:24 259:8 suppose 269:12,23 supposed 235:5,8 241:16 247:18 294:3 supreme 23:12 36:7 sure 3:6 69:2,8 76:4 104:9 136:2 147:17 156:22 193:10 206:9 207:12 232:14 241:6,13 277:14 315:24 316:2 surely 224:20	surrounding 30:2 51:4 98:12 274:9 survey 12:18 surveys 12:18 110:25 susan 164:4 266:25 suspect 104:25 106:25 suspensions 156:23 swiftly 271:19 sworn 8:2 44:3 45:9 74:5 76:5,7 232:24 237:4 269:3,5 270:9 295:20 swp 149:10 system 84:25 239:24 279:3 296:13 systems 1:23 240:16 241:5	264:20 292:13 305:12 309:18 taken 40:6 90:14 92:2 132:16,18 133:5 154:9 165:25 167:4 174:24 176:22 197:18 198:17 254:19 281:3 308:19 takes 236:16 287:16 313:23 talk 55:8 61:8 81:7 130:7 146:15 147:4 189:3,22 193:8 200:17 204:18 205:8 207:22,25 279:7,9 talking 73:10 114:22 121:3 139:22 184:18 188:21 231:2 238:3 277:24 285:20,25 talks 65:17 139:12 139:21 191:22 tape 106:11 target 64:10,14 172:24 272:24 targeted 120:7 314:6,8 task 78:20 179:12 tasked 175:19 tasks 2:16 taught 309:8 tax 76:16 77:6 78:22 104:22 105:18 251:4 261:12 264:17 265:5 279:15 281:16 284:22
		t	
		t 45:8,8 76:6,6 317:2,2 table 257:21 tafur 302:3,4,5 take 5:4 22:14 31:8 32:9 85:10 86:7 87:2,3,15 97:6 109:4 115:2 115:3,8 118:10 127:3 131:13 138:20 140:6,20 141:20 143:17 149:20 154:11 158:13 160:2 170:19 171:6 172:6 179:12 187:25 235:6,8 258:18 262:7	

285:19 taxation 253:20 taxes 57:16 263:19 teach 303:9 team 49:16 technical 5:21 165:5 168:18,20 192:17 219:3 techniques 78:16 technology 283:9 tecum 70:9 telephone 4:20 5:10 telephoto 135:3 televised 312:21 television 207:8 tell 57:9 63:24 107:7 131:14 134:24 186:11 203:20 213:6 236:5 301:12 telling 268:2 tells 186:10 ten 159:5,6 235:6 252:16 258:21 260:10 302:22 313:12 tennis 82:11 130:19,23 131:18 133:2,3,16 134:16 140:8,13 161:8 197:2 term 67:8 169:23 terminology 149:6 terminus 268:18 terms 37:17 208:4 243:2 terrain 126:14 terrific 300:19 territory 114:20	terse 173:4 testified 12:18 34:11 45:11 76:9 95:20 119:8 180:4 190:25 214:21,21 testify 158:22 237:2 267:18 testifying 73:24 74:4,9 237:5 272:24 305:17 testimonial 258:19 testimony 7:4,20 9:17 12:25 13:3 31:4 37:13 43:21 62:17 68:3,16 69:6,13 70:2 89:4 162:12 184:9 185:3 190:9 201:5 208:16 212:4,12 223:14 267:4 273:14 295:20 300:11 testing 141:13,16 147:15 199:3 text 190:18 thank 3:15 5:19 31:17 33:10 38:8 43:22 45:24 46:11 47:18 62:5 63:14 71:22 73:25 75:10 75:14,17 79:7 93:9 101:23 109:2 110:21 116:11 123:15 149:18 181:15 182:5,7,20 185:25 186:17,18 186:19,21 188:5 188:13,14 192:18 229:16 234:25 235:3 238:16,18 241:18 248:18,19	252:5 258:2 259:22,23 260:4,5 266:10 272:14 276:20,21 277:2 282:11,12 286:13 286:15 291:16 293:7,9 300:7,8 301:22,24 303:13 303:16 307:15 309:22,24 314:9 314:18,21,22,24 316:4 thanking 189:14 thereof 20:8,16 26:16,24 theresa 57:11 therewith 85:3 thing 55:25 67:24 75:18 125:9 185:16,19 213:13 214:11 241:21 257:4 276:2 308:17 things 59:15 68:5 73:8 83:19 115:14 134:5 182:19 190:14 240:2 241:7 275:10 287:10 305:12 307:22 309:17 think 32:15,22 52:20 53:7 58:4 63:10 64:2 70:16 72:4,5 75:12 93:9 93:19 99:7 100:25 108:14 114:24 119:8 138:2 139:18 140:17 146:16 152:17 160:22 170:18 178:18 183:25	184:10,14 189:13 189:19 208:15,16 210:17,21 237:16 241:4 272:21 273:17 274:13,23 275:7,20,25 276:15 277:18 278:11 280:22 281:16 283:25 285:6,12,17,22 286:4,6,9 289:23 289:25 290:23,24 291:3,12 300:19 300:25 302:2,25 304:12 305:19,20 305:21 308:5,7,13 309:17 thinking 58:10 72:24 107:4 137:17 261:20 264:11,13 thinks 87:25 third 130:5 175:22 263:20 271:6 thorough 60:12 66:15 thoroughly 58:25 60:9 thought 56:8 71:11 73:10 74:24 106:19 114:18 162:15 163:4 172:20 173:25 174:13 181:11 186:9 215:8 223:3 223:4 236:6 237:18 246:18 247:8 284:13 294:11 thoughtful 287:19
---	--	---	--

thousands 255:25 287:17 290:13 three 15:4 54:6 78:3 84:20 163:18 173:15 189:5 206:11,21 243:4 243:15 255:15 261:14 263:8 297:7 307:22 thrown 294:12 tick 129:18 208:25 tidal 10:14 104:15 104:20 tie 92:9 ties 191:18,18 time 6:3 17:22 18:7 31:23 42:21 47:16 51:21,25 58:10 60:13 67:16 80:8,14 89:2 90:9 91:21 98:6 105:17 109:9,14 110:7 118:10 120:20 121:2 134:24 145:5 151:12 157:8 159:2 167:22 181:17 182:5,11,17 188:3 209:8 227:23 236:5 241:17 243:18 252:9,10 254:11 258:2,18 259:13,15 260:8 265:2 266:6 272:6 274:15 276:12 279:5 281:24 284:9,20 285:5 287:16 291:6 292:15,23 294:11 295:2 296:16 297:2,7,10 299:18	300:7,24 302:17 303:9 307:20 308:24 timeline 109:18 times 82:19 97:9 103:9 162:4,7,8 173:15 287:13 timing 291:3 tippet 237:8 tippit 236:15 237:7,8 tipster 247:21 title 142:5 143:4 today 2:2 3:10 4:11 5:19 6:21 7:16,19 30:21 33:24 64:8 68:21 69:6,13 94:9 183:5 188:15 228:17 234:9 236:2 239:16,22 240:25 241:8,17 244:15 255:9 267:4 272:19 273:14 295:18 297:22 315:15,19 today's 7:3 8:7 30:25 31:4 68:16 239:4 253:4 told 53:19 66:5 173:8,21 242:23 271:24 294:21,23 toll 285:7 tom 1:15 276:7 291:12 294:22 308:23 tomorrow 33:25 tone 230:25 toner 36:9 tong 127:9	tong's 196:3 tools 184:6 top 283:25 topic 273:22 total 185:22 279:17 307:18 totality 13:13 touch 303:20 touches 10:15 tough 259:2 276:12 300:13 touro 190:15,16 touted 15:7 town 55:8 65:13 65:18 283:7 townhouses 133:4 140:7,16 toxic 147:17 285:7 285:9,10 traditional 231:6 traffic 107:12 130:6 138:19 139:4,6,7,9 142:13 198:6,13,13,19 tragedy 263:2 tragic 300:25 trained 177:11 training 47:5,8,11 47:14,21 55:24 80:17,20,22 81:4 158:18,22 159:6 159:13 160:9 174:24 177:12 209:7,10 214:12 242:8,11 278:4,10 304:10,21 transaction 306:3 transcribing 6:17 transcript 6:18 106:4,7,12 107:8 113:20,23 114:2	173:20 214:23 248:25 transcription 317:11 transcripts 175:5 178:14 transferred 35:20 transmit 33:25 102:9 179:4 transmitted 102:6 102:22 171:19 transparency 239:25 254:7 305:5 transparent 260:25 transportation 198:15,16 263:17 treasured 211:13 treasurer 78:7,19 treatise 202:5 treatises 190:19 treatment 55:19 trees 126:15 130:14,17,18 131:23 132:4,6 135:11 151:23 196:25 197:4 254:19 tremendous 274:24 tri 77:20 tribunal 70:19,20 70:22 209:21 trigger 106:23 troubled 290:17 293:22 troublesome 244:24 truck 130:5 138:7 138:11,19 139:8
---	---	--	---

198:6,7,19 trucking 138:15 true 98:8 200:22 309:3 truly 226:5,8 262:20 263:4 trunks 130:17 trust 57:21,22 240:10 305:5 trustee 42:23 45:19 79:4 164:6 247:11 286:16,19 296:6,20,21 303:6 trustees 4:4,10 14:25 15:6 18:6 18:19 20:15 21:7 21:8,13,14 26:23 27:15,16,21,22 28:25 35:15,22 38:2 40:16 56:9 56:11,13 91:10 95:24 96:6 153:19 155:15 157:10,15 157:23 158:2 164:8,14,24 165:10,18,25 166:4,11,15 167:21 169:14 170:25 172:20 174:12 181:22 193:17 194:8 201:2 203:4,9,17 203:21 204:9,16 210:21 219:9 223:22,25 224:9 230:17 244:15,21 246:5,10,12 248:14 267:8,19 271:18 280:7 291:9 296:7,24 297:19 298:24	299:3,5 302:8 truth 223:24 truthfully 261:2 try 31:10 103:19 119:24 178:6 207:14 213:4 302:15 310:9 trying 63:4 105:17 106:17 151:5 183:5 184:7 187:10 275:14 296:2 310:4 tuckahoe 38:13 turn 44:15 101:23 198:8 twenty 67:7 80:13 twice 46:16 80:12 twisted 176:19 two 3:8 6:22 9:18 11:9 33:16 39:25 41:5,19 50:25 56:12 65:11 72:11 83:4 84:19 86:10 90:12 101:20 105:24 106:5 109:11,20,22 114:14 117:13,16 126:11 144:12 146:3 160:23 163:15 166:21 171:12 172:24 173:24 174:3 175:7 178:15 180:9 190:4 195:12 196:10 197:20 205:4 206:17 213:11 220:7 236:9 239:15 243:10 256:3 257:6 261:11 294:7	295:15 297:3 303:22,23 304:14 308:16 315:10,15 type 50:12,15,17 50:21,24 51:2,13 83:7,14,16,17,18 83:23 84:4,15 85:4,19 88:12,19 88:19 125:17 148:5,10,13,14 190:6 191:14 types 51:9 87:9 typical 59:18 typing 166:22	unconstitutional... 202:14 unconstitutionally 156:18 201:8 203:7 222:21 uncontradicted 194:23,24 uncovers 59:15 underground 94:19 underlie 34:20 underlying 259:18 269:7 288:5 290:3 undermine 191:8 understand 66:21 93:18 103:19 154:23 174:16 185:5 231:9 252:20 258:9 262:6 275:5 285:6 287:5 292:25 understandably 265:16 understanding 52:2 177:2 244:8 understands 103:14 understood 104:9 109:6 undertook 214:8 296:8 undue 281:8 unenforceability 202:13 unenforceable 156:19 unequivocally 271:19 unethical 278:9 uneven 261:13
		u	
		u.s. 55:15 ultimate 170:12 219:22 234:17 ultimately 4:14 20:3 100:9 117:25 172:19 207:16 un 252:12 unable 105:10 unacceptable 271:10 295:18 unaccountable 185:15 210:24 unaffected 107:13 unaffordable 253:11 unambiguous 39:20 unanimous 292:9 unanimously 29:2 unbiased 263:22 unchangeable 182:20 unclear 185:18 uncomfortable 64:9	

unfair 209:20 unfairness 211:10 unfolding 263:3 unfortunately 123:8 136:13 unfounded 178:10 unhelpful 202:9 unholy 265:2 unique 198:20 201:24 249:12 uniquely 194:11 united 200:22 211:15 253:9 256:16 units 140:9 universally 271:3 universe 213:25 university 77:25 278:2 unjust 256:23 unmask 270:6 unmitigated 151:21 unnamed 247:7 unnecessary 52:20 unofficial 105:22 unquote 156:10 157:3 164:11 176:7,8 unreasonable 106:18 unrelenting 117:22 120:9 unrepentant 245:8 unscrupulous 304:16 unsettling 258:11 unspecified 243:23 unsuccessful 93:24	untoward 295:14 unwarranted 225:19 226:18 unwilling 94:3 unwillingness 41:15 unwitting 184:6 unworkable 177:6 updated 76:20 upgrade 84:24 upper 132:15 133:15 135:11 upset 260:14 289:24 291:22 upsets 260:19 upstanding 248:7 urge 267:5,7 270:7 271:16 301:20 307:12 urging 248:10 usa 253:13 use 5:10 7:12 25:12 52:3,12 54:2,6,7,13 55:20 63:20 64:9 65:3,9 65:10,20 66:23 67:4,22 68:11 73:13 79:16 80:20 86:25 88:19 89:15 91:14 127:8 132:16 133:22 134:4 149:4 150:7 156:15,20 157:5,9 159:20 172:5 173:9 175:3,16,17 177:2,9,11 178:9 178:11 188:20 190:10,23 191:21 203:11 204:14 208:11 209:9 212:20 218:18	222:17 242:5,11 242:21,25 247:14 277:6 294:10 307:21 309:13,14 312:25 uses 85:5 155:23 288:21 usually 50:2 53:17 135:10 314:6 utilities 85:25 utility 84:21 85:16 v v 45:8 vacancy 206:6 vacation 315:3 vague 32:21 40:15 156:18 201:8 202:9,15 203:7 204:8 222:21 233:12 278:10 vaguely 196:19 vagueness 157:2 200:18 202:13,14 277:23 validity 156:25 229:10,12 valuation 126:24 194:17 value 19:4 25:12 124:24 125:18 126:23 194:21 195:6 307:5,12 variances 46:9 variation 158:3 various 24:22 59:24 65:14 103:9 148:19 299:20,24 vary 80:16 vast 306:18 veers 7:19	vegetation 125:17 126:15 130:15 131:23 venom 231:19 vergara 124:17 131:5 verified 256:3 verni 34:10 88:25 89:10,11,16 152:13,15,19 153:10,13,17,21 160:19 161:17,21 162:4,9 214:20,20 233:19 verni's 161:14,19 versus 137:14 216:10 224:24 vested 312:4,16 vhv 140:23 141:12 145:14 147:19 198:24 vice 78:2 vicinity 82:7 victor 302:3,5 video 4:20 5:10 6:10 7:7 44:13,14 44:15,21,25 view 41:16 49:14 97:23 113:6 130:18 131:10,16 133:16 134:18,20 135:3,16 174:9 185:22 196:24 209:2 265:15 289:5 293:18 viewing 80:25 views 10:11,12 98:4 179:22 220:14 255:18 village 1:5,21,22 1:23 3:19,23 4:5,6
--	--	--	---

6:11 7:14 8:22 12:16,19 13:3 15:6,13,14 16:19 16:21,23 17:10,13 17:20 18:6 19:22 20:6,9,19 21:15,23 22:13 24:7,9,11,21 24:24 25:3 26:4 26:12,14,16 27:3 27:23 30:10 34:13 35:17,19,21 36:5,8 36:10 37:24 38:5 39:19 40:24 42:6 42:14 44:2 45:17 45:18,25 46:5 47:4,16,22 48:24 49:2,11 51:20 53:8,12,16 54:2 55:9 57:8 62:2,4 65:12 66:18 69:20 75:18 77:12,15 78:25 79:5 80:6 86:12,24 87:7,22 89:13 90:8 91:10 91:13 92:16 95:9 96:5 102:7 117:23 117:24 118:7,23 118:25 119:14,19 119:25 121:24 122:6,10,13,23 123:8 154:14,17 156:5 159:13,16 159:17,24 163:13 163:16 164:5 170:16 171:11 172:13 175:14 176:25 186:9,20 187:20 189:15 191:13 194:4,5,13 195:23 200:19,25 201:19 203:19,25	204:12 209:10,24 210:13,16,18 211:2 212:5,6 213:19 214:10,13 214:15 222:13 224:19 231:14 233:17 234:7,19 234:24 235:25 238:15,23 239:23 240:12 241:3,12 241:24 242:4 244:5 248:10,18 250:13 251:3,5 253:8,23,24 255:8 255:21 256:16 258:10 260:24 264:10 265:25 267:2,8 268:3 269:14 271:11,17 272:21 273:6,10 273:18,24 274:3 274:12,15,23 275:23 276:9 279:15 281:10,14 281:15,16 283:2 283:12 285:4,14 285:16,19 286:19 287:11,16 289:13 293:16 294:5 296:7,20,20 297:5 298:17 300:7,15 301:22 302:6 304:6,8 306:19 307:14 309:12 310:18 311:5,6,14 312:2,4,13 313:3 313:20 village's 9:5 21:20 22:8 28:15 78:4 172:25 181:25 182:3 244:23	violate 12:7 violated 8:20 10:23 13:25 15:21 16:9 19:22 21:15 23:23 26:4 27:23 28:9 29:24 30:17 37:15 164:6 186:4 225:5 violating 40:13 155:22 159:9 violation 41:11 79:9,12 97:24 111:18 113:7 165:5 168:19,20 173:22 178:5 219:3 244:25 248:3 250:11 271:5 278:6 290:22 violations 29:11 29:16 30:3 112:18 238:2 249:14 250:21 287:21 violence 231:8 virtue 5:2 visibility 131:24 196:22 197:4 visible 44:10 128:24 130:2,11 130:12 visual 129:25 vitriolic 286:11 voice 50:2 291:24 void 157:2 voluminous 245:11 258:17 286:21 volunteer 42:6 258:7 272:20 283:21 284:6 286:12 302:21,24	volunteering 273:12 303:14 volunteerism 39:16 77:4 189:11 233:5,24 273:9 307:14 volunteers 46:13 47:23 284:19 288:15 289:13 vomny.org 8:11 vomny.org. 236:12,13 315:9 von 309:25 310:3 vote 50:2 88:5 93:6 96:22,24 124:7 152:4,7 153:2 162:4,17 164:21 166:16 167:13,14 168:11 169:15,20 206:17 206:17 207:3,4,16 207:19,20 217:12 219:9 223:17 251:12 252:3 262:13 281:2,4 voted 28:7 83:14 111:17 153:10 161:24 166:22 190:3,5,6 215:2 251:19,23 276:8 276:10 voters 35:16 votes 86:11 90:13 124:9 152:16,20 191:2 205:21,23 206:2,18,21 voting 192:8 205:20 206:24,25 207:6,19 215:8 vs 36:3,4,6,9 38:13
---	--	--	---

w	waste 273:19	website 6:11,19	135:14 196:24
wage 253:21	wasted 273:19	9:5 163:14,16,25	winters 36:6
wait 145:9 251:22	watch 214:19	187:21 224:19	wintertime 135:8
waited 292:16	266:6 310:24	234:7 235:25	wise 54:25
walk 132:22	watched 237:11	websites 256:4	wish 229:22
133:21	watching 33:2	week 250:7	wishes 250:8
wall 212:8	47:2 61:17 131:13	weeks 3:8 236:9	wisner 36:3
want 2:17 3:3,6	207:7 214:15	315:10,15	witch 185:22
5:19 9:16 30:7	234:19 254:14	weigh 276:19	273:15 274:17,21
33:2 36:17 62:7	311:11	weight 32:7	313:20
70:8 71:15 74:5,6	water 84:24	228:24	withdraw 74:2
171:5 177:9 183:3	104:15,21,21,25	welcome 115:19	withdrawn 124:13
183:13 184:2	132:13 135:6	315:7	withe 71:2
185:23 187:18,21	136:20 149:11	went 21:18 55:3	withheld 227:15
188:14 235:17	197:11,15	203:4 252:3	227:17
236:21 238:11,24	watersheds	304:21	withhold 226:14
238:25 239:19	310:25	westchester 35:24	227:21
241:3 249:2,15	way 23:13 35:10	137:24	witness 7:4 8:2,6
252:7 267:7	36:3 37:14 80:16	wetland 18:23	13:2 31:4 33:20
288:15 293:15	114:10 126:16	wetlands 17:10	34:4,9,19,23 35:6
300:10 303:12,18	139:9 150:15	18:14 48:4,15,17	36:23 37:5,10,10
303:20 315:19	157:4 186:5	48:19 81:14 91:17	37:12 42:21 43:8
wanted 6:2,5 8:14	187:10 203:15	93:7 169:25 170:4	44:7 62:16 74:10
69:8 104:9 105:18	215:21 227:2	whatsoever 88:15	75:17,20,24 182:7
110:24 136:2	228:15 231:10,11	166:20	249:13 258:5
293:2 300:14	231:12 241:15,17	whereof 317:17	297:15 313:5
wanting 284:23	247:8 278:8	whim 38:17	317:17
wants 51:19	281:17 283:18	whisper 144:25	witnessed 60:24
273:18	284:24 293:5	146:9	283:22
war 211:19	306:18 308:25	white 224:23,25	witnesses 28:18,19
warrant 75:7	310:5 311:4	227:6	34:6 36:25 37:8
141:6	317:15	whiz 301:5	37:18 44:10 62:14
warranted 31:12	ways 2:19 57:4	wholeheartedly	62:20 71:16
32:18 38:9 165:13	wayside 294:13	250:9,14	176:10 297:12
183:13 219:11	we've 146:16	wholly 171:13	woman 73:21
warrants 198:22	174:21 182:16	willing 95:8	231:24,25 245:7
227:4	203:5 250:18	willingness 58:9	275:5 283:24
washington	301:6	75:15 179:21	284:18
258:14	weapon 255:2	win 167:6	women 54:9,11,17
washingtonville	web 6:12,13 9:5	winter 10:11	73:19 74:14
78:7		130:13 132:17	257:10 259:4

271:16 275:4 wondering 187:23 272:23 wooded 196:24 woods 133:11 word 180:14 203:24 236:12 262:15 words 120:3,6 121:19 132:17 150:25 166:25 221:25 231:6 253:23 261:3 work 14:8 46:18 58:6,9 61:6 77:6 78:21,22 95:2 119:24 128:17,20 128:25 129:6 149:12 196:5 208:24 221:7 237:15 250:22 274:18 296:17,18 297:8,9,10 300:18 302:14,23 303:5 310:9,13 worked 72:12 120:22 148:12 182:19 308:21 worker 262:2 workers 253:21 265:6 working 2:18 14:23 95:10 261:24 281:22 282:8 285:4 304:8 310:8 workings 288:7 works 263:15 292:6 world 224:19 256:10 307:11	311:14 worry 222:14 268:22 worse 215:14,14 worth 273:10 worthy 221:14 wrestling 104:6 write 58:4,6 108:18 246:12,24 writers 271:24 writing 97:11 192:10 248:22,23 271:21 written 8:8 69:5 69:11 240:18 241:6 315:14,19 wrong 136:18 186:13,13 213:16 239:11 wronged 276:14 wrote 15:13 69:7	257:15 258:21 260:10 271:21 283:2,19 284:2 293:21,25 297:7 302:19,22 307:4 310:14 311:12 yergin 241:20,23 272:25 yield 71:5 yielded 252:25 york 2:9 3:23 5:15 38:5 45:10 76:8 76:15 77:8 84:10 85:9 88:17 104:16 104:24,25 110:2 147:12 149:13 200:2,23 202:7 205:13 211:16 213:21,23 237:9 242:2,13,17,24 248:3 317:4,9 york's 22:24 youngest 120:21
	y	
	y 76:6 yard 10:13 130:17 yards 126:6 yeah 107:14 108:7 year 10:12 48:3 74:12 80:11,13,20 81:11 251:15 290:11 297:3 years 54:17 55:5 55:24 56:18 57:2 59:25 60:3 63:21 77:5,14,16,24 78:4 78:5,11,18,25 79:4 79:19 96:4 121:4 135:25 152:18 159:5,6,19 182:18 189:16 208:11,17 214:7 238:4,4 252:16 255:15,23	z
		zba 245:15 246:13 zip 262:5 zone 67:12 77:15 79:18 149:24 208:14 217:17 246:21,22 293:19 299:14 zoning 67:11 73:16 241:25 245:17 253:19 258:8 275:6 295:3 zoom 4:11 7:6,13