

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO COURTHOUSE

DENNIS RICHARDS, an Case No.
individual, RACHEL SWANN, an 3:20-CV-01242 JCS
individual, and Six Dogs,
LLC, a California Limited
Liability Company,

Plaintiffs,

vs.

CITY AND COUNTY OF SAN
FRANCISCO, a Municipal
Corporation; EDWARD SWEENEY,
an individual; and MAURICIO
HERNANDEZ, an individual,

Defendants.

-----/

REMOTE VIDEOTAPED DEPOSITION OF
JOE DUFFY
April 15, 2021

Reported by: HANNAH KAUFMAN & ASSOCIATES, INC.
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1 BE IT REMEMBERED that, pursuant to Notice of
2 Taking Deposition, and on Thursday, the 15th day of
3 April, 2021, commencing at the hour of 10:08 a.m.
4 thereof, before me JESSICA AYRES, a Certified Shorthand
5 Reporter in the State of California, personally appeared
6 via videoconference,
7 JOE DUFFY,
8 called as a witness herein; and the said witness, being
9 by me first duly sworn, was thereupon examined and
10 testified as is hereinafter set forth.

11 - - -

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DENNIS RICHARDS, PLAINTIFF

- - -

1 MR. EMBLIDGE: Agreed.

2 MR. WANG: Agreed.

3 - - -

4 JOE DUFFY,

5 sworn as a witness by the Certified

6 Shorthand Reporter, testified as follows:

7 EXAMINATION

8 BY MR. EMBLIDGE:

9 Q Good morning, Mr. Duffy. Have you had your
10 deposition taken before?

10:10:11

11 A Yes, I have, yes.

12 Q About how many times?

13 A I would say no more than a half a dozen, six
14 maybe. Five or six times.

15 Q All relating to DBI business?

10:10:25

16 A Yes.

17 Q So you've heard rules before, but particularly
18 in a Zoom deposition like this it's really important
19 that you let me finish a question before you start an
20 answer and I let you finish your answer before I ask my
21 next question so the court reporter doesn't have to try
22 to take us both talking at the same time. Okay?

10:10:43

23 A Yes.

24 Q And like you just did, you need to answer
25 audibly. No, you know, nodding of the head. And

10:10:56

1 shaking of the head may show up on the video, but they
2 won't show up on the written transcript. All right?

3 A Yes.

4 Q And there may be times where I may ask a
5 question that you just think is a lousy question or you
6 don't understand it. Just tell me that, and I'll try to
7 rephrase it to make sure that we're communicating. All
8 right?

10:11:11

9 A Yes.

10 Q All right. So you know you're here about a
11 lawsuit that was filed regarding the project on
12 22nd Street associated with Dennis Richards and Rachel
13 Swann; correct?

10:11:19

14 A Yes.

15 Q Other than what your attorneys have told you,
16 who have you talked to about the lawsuit?

10:11:38

17 A I've spoken -- my director, Patrick O'Riordan,
18 knows that I was here today for a deposition. So that's
19 it.

20 Q Have you talked to Mauricio Hernandez about the
21 lawsuit at any time?

10:11:57

22 A No.

23 Q Ed Sweeney?

24 A No.

25 Q I guess I'm surprised. I would assume that the

10:12:06

1 lawsuit was somewhat of -- something that would have
2 been talked about around DBI; am I wrong?

3 A Sorry, Mr. Emblidge. I did tell Mauricio
4 Hernandez that I had received the deposition.

5 Q That you've been asked to come and testify? 10:12:23

6 A Yes, yes, yes, yes.

7 Q Okay.

8 A Because he's covering for me today at DBI.

9 Q But you've never talked to anybody about the
10 lawsuit, whether it was silly or stupid or was a good
11 lawsuit or had any merit, nothing like that? 10:12:38

12 A No, no.

13 Q Did you review any documents in preparation for
14 testifying today?

15 A I reviewed some documents with Mr. Wang,
16 Mr. Stevens. Mr. Wang today for the documents, yes. 10:12:56

17 Q Okay. And are those the documents that I
18 provided as exhibits, or should I ask him in more detail
19 about them?

20 MR. WANG: Those are the exhibits that were
21 e-mailed this morning as well as the exhibits you
22 identified by e-mail, I think, yesterday, the prior
23 exhibits.

24 BY MR. EMBLIDGE:

25 Q Okay. Mr. Duffy, I just need to ask you some 10:13:24

1 background questions.

2 What's your educational background?

3 A Going back to school?

4 Q College, graduate degrees. Anything like that.

5 A Yeah. Well, I started my carpenter's 10:13:38

6 apprenticeship in Ireland in, well, 19 -- what year that

7 would have been, I'm sorry -- '78. 1979 I got City

8 Guilds of London. I did my four or five years

9 apprenticeship to be a qualified carpenter and involved

10 in a family business in Ireland. Then I came over to 10:14:03

11 the United States, and I worked in construction from

12 when I arrived here in 1990 and went in general

13 construction, working for a general contractor. Then I

14 was a foreman, superintendent for several years for a

15 company up in Noe Valley, and then I -- that's not 10:14:26

16 really educational.

17 Do you still want to hear all of this?

18 Q Well, I am going to want to hear it. Are you

19 an engineer?

20 A No, I'm not, no. 10:14:38

21 Q Okay. So did you get a college degree in the

22 states at all?

23 A No.

24 Q Okay. So you said around 1990 you were working

25 in construction in San Francisco. Who was that with? 10:14:50

1 A The name of the company?

2 Q Yes, please.

3 A I worked -- I worked for several contractors
4 from 1990 -- one gentleman I worked for for quite a
5 while was Tom Gust, Gust Enterprises. Then in 1992 I
6 went to work for Wallace Remodeling over in -- like I
7 said, in Noe Valley. So he was in -- I worked for him
8 from '92 to 1999, and then I entered -- I started at
9 DBI. So with Wallace Remodeling I was basically a
10 superintendent running construction projects for
11 Mr. Wallace and his company, and then I came into DBI in
12 1999.

10:15:08

10:15:28

13 Q Why did you decide to go over to DBI?

14 A That's a good question. You know, at the time
15 I was getting into my mid-30s, and I was getting some --
16 you know, I wasn't really -- the dust wasn't really
17 agreeing with me on every -- on the remodeling projects,
18 and I wanted a little bit of a change, to be honest with
19 you, and I just decided that, you know, I would -- maybe
20 building inspection would be -- would be a good role for
21 me, so that was it.

10:15:42

10:15:59

22 Q Did you know anybody at DBI at that point?

23 A Did I know anybody, only through inspections.
24 Just dealing with building inspectors, yeah.

25 Q I mean, sometimes people switch jobs because

10:16:15

1 they know people there and they like people there and
2 they kind of get recruited. Did anything like that
3 happen?

4 A Not really, no. I would have known -- Donal
5 Duffy would have been a building inspector before I was
6 a building inspector. And I know Donal so, you know, he
7 would have -- he would have been telling me how good of
8 a place it was to work and, you know, he was enjoying
9 it. So kind of probably added something to do with it.

10 But, you know, I ended up -- I ended up going to College
11 of San Mateo, doing some night classes. I got really
12 interested in the code actually at that point. You
13 know, it was a totally different look at things from my
14 perspective. And as I said, I was getting into my 40s
15 -- mid-30s, starting to get into my 40s, and it was
16 probably something -- I was going to do something
17 different anyway, so just decided I would do that.

18 Q For the record, you're speaking of Donal,
19 D-o-n-a-l, Duffy?

20 A Correct, yes.

21 Q Are you two related at all?

22 A Not at all, no.

23 Q How many times have people asked you that one?

24 A A lot of times, Mr. Emblidge. We're the same
25 name, and we get mixed up all the time. Even our wives

10:16:29

10:16:49

10:17:00

10:17:15

10:17:27

1 get mixed up all the time for some reason. So but,
2 yeah, we're both -- we are friends, but we're not --
3 we're not related.

4 Q When you were first hired at DBI, what was your
5 position?

10:17:42

6 A I was hired as a 6331 building inspector, which
7 is the civil service classification, and I initially
8 worked in commercial plan check in 1660 Mission Street
9 199- -- October 2002, 2003, then I went over to
10 inspection, building inspection division, where I've
11 kind of worked ever since.

10:18:05

12 Q Who did you work under when you were in the
13 plan checking division?

14 A Oh, Ben Green would have been the senior
15 building inspector, I believe, at that time. It was --
16 it's a long time ago. And I think Sean McNulty, Don
17 Levy might of supervised me at one time. Most those
18 people are all retired now. But the -- let me think.
19 There's a lady who supervised me. I cannot think of her
20 name. I'm sorry. She moved over to Berkley a long time
21 ago to work for them. She was my first supervisor.

10:18:28

10:18:54

22 Q Okay. So in 2003 you were a building inspector
23 in the building inspection division?

24 A That's right. I was transferred over to
25 building inspection division, yeah, yeah.

10:19:10

1 Q And who was your supervisor at that time?

2 A Mr. Wing Lau was the chief building inspector.

3 Q W-i-n-g?

4 A Yeah. L-a-u.

5 Q Did you have a district that you were assigned
6 to?

10:19:25

7 A When I started the building inspection
8 division, I was a floating inspector for, if I remember,
9 about six months or so. That means that you're
10 covering. As a floating inspector, if people are off on
11 leave, you're covering that district while they're off.

10:19:39

12 When you go in on a day, you can be sent to any district
13 just to cover people that are off sick. My first
14 district was District 5, which would have been the
15 Richmond District, going from 5th Avenue out to Ocean
16 Beach, basically, on the Richmond side of the park.

10:19:56

17 Q And how long did that last approximately?

18 A I'm just going off memory here. You know,
19 maybe a year and a half, two years.

20 Q Okay. And then what happened? Did you get
21 moved to a new district?

10:20:13

22 A I went to District -- I went to District 14,
23 which is a little bit more Presidio Heights, Pacific
24 Heights area.

25 Q And how long were you there?

10:20:26

1 A A year, a year, a year and a half. They move
2 the districts around every 18 months or so, so probably
3 maybe a rotation. I think I went down to District 15
4 after that -- I assume you're going to ask me that --
5 which is like North Beach, Nob Hill, Russian Hill area. 10:20:47
6 I did that for about -- that would have brought me right
7 up into maybe '06, '07 maybe even. I don't think I had
8 any other districts in that time. Then I became a
9 senior after that.

10 Q When did you become a senior? 10:21:03

11 A I think around '07 or '08. 2008, I believe.
12 That's going off memory.

13 Q I asked you about whether you were an engineer.
14 Do you have any other professional licenses?

15 A The only -- the licenses that I have are -- the 10:21:23
16 only certifications are what's required to be working
17 DBI as a building inspector. I have my ICC building
18 inspection certification, I have my plan review
19 certification, and I have accessibility inspector
20 certification. That's about it. 10:21:43

21 Q Okay. During the time you have worked at DBI,
22 have you worked anywhere else outside of DBI?

23 A No.

24 Q Do you -- are you aware of whether there are
25 any rules that say while you're working at DBI you 10:21:54

1 should not work outside?

2 A I've never --

3 MR. WANG: I'm just going to quickly -- sorry.

4 I'm going to let you answer.

5 But I just wanted to object as beyond the scope

10:22:06

6 and just for the record make it clear that Mr. Duffy

7 here is being presented in this capacity as the person

8 most knowledgeable about the organizational chart for

9 inspection services, and anything else he's answering

10 will be in his personal capacity. That's it.

10:22:24

11 Go ahead. Sorry. I didn't mean to interrupt.

12 THE WITNESS: No, I don't.

13 BY MR. EMBLIDGE:

14 Q Okay. Could you pull out the organizational

15 charts that should have been provided to you and marked

10:22:36

16 as Exhibit 42.

17 A Okay.

18 Q All right. So these were produced earlier in

19 this case. The first page, it says "Draft" on it. Can

20 you look at it and tell me if you think it reflects the

10:23:06

21 way DBI is structured today with the exception of Sam

22 Shahrouri, who I understand is not there?

23 A It looks pretty accurate, yeah, yes.

24 Q It lists you as acting deputy director. Are

25 you still acting?

10:23:45

1 A I am covering acting deputy director at the
2 moment, yes.

3 Q Is there some process that the department is
4 going through to make you the permanent deputy director?

5 A The position has been advertised or, you know,
6 put out there. So they will be doing a, you know,
7 interviews, et cetera, for the permanent position, yes.

10:24:01

8 Q Okay. So that's still in progress?

9 A Yeah. It won't be -- I'm not the only --
10 there's people -- it's an open process for people to
11 apply for that job.

10:24:20

12 Q Okay. So I want to just go through this
13 organizational chart and get your understanding of the
14 duties and responsibilities of the folks that are
15 identified here.

10:24:35

16 So what -- what are the responsibilities of the
17 deputy director of inspection services?

18 A I'll answer as best I can on my three months
19 since I've been doing it. It's an incredibly busy job,
20 as I've found out. I don't know if you see below there,
21 I'm actually acting chief at the minute. I'm -- we were
22 -- the reason I'm just -- my name is on two positions
23 there at the minute because I think the anticipation is
24 that we get -- we will be calling someone in as a chief
25 or someone in as acting deputy director. We just had to

10:24:55

10:25:11

1 fill some boxes there, and that's the reason Patrick
2 O'Riordan asked me to sort of cover that. And the
3 anticipation is that we'll be repealing the chief
4 position soon, so that's not going to be lasting very
5 much longer, I don't anticipate. But the duties and
6 responsibilities, obviously the deputy director would
7 oversee inspection services, and you're part of the
8 management team, so.

10:25:23

9 Q And what's the difference between the deputy
10 director's responsibility and the chief building
11 inspector's responsibilities?

10:25:41

12 A Well, you're now involved with plumbing and
13 electrical and housing inspection services and our
14 administrating -- sorry, our administrative staff as
15 well. You have a bit more -- you're working more --
16 you're covering a bit more of the roles with oversight
17 on the other -- the other inspection divisions.
18 Building -- chief building inspector wouldn't need to do
19 -- wouldn't be expected to do that.

10:25:57

20 Q For what period of time were you chief building
21 inspector?

10:26:14

22 A I took over chief building inspector and --or
23 sorry, acting chief building inspector in March 2020,
24 March 2020.

25 Q So from about 2008 to 2020 you were a senior

10:26:28

1 building inspector?

2 A That's correct, yes.

3 Q Okay. And what, in general, are the duties of
4 senior building inspectors?

5 A Senior building inspectors do a multitude of 10:26:46
6 things, and some do -- some have responsibilities that
7 others don't do. But basically your -- your main --
8 your main responsibility would be overseeing the
9 inspectors that you supervise. You're the supervisor of
10 five or six district building inspectors that might be 10:27:08
11 floating inspectors or they will have districts, and
12 then the number -- whatever those districts are, you're
13 basically the senior for those districts as well. So
14 literally -- so that would be something that you would
15 do. I am involved in unit count verifications. You'll 10:27:24
16 be on -- I do board of appeals. You'll do renewals of
17 permits, trying to figure out -- you might take on some
18 special cases where someone has got an issue with the
19 building, and they need to get really a big permit
20 history. You end up getting in the middle of that. 10:27:49

21 You do a lot of office administration stuff.
22 In regards to timesheets, you're looking -- you're
23 reviewing timesheets. You're reviewing certificates of
24 final completion that the building inspectors will
25 arrange. So you're reviewing daily reports and 10:28:06

1 paperwork that's coming through to you from the
2 inspectors, and then you're also answering queries. You
3 also would have counter duty pre-COVID. The seniors
4 would have had counter duty on the -- with the old 1660
5 Mission Street, 3rd floor, and soon-to-be 4th floor at
6 49 South Van Ness. 10:28:24

7 So you're doing the counter duty in mornings or
8 afternoon. And that's basically a counter where people
9 come in for building -- building issues, and it could be
10 anything. It could be someone needing -- you could be 10:28:36
11 dealing with a complaint, could be processing a permit
12 to comply with a complaint, could be someone asking you
13 questions about records on a building. Just various --
14 a lot of different things. And I'm sure you've done
15 that yourself, come on in to see what building do down 10:28:55
16 there.

17 Q Do all seniors have counter duty?

18 A Well, if you're talking today, no, because
19 we're not open to the public. But, yeah, generally
20 there would be a monthly schedule, and you would be 10:29:10
21 expected to do either morning or afternoon, yes.

22 Q What about building inspectors below the senior
23 level, do they all have counter duty?

24 A The way it worked was the seniors generally did
25 the mornings, and then the building inspectors, we would 10:29:28

1 put them on duty in the afternoons.

2 Q And do senior inspectors typically go out and
3 do field inspection projects?

4 A Sometimes, yes, yes.

5 Q Why would a senior go out to inspect a project
6 rather than a line inspector?

10:29:43

7 A Well, why would a senior inspector do an
8 inspection?

9 Q Yeah. I mean, so if there's a project at
10 3121 Jones Street that's within a district and the
11 district inspector might do an inspection, why would a
12 senior go out and do that instead of the district
13 inspector?

10:30:04

14 A Typically a senior -- the seniors do
15 inspections normally when there's -- when someone is too
16 busy, someone is off, we're short on staff, they'll find
17 the need to do it for that reason. The other reason
18 would be sometimes if it's a really tricky project and
19 it's something that -- you know, if there's been
20 problems with a project, sometimes we send a senior and
21 the building inspector out together. But typically the
22 seniors will handle sometimes -- you know, I mean, you
23 go out on a -- you could end up having a district nobody
24 is covering, and maybe three of the seniors will get
25 some inspections that day, and along with your senior

10:30:20

10:30:38

10:30:52

1 duties, you'll fit in a few inspections as well. Senior
2 building inspector is very wide ranging -- it's a good
3 -- it's a good position because you can -- you know,
4 you've got that inspection and the supervisory
5 experience, and you can function it between both. But
6 typically it's when there's a need.

10:31:09

7 Q Okay. Thank you. So let's just also talk
8 about the different parts of the inspection services
9 division. What is the scope of the responsibilities in
10 building inspection division?

10:31:30

11 A Can you ask me that again? Sorry, I ...

12 Q What I'm going to ask you about is what does
13 the building inspection division do and the electrical
14 inspection and the plumbing inspection. Well, right now
15 I'm just asking, what falls under the building
16 inspection division?

10:31:45

17 A Oh, well, building inspection division,
18 obviously we've got 18 -- we've got 18 districts, and
19 each one's got an inspector and that building inspector
20 in that district. We also have a few floating
21 inspectors. If you're fully staffed, you should have
22 three or four of them. But the building inspection --
23 the duties of the building inspection division are to
24 perform inspections in properties that have building
25 permits. We also do complaint investigation, and we

10:31:55

10:32:14

1 also deal with the public when they come into the office
2 for any queries that result -- that are to do with
3 building permits or inspection issues. Probably a good
4 way to answer it.

5 Q Okay. So if there's an ongoing project with
6 permits, the building inspection division would be the
7 one that would go out to make sure the project was
8 complying with the permits?

10:32:28

9 A For building code-related issues, yes, on the
10 plans, yes, for the permit application, yeah.

10:32:46

11 Q And if there are complaints about an ongoing
12 project that has permits, the building inspection
13 division personnel would go out to look into those
14 complaints?

15 A Typically, yes. The building inspector will
16 get assigned a share of complaints, yes. There will be
17 complaints in their district, yes.

10:33:03

18 Q Okay. And it's probably straightforward, but
19 what are the duties of the electrical inspection
20 division?

10:33:20

21 A Very similar to building, very similar. The
22 people that are doing electrical work will need -- will
23 need inspections on those permits, on their electrical
24 permit. The electrical inspector will go out at various
25 stages of the construction to give them that -- to look

10:33:36

1 at the electrical work that's been undertaken, and they
2 will also investigate complaints as well.

3 Q And the same for plumbing inspection except
4 it's related to plumbing issues?

5 A That's correct, yes, yes, yes.

10:33:50

6 Q What about inspection services? That's off to
7 the right. Giles is the supervisor.

8 A Oh, yes. Of course, yes. Our very, very
9 precious administrative staff. So those guys -- his
10 people, they're -- that's all our support staff, our
11 clerical staff. People like to call them "support
12 staff" nowadays. They're in the office primarily taking
13 the calls for people calling in for inspections. They
14 will take complaints over the phone. They basically
15 deal with a lot of calls and queries from people.

10:34:09

10:34:25

16 And nowadays we're doing a lot of online
17 renewal permits. We're doing online extensions of
18 permits. So they're handling all of that, any of the
19 administrative stuff that comes through. They deal a
20 lot with processing of documents and letters. They also
21 help us out with special inspections, which is another
22 duty of the inspection services, of the seniors and the
23 building inspectors that I never mentioned. But they'll
24 help out with that.

10:34:41

25 And then they also have people on the counter.

10:34:58

1 So they'll have someone on the counter all the time when
2 we're open, you know, if we get open again, when we're
3 open again. There will always be someone on that -- at
4 that counter. It used to be the 3rd floor of 1660. Now
5 it's 49 South Van Ness. There will always be one of
6 Giles' staff at the counter handling any fees, people
7 looking to pay their extension fees, their renewal fees,
8 their preinspection fees, their extra inspection fees.
9 That's what they do.

10:35:11

10 Q Okay. And last, what about code compliance,
11 what are the responsibilities?

10:35:28

12 A I'm not sure what that -- what you're asking me
13 there.

14 Q So if you go -- if you look on that chart and
15 you go toward the bottom, there's a box that says "Code
16 Compliance Mauricio Hernandez," and under him there are
17 other boxes.

10:35:46

18 A Sorry. Yes, I see it now. Thanks for pointing
19 that out to me. Yeah, so that's our code enforcement
20 section, basically. That's code enforcement. So
21 Mauricio is the chief for code enforcement, and he's got
22 his own team as well. He's got a senior inspector
23 there, and he's got some building inspectors as well
24 that primarily deal with complaints as well, and they --
25 then they also help out a lot with task force

10:36:05

10:36:26

1 inspections with maybe the city attorney's office, other
2 different city agencies where they'll work with
3 planning, DPW, health department.

4 So they've got different projects. They've
5 also got the vacant building ordinance. They handle
6 that, the vacant storefront ordinance. So a lot of our
7 code enforcement is done through that. They also will
8 handle cases that are referred from building inspection
9 division. For example, if someone gets a notice of
10 violation two months ago and they haven't complied with
11 it, we will refer it to code enforcement.

12 At that point it will get sent up. One of
13 these inspectors could get assigned that case to get it
14 prepared for a hearing, so they'll be handling the case,
15 code enforcement. So the building -- the inspections up
16 there do that. And then as well as that, Mauricio has
17 his own administrative staff as well where they will
18 prepare cases for hearings. They'll deal with queries
19 on the phone, e-mails, people just -- orders of
20 abatement. All that sort of stuff that goes on as the
21 enforcement process at DBA progresses to the order of
22 abatement. And nowadays they're dealing with setting up
23 the hearings and stuff like that.

24 Q Okay. So I'm trying to understand. You said
25 that building inspectors will handle complaints and so

10:36:43

10:36:56

10:37:08

10:37:27

10:37:41

1 will people in code enforcement. So is the difference
2 that if there's an ongoing project and there's a
3 complaint, the district inspector would handle that
4 complaint. If they issue a notice of violation and it's
5 not addressed in the timely manner, then it might go to
6 code enforcement; am I understanding that correctly?

10:38:06

7 MR. WANG: Objection. Asked and answered of a
8 prior PMK.

9 Go ahead.

10 THE WITNESS: Yeah. So, yes. I think what
11 you're asking me is just -- just why don't you say it
12 again there because I lost my train of thought when you
13 were in between Ed. It wasn't anybody's fault. I just
14 -- if you could ask me the second -- the first and
15 second part. It was kind of a two-part question, so.

10:38:20

16 BY MR. EMBLIDGE:

10:38:37

17 Q Okay. So I understand code enforcement has
18 these responsibilities like making sure residential
19 hotels are up to code and apartment buildings and that
20 kind of thing. I get that. But as far as an ongoing
21 building project and investigating complaints about that
22 project, would it go to the district inspector to look
23 into that project, and if the district inspector issues
24 a notice of violation, then it -- and the notice of
25 violation was not appropriately addressed, then it would

10:38:48

10:39:07

1 go to code enforcement?

2 A So, yeah. So there's a couple of different --
3 you know, there's -- I'll answer as best I can. So if
4 the complaint -- the complaint -- if there's an ongoing
5 project, the complaints typically will go to the 10:39:21
6 district building inspector, and not always, though, but
7 typically that would be the run of it, yes. And then if
8 there's no permit on it, then it might go to Mauricio's
9 team. It all -- it depends on workload as well, to be
10 honest with you. But then, if there's no compliance 10:39:43
11 with the notice -- with the complaint after the building
12 inspector issues a notice of violation, then it's
13 typically moved over to code enforcement for -- as I
14 said earlier, to move it through the code enforcement
15 process. 10:40:00

16 Q So the document you have in front of you has, I
17 think, six pages. Could you look at the sixth page,
18 which is an organizational chart that down in the bottom
19 right-hand corner says it's as of March 6, 2017.

20 A Right. 10:40:18

21 Q All right. So does this page, page 6 of
22 Exhibit 42, accurately reflect the structure of the
23 building inspection division in 2018?

24 A I don't know. I guess so, but I don't know.

25 Q Well, were there -- I mean, in 2018 was 10:40:43

1 Mr. Sweeney the deputy director?

2 A Mr. Sweeney and Mr. Lowrey were kind of -- were
3 one time I -- Mr. Sweeney was the deputy direct of
4 inspection services, and Mr. Lowrey was also the deputy
5 director of inspection services. I don't know for what
6 exactly years they were, so I'm reluctant to say yes,
7 but I assume it was, but I don't know because there was
8 -- it might have been. I'm into the sure when that
9 switch happened, but at one point Mr. Lowrey was deputy
10 director of inspection services, but I -- probably in
11 2018 this is accurate.

10:41:05

10:41:21

12 Q And you were a senior building inspector in
13 2018; right?

14 A Yes, yes, yes.

15 Q And the team listed here, was that basically
16 the team that was underneath you at that point in time?

10:41:34

17 A Yes. Looks good, yes.

18 Q Okay. So you were essentially at the same
19 level as Mr. Hernandez at that time; correct?

20 A Yes. I see that down below me, yes.

10:41:59

21 Q And the same level as Bernie Curran?

22 A Yes, Bernie is there, yeah.

23 Q And did you have a specific district or
24 districts in the 2018, 2019 timeframe?

25 A Yes. Those -- those were all -- I would have

10:42:16

1 imagined those were all districts, yes, yes.

2 Q Do you remember what districts you had a
3 responsibility for?

4 A I knew you were going to ask me that, the
5 districts. It's hard to cite it, but let me see.

10:42:34

6 Q If you don't remember, that's fine.

7 A Yeah. You know, I think -- I think I can.

8 Kevin Birmingham was District 18. Tam Chiu was probably
9 District 1. I think Fergal Clancy might have been

10 District 17. Ed Greene, District 3 maybe. Steve Hajnal
11 might have been District 13. John Murray is District 8.

10:42:52

12 And Chris Schroeder, actually I'm not sure about Ed
13 Greene and Chris Schroeder. Those are the only two I'm
14 not sure about. But, you know, I -- without knowing --
15 without the numbers beside them, but I -- just around
16 that time I do remember those -- those inspectors in
17 certain districts, yeah.

10:43:09

18 Q For what period of time did Chris Schroeder
19 report to you approximately?

20 A Must have been around that time, but Chris
21 hasn't worked in inspection services in a while, so if
22 it was down there then, that's when it was. And maybe
23 -- I'm pretty sure Chris is -- you know, with rotation
24 of inspectors you're going to see changes there every --
25 they usually like to make the changes about 18 months.

10:43:22

10:43:42

1 So Chris might have been with me and then left and then
2 came back over the years. But if he was down there
3 then, he was there, but I can't remember for how long.

4 Q When he was working with you in the inspection
5 services division, did you ever have any problems with
6 Mr. Schroeder's work?

10:43:58

7 MR. WANG: Vague.

8 THE WITNESS: Did I have any problems with his
9 work?

10 BY MR. EMBLIDGE:

10:44:09

11 Q Yes.

12 MR. WANG: Same objection.

13 Go ahead.

14 THE WITNESS: Not really. I mean, it was
15 typical for any inspector, I would imagine. I do
16 remember a couple of times where he was -- there might
17 have been a few customer complaints about him. Maybe we
18 wrote a couple of letters. You know, you get a
19 complaint about an inspector sometimes. That happens
20 all the time, Scott. You know, you get a -- people
21 complain about an inspector, and you interview the
22 inspector, and you hear what the customer has to say,
23 and you move on with life. So that might have happened
24 with Chris, yeah. But overall -- but overall, you know,
25 he was a -- I was his supervisor. He was my inspector.

10:44:16

10:44:36

10:44:48

1 Yeah. It was okay.

2 BY MR. EMBLIDGE:

3 Q Overall he was a good employee?

4 A He was -- he was an inspector. I mean, I
5 didn't -- I mean, I -- he -- he did his inspections, you
6 know. I kind of -- I've got a really hands-off approach
7 to a lot of these inspectors. They're very experienced,
8 and if there's ever -- I'm not hearing any -- there was
9 not any problem with -- you know, that I can remember
10 sitting here right now that I would say, "Yeah, everyday
11 he was giving me a problem." No, that's not the case.

12 Q When did you take on the role as DBI's
13 representative at the board of appeals?

14 A For my sins.

15 Q I was going to ask you how you got.

16 A Well, I will tell you that because it's
17 actually interesting. I have a good interest in process
18 and the codes and, you know, I -- you know what, I don't
19 know what it is, but Laurence Kornfield would have been
20 doing the board of appeals before me. And I worked very
21 closely with Laurence over the years, and I have a lot
22 of respect for him. And, you know, he always seemed to,
23 you know, be able to come up with bulletins for
24 explaining scalings from property lines. Always, you
25 know, involved in some of the earthquake preparedness

10:45:01

10:45:18

10:45:37

10:45:56

10:46:13

1 stuff. He was a good -- you know, a really good
2 resource at DBI.

3 And so Laurence kind of approached me, would I
4 mind filling in for a few weeks one time. And you know,
5 I actually can't remember. I want to tell you it was 10:46:23
6 about -- it feels like it was only five years ago, but
7 it might have been seven or eight years ago. You know,
8 I mean, it's just years going that fast nowadays, and
9 they're going too quick for me. But probably about -- I
10 would -- if I have to guess, about 2010. But anyway, he 10:46:37
11 asked me would I be interested in helping out, and then
12 what he was actually doing was setting me up for his
13 retirement, then I would take it over, and I've done it
14 ever since. You know, I'm probably getting to the point
15 now where I may end up passing it off to someone else. 10:46:54
16 But it is quite a bit of work, actually, and -- but it's
17 -- it's something that I've been doing that long, and I
18 do -- in a sad way, I enjoy it.

19 Q What do you mean by that? I mean, you're good
20 at it. What do you mean in a sad way you enjoy it? 10:47:11

21 A Well, you know, they're very -- some are very
22 contentious issues with people. There's a -- they're
23 never -- who wants to go into the middle of two people
24 not getting along or someone that's upset with our
25 department or planning and there's two neighbors 10:47:26

1 fighting. You're in a -- it's not exactly a -- you
2 know, it's not as nice as inspecting a brand new
3 high-rise building or someone's brand new addition or
4 building. You're in there, in the middle of something,
5 giving an opinion, and it's -- but it's good to see 10:47:36
6 people getting their differences resolved and the board
7 of appeals doing their job.

8 The other thing that I enjoy about it is I get
9 to learn some stuff, planning, BPW3s. I mean, I get to
10 see how lawyers perform. And, you know, it's 10:47:52
11 interesting. I would say that I probably more than
12 enjoy it, but it is interesting sometimes. And I work
13 very closely with Jerry Rosenberg now. Before that,
14 Cynthia Goldstein. And I do think there's an important
15 role within DBI for trying to get these cases resolved 10:48:11
16 and getting the actions -- the proper actions taken.
17 And, you know, there's usually continuances of appeals
18 and just giving an interpretation. So that part of it I
19 find interesting.

20 Q Yeah, yeah. It sounds like we actually have a 10:48:24
21 similar approach. I feel like if I end up -- if I end
22 up in front of the board of appeals, I kind of failed
23 because I wasn't able to get the parties to reach an
24 agreement.

25 A Yes. 10:48:35

1 Q Okay. So I know this is a broad question, but
2 how would you describe your role at the board of
3 appeals?

4 A I get the agenda sent to me usually on the
5 Friday before the hearings, and I will review the cases. 10:48:55
6 I'll do some research on them and read the brief and
7 print up the permits. I look at the issues on the -- on
8 the brief or when there is an appeal, and I will inspect
9 them. I present the case -- I get up and say, if
10 there's a -- I usually -- normally it's building permit 10:49:16
11 appeal. I will get up and give the details on the
12 permit. So I see my role as giving them the details on
13 the approval of the permit, what's the issues that went
14 through, and then I'm available usually for questions.

15 And if there is if any code issues, I'll speak 10:49:33
16 to them. Like if someone is complaining about a
17 firewall or whatever the issue is. And occasionally
18 then, when I have to, I will interview staff at DBI that
19 may have been involved in a case, and I'll ask them
20 what's this about or why are we doing this or, you know, 10:49:46
21 was there anything. And actually, last night I had a
22 case where someone was saying that a contractor wasn't
23 allowed to pull a building permit, and I had to go to
24 central permit bureau. So I go to different people in
25 the department if the issue is resolved. Plan review, 10:49:57

1 central permit bureau, inspections. Whatever it is,
2 I'll -- so I get ready for the case, and that's what I
3 see my role as.

4 I also see my role as dealing with the
5 suspensions of permits, the reinstatement of permits, 10:50:10
6 and giving people their time back on permits when
7 they've been under suspension, so -- and then I do a lot
8 of e-mails with -- sometimes a customer may not
9 understand what has to happen next. If they need a --
10 what do you call it, the permits -- the condition 10:50:27
11 permits. I'll have to handle that as well with -- work
12 together with the board of appeals staff to get the
13 special conditions permit. Occasionally then I'll take
14 on a project after that to get them to the -- I call it
15 the finish line. So I'm involved in -- it is -- it's 10:50:44
16 quite a role and probably understated, but I'm not
17 blowing my own trumpet. But it does -- it sometimes can
18 keep you busy, alone, without everything else that I'm
19 doing.

20 Q When somebody is appealing a DBI decision to 10:50:56
21 the board of appeals, is it fair to say that you
22 represent DBI at the board?

23 A I typically help in the representative, as I
24 said, for the past few years. So, yeah, I would
25 normally be that person, yeah. It's not exactly -- 10:51:17

1 there's not exactly a real sting to do it, to be honest
2 with you. There's not -- you have to really --
3 sometimes even getting a replacement there is hard, but
4 it's not -- nobody is -- nobody is dying to do it, but I
5 typically will do it, yes.

10:51:32

6 Q When does somebody else take on that role
7 instead of you as far as the board of appeal in
8 representing DBI?

9 A If I'm on vacation.

10 Q Other than that, you're the --

10:51:43

11 A I also have brought people with me to hearings,
12 DBI engineers, other inspection staff, Patrick O'Riordan
13 I think has spoken a few times at the board.

14 (Reporter requests repetition.)

15 BY MR. EMBLIDGE:

10:52:06

16 Q And how is that decided? When do you decide "I
17 should bring in an engineer" or "I should bring in the
18 deputy director" or something like that?

19 A It all depends. I mean, it's -- usually on the
20 engineering stuff it's when someone brings up structural
21 issues and, you know, if someone -- I wouldn't be able
22 to speak on structural stuff. I'm not an engineer. I
23 feel that it's beneficial to have an engineer at that or
24 I'll bring them to the hearing with me.

10:52:20

25 Q So on the social side of working with the board

10:52:38

1 of appeal, do you -- do you socialize with the board
2 members outside of board meetings?

3 MR. WANG: Objection. Beyond the scope. I
4 think, like prior depositions, can we just have an
5 agreement about a standing objection about anything that
6 doesn't involve the organizational chart?

10:52:57

7 MR. EMBLIDGE: Absolutely.

8 MR. WANG: Great. Thank you.

9 Go ahead, go ahead, Joe.

10 BY MR. EMBLIDGE:

10:53:09

11 Q Joe, I'm asking you that. We took Darryl
12 Honda's deposition, and he produced a bunch of documents
13 that seemed to show that there's -- there's a social
14 aspect to the relationship as well. Would you say
15 that's a fair characterization?

10:53:24

16 A You know, I wouldn't -- you know, when I say
17 "socialize," I know people -- the people that are on the
18 board of appeals are all good people, in my opinion. I
19 have a lot of respect for them. We have gone for --
20 there is some times after the hearings that we'll be --
21 you'll for food, and from that regard you will
22 socialize. That may expand into something else. But
23 typically, you know, we will be friendly with them, you
24 know them, but you wouldn't say that you would
25 socialize. I wouldn't use the -- you'll use the word

10:53:36

10:53:52

1 "socialize" as -- I would -- you know, I wouldn't say
2 regularly, but I have socialized with people, yeah, that
3 I've worked with, yes.

4 Q And is that something -- like are there some
5 board members that engage in, you know, post meeting
6 food and drinks and some that don't?

10:54:05

7 A You know, I don't -- I've probably about
8 socialized with anybody that's been in the board of
9 appeals in the last several years in one regard or
10 another, but -- and even myself, I don't typically go a
11 lot, but I will go sometimes for food if I'm hungry.
12 It's usually 10:00, 9:00 at night. So if you haven't
13 been -- you've been working all day and then 5:00 comes
14 and you're hungry, you're going to go, but I wouldn't
15 say regularly. I mean, I don't -- I wouldn't -- I
16 wouldn't think so, no. And I've seen me go into a bar
17 or restaurant afterwards, and you might even -- you
18 might speak to someone else in the bar even. You know,
19 it's not really a social scene, if you know what I mean.

10:54:24

10:54:41

20 Q Yeah. So when I -- I used to, as a deputy city
21 attorney, advise boards and commissions, and before --
22 this is ancient history, but after commission meeting
23 sometimes everybody would go out. What was the name of
24 that place -- Bull's at Van Ness and Market. I saw some
25 e-mails or texts between you and Darryl Honda about

10:54:56

10:55:23

1 going to Soluna after meetings.

2 Is that -- after that long introduction, my
3 question is, how often does that happen, socializing
4 after the meetings?

5 A It doesn't happen after -- it doesn't happen 10:55:43
6 for me after every meeting because generally after a
7 really long meeting I went home, you know. It will all
8 depends. It's hard to say. It doesn't happen after
9 every single meeting, definitely not, you know. But it
10 does -- it does happen. I mean, it's something that -- 10:55:59
11 you'll go for 30, 45 minutes, maybe an hour, and then
12 everybody is gone. I mean, you know, it's just a --
13 it's a nice place and you have food. Sometimes it's a
14 plate of fries and, you know, you'll hit the road.

15 Like, you know, you'll go home. It's not like it's a 10:56:17
16 long night or anything. It's usually pretty short.

17 But, you know, it wasn't something that I would say that
18 I would have done regularly, but I definitely have been
19 there before, you know, depending on my -- what time it
20 is and how hungry I am and what I want to do. But if 10:56:31
21 I've had a really rough night I'll just head on home.
22 But I have gone there, I have. Donal has gone there and
23 I have gone there, yes.

24 Q So he also produced -- and we'll go through
25 these texts. 10:56:43

1 A Yes.

2 Q He -- it appears that you golf a lot and he
3 golfs a lot and that you sometimes kind of recruit him
4 for golfing; is that fair to say?

5 A Not -- I don't think I've ever played a round
6 of golf with Darryl Honda in my life.

10:56:56

7 Q So it's just getting -- setting him up at the
8 tournament that you've been involved with him in
9 golfing?

10 A What tournament is that?

10:57:11

11 Q The building inspectors tournament?

12 A Oh, the building inspectors tournament, yes.
13 Darryl has played in the building inspectors tournament,
14 yes.

15 Q Okay. Are there -- so outside of these post
16 meeting occasional drinks and food, do you socialize
17 with members of the board of appeal?

10:57:20

18 A Probably Darryl at the golf tournament, but
19 other than that I don't think so. I think I've been to
20 -- Darryl is a pretty friendly guy, you know, and he's
21 sort of -- like, he's one of these guys, he's going to
22 text you, he's going to call you, and that's okay. I
23 mean, he knows my wife as well and, you know, he gets to
24 know you and he gets to know your dog. Like, I mean,
25 he's just a -- he's just one of these people. He's a

10:57:46

10:58:01

1 pretty outgoing friendly type of personality, in my
2 opinion and, you know. But I think I've been -- I think
3 I was invited to his birthday party at one point or
4 another at one stage.

5 But socializing, I wouldn't say I socialize a 10:58:15
6 lot with him or anybody else. I mean, if he played in
7 the building inspectors golf tournament -- I think
8 that's where you're going with that -- he probably did
9 as did 140 other people, and he's more than welcome play
10 at it if he pays his fee and he gets to play. And maybe 10:58:31
11 he got the e-mail about it or maybe he saw the flyer
12 down at DBI that we had up on the wall but -- or someone
13 told him about it. But, yeah, he probably did play. I
14 -- and I don't -- you said do I play golf a lot. I
15 actually -- I don't know where you get that, but I 10:58:47
16 probably don't play as much as I want to play and -- but
17 I don't play -- I play -- I've played golf for 30 years.
18 You know, I love to play once a week, if I can, but I
19 don't say I play golf a lot, ideally, but I wouldn't --
20 I'm busy, yeah, and I work most days, so I don't get to 10:59:05
21 play golf a lot. Maybe you know more than I do.

22 Q No.

23 A Yeah. Okay.

24 Q I'm sorry. I'm basing it simply on the number
25 of texts that Darryl produced that are going back and 10:59:17

1 forth with you about golf. So I --

2 A Oh.

3 Q Yeah, that's it, that's it. Sorry.

4 A Yeah, I think I he wanted into the golf
5 tournament, and, you know, he wanted his spot or
6 whatever, yeah, so. You get a lot of those.

10:59:30

7 Q What is the San Francisco Building Inspectors'
8 Association?

9 A Well, the building inspectors' association --
10 you know, when I came into the DBI in 1999, it was well
11 established. I believe it's nearly 50 years old. And,
12 you know, I always thought of it as more like a -- it's
13 sort of like our -- they're sort of under the umbrella
14 of -- we're all union. We used to be Local 22. Now
15 we're Teamsters. But the association has a quarterly
16 meeting where they'll invite the members, and you'll go
17 and they'll talk about different issues. It might be
18 the contract for the -- the city contract.

10:59:41

10:59:58

19 We've given money. They've given some
20 donations to charities. It's sort of just a -- it's
21 just a group of people getting together, but they do
22 bring up -- they have an agenda. They have a set of
23 rules or whatever, bylaws and stuff. I don't know
24 actually even why it's setup or was. You know, I've
25 never been on the executive committee or I've never

11:00:14

11:00:29

1 gone. But most the people on it, I think they're doing
2 the negotiations for the contracts. But the -- it's
3 there for employees, I guess, or people, building
4 inspectors. And we do that annual golf tournament every
5 year, and, you know, it's been something. I came into
6 DBI in 1999. You were kind of -- you know, you're in
7 the association, and you pay your monthly dues for the
8 union, you know, and that's what I know about it.

11:00:49

9 Q What's the difference between the union and the
10 association?

11:01:06

11 A Well, the association is the association. But
12 what I know about the association meeting that I would
13 have went to many years ago -- I don't go anymore, but
14 they would have been -- they would have been talking
15 about maybe the contract or something like that. But,
16 yeah, I don't -- they're not -- it's not the union,
17 like, you know, but it's an association that -- it gives
18 the opportunity for the inspectors to meet, and they'll
19 talk about -- they'll talk about maybe the contract
20 that's coming up or they'll talk about maybe some
21 benefits that we're going to lose or gain, you know. So
22 it's a good thing.

11:01:19

11:01:31

23 Q How does the association raise money aside from
24 the annual golf tournament?

25 A I don't know. I mean, I don't even know that

11:01:47

1 they raise that much money. I'm not involved in the
2 money end of it.

3 Q Who, in your experience, has been involved in
4 the sort of management of the building inspectors'
5 association?

11:02:01

6 A The management of it, well, that would be --
7 you know, they have like -- they have, like, a
8 committee, but over the years it's varied from people
9 that are not longer alive. Sean McNulty was involved in
10 it way back. John Singleton, Jerry Sullivan. We've had
11 different people involved. And then I think now
12 currently Ed Donnelly is the president, and, you know,
13 he -- but, you know, it's a -- it's a kind of a -- I
14 don't even know if -- it's just people you work with
15 basically have an association. So they've been around
16 for a long time. I know that.

11:02:19

11:02:35

17 Q And you say they make charitable donations?

18 A They have in the past, yes, that's correct,
19 yes.

20 Q And is there anything else that you know that
21 they do as far as spending money or using their
22 resources?

11:02:47

23 A No, not really. I'm not -- I'm not involved in
24 that end of it.

25 Q And who gets invited to the golf tournament?

11:03:01

1 A Anybody that wants to play in it, basically.
2 There's a -- the golf tournament is one of those days
3 where we book a golf course. Usually -- when I first
4 started, it used to be way over in Marin, San Geronimo.
5 Way out, far end, almost Point Reyes. Way out that way. 11:03:21
6 And, you know, you got out there, and you book a golf --
7 the golf course would be booked, and you would send out
8 -- nowadays we do e-mails on it or we put up flyers down
9 in the department. So if anybody wants to play in it,
10 it's open to anybody. You can play in it if you want. 11:03:38
11 It's not really -- you know, whoever wants to go can go.

12 Q You don't want to see me play in it. That's
13 for sure.

14 A Okay.

15 Q So, but it's not limited to DBI employees;
16 right? There are contractors that play; right? 11:03:47

17 A Yeah. I mean, there's a range of industry that
18 plays on it, yeah, yeah. I've seen different people
19 play on it. I've seen architects. I've seen -- yeah,
20 you know, contractors. Yeah, absolutely, yeah. 11:04:06

21 Q Developers?

22 A I guess so. I mean, I don't know everybody
23 that plays on it, to be honest with you. Like, you
24 know, I, you know, sort of -- you'll get contacted by
25 people or someone will ask you. You say, "Yeah. Take 11:04:17

1 your -- take your -- you can play if you want to."

2 Q What is the residential builders association?

3 A What is it?

4 Q Yes.

5 A It is what -- it is what you called it, the
6 residential builders association.

11:04:29

7 Q What do you understand that it does?

8 A They're another one of these trade groups, I
9 guess, or I would call them, you know, industry groups
10 that are out. You know, residential builders, BOMA.
11 There's different people, yeah.

11:04:40

12 Q Have you ever been a member of the RBA?

13 A No.

14 Q Do you know of other DBI personnel who have
15 been members of the RBA?

11:04:56

16 A No.

17 Q Do you go to the RBA golf tournaments?

18 A I have played in the RBA tournament, yes, but
19 only a couple of times. Not in a few years, though, so.
20 But I do remember being at that tournament, yes.

11:05:12

21 Q Have you ever been to an RBA meeting?

22 A No.

23 Q Who do you understand to be the leaders of the
24 RBA?

25 A I do know that Sean Keighran is in the RBA. I

11:05:23

1 do know Mr. Keighran. And Mr. McCarthy would be in the
2 RBA.

3 Q Angus McCarthy?

4 A Yeah. I believe he's part of the RBA, but I
5 don't know for sure, you know.

11:05:42

6 Q Who is Mr. Keighran, what does he do
7 professionally?

8 A Sean Keighran, yeah.

9 Q What does he do?

10 A I know he's in the RBA. That's it.

11:05:48

11 Q But is he a contractor? Is he --

12 A Oh, yeah, he's a contractor, yeah, yeah.

13 Q Just a general contractor on his own, or?

14 A That's what I understand, yeah.

15 Q Is Mr. Keighran somebody that you socialize
16 with outside of work?

11:06:01

17 A No.

18 Q What about Mr. McCarthy?

19 A No, no, no. I do know them both, I do know
20 them both. But socialize with them, I wouldn't say so,
21 no.

11:06:16

22 Q Do they ever contact you about specific
23 projects or permit issues?

24 A No, no. Occasionally -- Mr. Keighran was doing
25 a project that he was contacting me about in the last

11:06:29

1 year or so. And just generally, like every contractor,
2 they'll contact you about questions about maybe, you
3 know, a question about a code issue or something like
4 that, but he doesn't contact me regularly about, you
5 know, stuff that I -- you know, he may call you about -- 11:06:47
6 he might call you with just a question or nothing really
7 -- nothing out of the ordinary. Like, nothing --
8 nothing that you wouldn't do for anybody, so.

9 Q One other thing I should have said at the
10 beginning is this is not an endurance contest. If you 11:07:05
11 want to take a break let me know.

12 And, Jessica, the same with you. Whenever you
13 need a break, let me know. Okay.

14 All right. So I want to talk about the
15 handling of complaints at DBI. So my understanding is 11:07:21
16 that DBI can get complaints in a number of different
17 ways; right? They could be -- somebody could come in
18 personally, pre-COVID, or you could get something
19 through 3-1-1 or somebody could just call the
20 department; is that fair to say? 11:07:42

21 A Yes.

22 Q So how do complaints that come in from these
23 various sources, how do they get directed to the
24 building inspection division?

25 A I would say typically a complaint would come 11:07:57

1 through the various sources that you just mentioned, and
2 they're given a -- they're assigned a complaint number,
3 and they're assigned to a member of staff, inspection
4 staff.

5 Q Is it somebody in permit services that assigns 11:08:15
6 it to somebody in the building inspection division?

7 A Well, no. It's -- they'll typically come in
8 through 3-1-1, the phone, e-mails, the website. There's
9 different ways. They're handled really initially by
10 your -- on our inspection side, they're usually handled 11:08:35
11 by -- because if somebody -- like if someone calls DBI
12 today, they're going to get administrative staff or
13 support staff. They're going to take the complaint
14 usually and give it a number, and it will be assigned to
15 someone. That's my understanding of it, typically. But 11:08:51
16 someone can show up at the counter of DBI and file a
17 complaint, and we'll give them a complaint form, and
18 they'll fill it in. There's several ways to file a
19 complaint.

20 Q Yeah, I get that. I'm just wondering how does 11:09:02
21 it get -- we were talking before about how if there's an
22 ongoing project and there's a complaint about that
23 ongoing project, typically the district inspector goes
24 out to check out the project; correct?

25 A Yes, that's right, yeah. It gets a -- it gets 11:09:17

1 a number, it gets assigned to an inspector, and then
2 it's put on a schedule for them to go out. That's
3 typically what happens with district inspectors in the
4 building inspection division.

5 Q And what is the type of information that DBI 11:09:30
6 try -- asks for from the complainant? You want to know
7 the address; right?

8 A (Nonverbal response.)

9 Q Do you ask for contact information from the
10 complainant? 11:09:49

11 A You know, in my experience there is a complaint
12 form, and it's got various types of, you know, all the
13 usual information. Date filed, address, complaint
14 description. On the -- underneath you can be the
15 anonymous. You can be a complainant. You can -- you 11:10:04
16 know, you can give your name or you can remain
17 anonymous. But typically you write down when you got
18 it, how you got it. And if the person wants to remain
19 anonymous, they can. I mean, that's just part of the
20 process. 11:10:19

21 Q Have you ever experienced times when somebody
22 comes in with architectural or structural drawings
23 critiquing a project and makes a complaint?

24 A Not typically, no. But I might have, but not
25 typically. 11:10:39

1 Q Any time you can recall that happening?

2 A Well, a lot of times you'll get a neighbor
3 coming in about a project up the street, and he's like,
4 "Hey, this thing is too high" or they've over-demoed or
5 they've done something. But, yeah, they'll -- and then 11:10:49
6 there's other times where someone will present us with
7 an evaluation or a report on a building where there's
8 deficiencies, and they'll say, "Hey, this is a -- we
9 want a -- you need to look at -- DBI needs to look into
10 this." So we'll take that, whatever they've given us, 11:11:04
11 and we'll put that with the compliant, and that will go
12 with the complaint, typically.

13 Q When you say they give you a report about the
14 building, what ...

15 A Structural engineer report, architectural 11:11:14
16 report, code consultant report. Just a list of items
17 that might be wrong with the project. They'll give you
18 a description of everything. Sometimes people are very
19 specific and sometimes they're not. I'm sure we've
20 worked on a couple together in your -- over the years we 11:11:36
21 -- I know we -- I've dealt with you on complaints as
22 well, so.

23 Q Yeah. But I guess what I'm getting at is, so,
24 for example, have you ever experienced a complaint that
25 comes in through an anonymous source that provides 11:11:50

1 structural calculations regarding a project and says,
2 you know, "DBI, check this out"?

3 A I don't remember if I did, but I don't
4 remember.

5 Q Okay. Does DBI have -- well, I want to ask you 11:12:11
6 about any rules or policies DBI has about the process of
7 taking complaints. So could you look at Exhibit 11. It
8 is a six-page document. The title on the first page is
9 "Complaint Handling Procedures."

10 A I see it here, yes. 11:12:39

11 Q Do you recognize that document?

12 A I don't actually, no.

13 Q Are you aware of any written policies or
14 procedures that the department has about how to handle
15 complaints? 11:13:05

16 A I know there's stuff on the website about how
17 to file a complaint and -- I'm not sure. I can't
18 remember anywhere else really. There's -- we don't -- I
19 mean, it's a -- there might be something that
20 administrative staff have for handling for giving staff 11:13:25
21 direction on how to take complaints, but I wouldn't be
22 involved in that. I mean, there might be a document
23 that I'm not aware of. But there might be something on
24 the website, but there also might be something in
25 building inspection manual, but I'm not sure, Scott, for 11:13:42

1 the answer on that.

2 Q Okay. So, yeah, and I'm not talking about how
3 procedure -- how a member of the public files a
4 complaint. I'm talking about written procedures the
5 department has for how to handle a complaint once it
6 comes in. Is there anything that comes to mind?

11:14:01

7 A No, no. Sorry.

8 Q Okay. So let's just look at this, Exhibit 11,
9 for a second. You see on the first page it talks about
10 complaints received by phone or at the counter?

11:14:16

11 A Yes.

12 Q And then it says, "When accepting a complaint,
13 perform preliminary research about the matter."

14 Do you have any understanding about what that
15 means, to perform preliminary research?

11:14:29

16 MR. WANG: Objection. Calls for speculation,
17 lacks foundation since he's never seen the document
18 before.

19 Go ahead.

20 THE WITNESS: Yeah, I mean -- so I do see that
21 it does say "BID clerical" on it, so it sounds like it's
22 something to do with our support staff, this document,
23 because I know -- and I lost my train of thought because
24 I just saw that as I was looking down on the bottom. So
25 it looks like it might be something that maybe Giles'

11:14:40

11:14:54

1 staff -- he has settled for his staff. It's a good
2 document.

3 What was your question again, there?

4 BY MR. EMBLIDGE:

5 Q So where it says "perform preliminary
6 research," under number one, what type of research does
7 DBI staff typically perform when accepting a complaint?

11:15:05

8 MR. WANG: Objection.

9 Sorry, just let me get my objection in.

10 Calls for speculation, lacks foundation.

11:15:21

11 Go ahead, Joe.

12 THE WITNESS: I think what -- when I look at is
13 this now, it does definitely look like it's for our
14 support staff where, if they take a complaint by the
15 phone or at the counter, it's directing the staff, the
16 support staff, on what to do. And I don't supervise
17 them, Scott, so I don't know what Giles tells them to
18 do. I mean, that's -- I cannot say who as acting deputy
19 director. But this -- this is something -- when I read
20 this, this would be definitely something that support
21 staff appear to be handling and what it's asking them to
22 do.

11:15:36

11:15:50

23 BY MR. EMBLIDGE:

24 Q If you look at the second page of the document,
25 it says, under number seven, "Once the complaint is

11:16:21

1 assigned to a district inspector or the Complaint
2 Investigation Team."

3 So I know what a district inspector is. We've
4 talked that. What is the complaint investigation team,
5 do you know?

11:16:40

6 A Oh, well, that's -- that's the one that we
7 talked about on the "org" chart where Mauricio Hernandez
8 has his inspectors as well that handle complaints. So
9 depending on if it's the same district inspector, which
10 I talked about, versus going over to one of the
11 complaint inspection team. I think -- I think it's fair
12 to say that over the last few years this has changed a
13 little bit because we -- you know, the department -- the
14 complaints are something that's -- we get a lot of
15 complaints now that 3-1-1 happened in the city. You
16 know, whoever brought it out, it ended up causing us
17 getting a lot more complaints than we used to get.

11:16:54

11:17:11

18 And I think we have increased our staff, and
19 then we realized that we would be better off going
20 through a -- it would have been -- I wasn't involved in
21 the decision, but I think the thinking was that rather
22 than giving a district inspector all the complaints, we
23 would get some extra inspectors to work for complaints,
24 specifically without permits. So they're helping out
25 with the complaints in districts as well, but the only

11:17:26

11:17:40

1 difference is it's assigned to that specific inspector
2 that works for -- under Mauricio.

3 Q Have you ever heard of certain building
4 inspectors being assigned to projects at the request of
5 a contractor or a project sponsor?

11:18:04

6 A No.

7 Q You haven't heard of project sponsors who say,
8 you know, "I really want Joe Smith to be the inspector
9 on my project"?

10 A No. I -- I wouldn't -- it wouldn't in my
11 wheelhouse, that one, no, definitely not.

11:18:20

12 Q I didn't hear that.

13 A I -- no, definitely not. I think occasionally
14 you'll receive a complaint about an inspector, and it
15 might be that, you know, the contractor has an issue
16 with the con- with that. There might be a personality
17 clash. Very, very rare, though. Very rare. And that's
18 -- but that would -- no, you just can't pick your own
19 inspector, no, no.

11:18:37

20 Q Are there written rules about that, that you
21 know of?

11:18:50

22 A I don't think so, no, not that I know of. Oh,
23 I'm not sure. I don't -- I don't know that there is. I
24 just -- you wouldn't -- I just would be shocked if
25 someone said, "Hey, give me this inspector." I don't

11:19:13

1 think that's a -- I've never, in my time working -- you
2 just can't pick your inspector. Like, that's not how it
3 works. That's why we have districts and why we keep it
4 in districts.

5 Q And how do you handle it when somebody says, "I
6 don't like this inspector. I want a different
7 inspector"?

11:19:28

8 A That's a really good interview question as
9 well, by the way. It's a -- you try -- well, I mean,
10 I've dealt with it a couple of times. But you really
11 try to -- try to resolve the matter between the
12 contractor and the person if there was a complaint about
13 specifically -- if it's the personality thing, and I've
14 been -- had some case as that. I mean, sometimes people
15 get angry. They get upset. They get -- you know, in
16 the heat of the moment, something happens. You try to
17 get this them back together and get them -- if it all
18 else fails, then you'll assign it to someone else. But
19 typically I would be a big fan of getting people
20 together, getting them to resolve their differences,
21 and, you know, usually that's what happens, you know,
22 so.

11:19:42

11:19:58

11:20:12

23 Q Can you recall specific instances where this
24 has happened, where a contractor or a project sponsor
25 has contacted you and said, "I've just -- I've got to

11:20:23

1 get a different inspector here. I can't get along with
2 this guy"?

3 A Only once, only once, yes.

4 Q What do you recall about that?

5 A It was Mr. Schroeder, actually. You know, I
6 had a contractor who didn't want him on his projects.

11:20:36

7 Q Who was the contractor?

8 A Going off memory here, but I think it's a
9 gentleman called John Curry, Curry and Sons. Everyone
10 in that area knew about Chris. And Chris didn't want to
11 do their inspections either, so it was fine.

11:20:52

12 Q So you weren't able to work that out, and you
13 assigned somebody else?

14 A I -- yeah. When they both didn't -- I mean, we
15 encourage our inspectors to try to resolve their
16 differences. That's the way we train people. I mean, I
17 was trained like that. We never really want to keep
18 something like that going because, you know, as much as
19 we live in a big city, you do tend to come across the
20 same people a lot in construction, so you will -- you
21 will see that. And I think, yeah -- in this case this I
22 think it was the one where there was no way it was ever
23 going to be resolved, so we just let them -- yeah. I
24 ended up doing the inspections, I think, so.

11:21:04

11:21:18

25 Q Lucky you.

11:21:34

1 A I know.

2 Q Have you ever had John Pollard contact you,
3 complaining about inspectors?

4 A Complaining about inspectors?

5 Q Yeah.

11:21:45

6 A No.

7 Q I have --

8 A Just one thing. If you're going to complain
9 about an inspector, you've want to put it in writing,
10 you know. I mean, I don't -- if someone wants to
11 complain about an inspector, we want a good reason. We
12 would ask them for a letter or an e-mail or something
13 like that. So that's the way -- how I personally handle
14 that. I mean, that's I think the way I was trained to
15 do it so, you know.

11:21:55

11:22:10

16 Q Who trained you to do it that way?

17 A Probably Patrick O'Riordan would have been one
18 of the ones. He was my chief there. You know, he would
19 always just -- he would ask people to document if they
20 had an issue with an inspector. I think it's really
21 just the standard. I think that's the same on any job
22 if you -- if you've got an issue on a -- with a --
23 someone and you end up having to deal with their
24 supervisor. Sometimes they'll ask you to just put it in
25 writing, you know, what the issue is. Standard stuff.

11:22:21

11:22:33

1 Q Okay. Let's take a ten-minute break.

2 THE INTERPRETER: We are going off the record
3 at 11:22.

4 (A brief recess was taken.)

5 THE VIDEOGRAPHER: We are back on record at
6 11:30.

11:34:29

7 BY MR. EMBLIDGE:

8 Q Okay. Are there -- I assume -- it's a small
9 town -- that there are DBI personnel that have social
10 relationships with some of the contractors or engineers
11 or project sponsors that come to DBI. Are you aware of
12 that?

11:34:50

13 MR. WANG: Objection. Calls for speculation.

14 THE WITNESS: Can I get you to answer -- ask
15 that again, Scott?

11:35:06

16 BY MR. EMBLIDGE:

17 Q Yeah. So here's what I'm getting at. If I'm
18 going to go appear before a judge who happens to be a
19 friend of mine, that judge is going to say, "I'm not
20 going to hear this case involving Scott because he's a
21 friend of mine. We're going to refer to a different
22 judge." And I'm wondering whether there are any kind of
23 rules or procedures that say, you know, if you're a
24 building inspector but you're good friends with this
25 particular contractor or project sponsor, we're going to

11:35:20

11:35:38

1 assign this project to somebody else. Is there anything
2 like that that you know of?

3 A No.

4 Q You talked about, you know, in your coming up,
5 training you've received, some of which was from Patrick
6 O'Riordan. Do you recall that?

11:35:53

7 A About the asking for a document from someone
8 who is filing a complaint about an inspector?

9 Q No. You talked about, "That's not how I was
10 trained," was one of your answers, and I asked you who
11 did you received that training from, and you said,
12 "Probably Patrick O'Riordan."

11:36:12

13 A I don't know what the question was, but if you
14 ask me again, I'll let you know what it is. You know,
15 when I use the word "training," it might be that I've
16 seen someone do it like that and that's a good way to do
17 it, and, you know, you copy that process. Training,
18 per se.

11:36:25

19 Q Okay. You anticipated where I was going with
20 that. Is there -- is there any kind of formal training
21 for building inspectors about how to do their job?

11:36:39

22 A How to do their job?

23 Q Yeah.

24 A Yes.

25 Q Okay. So tell me about the training that

11:36:51

1 building inspectors receive.

2 A When you first start at DBI, a new inspector?

3 Q Sure.

4 A Yeah, I mean, there's a -- there's a training
5 manual, a building inspection manual that you would get,
6 and you go through that with all the inspectors.

11:37:02

7 They're asked to read it. There's all sorts of
8 information in there about how to handle your timesheet,
9 what the work hours are. Typical for any job when

10 you're starting. And it's got a lot of -- a lot of

11:37:20

11 paperwork you're going to see in there. In addition to

12 that, the inspectors typically are -- you know, we send

13 them out with different building inspectors on a daily

14 basis to look at -- to go with district inspectors, show

15 them how we, you know, perform our inspections, how we

11:37:35

16 document our inspections. In addition to that, they're

17 usually -- they're usually sitting beside someone at the

18 counter. Their senior inspector would train them on a

19 lot of -- a lot of processes and, you know, the

20 different -- the different aspects of the job.

11:37:52

21 Q So it's almost like apprenticing?

22 A It's very short. You get it for a few weeks,

23 yeah, yeah. Or you'd be a -- you have to find out how

24 they're -- if they're comfortable with that amount, you

25 know, if they're able to take on their own duties at

11:38:05

1 that point. But a little bit like that, yeah, sure.

2 Q You said there's a manual that everybody gets.
3 Could you look what -- look at what's been marked as
4 Exhibit 10, which is entitled "Office Policy and
5 Procedures for Issuing Notices of Violation." It's a
6 17-page document.

11:38:25

7 A Here it is, yeah.

8 Q Is that by any chance the manual that you were
9 talking about?

10 A No. Well, it's part of the manual. It would
11 be part of the manual for inspectors. There would be
12 other documents in that as well.

11:38:58

13 Q So if I was trying to find this document or ask
14 Ed to give it to me, what's it called, this manual?

15 A I think it's a building inspection manual,
16 building inspection manual or something like that.

11:39:15

17 Q That's my pup. Okay. I think that's over.
18 Typical Zoom with delivery at the door.

19 When is the last time you saw this manual?

20 A I actually saw that manual this week.

11:39:46

21 Q Oh, okay. And is it -- I don't know. Is it
22 more than ten pages? More than a hundred pages? About
23 how big is this thing?

24 A Probably about 30 to 50 pages, maybe.

25 Definitely 30, I would imagine, yeah. About 30 pages.

11:40:05

1 Q Are you aware of any rules in that manual or
2 rules written down anywhere else against building
3 inspectors accepting money or gifts from contractors or
4 engineers or project sponsors?

5 A Anything to do with that, you usually do it on
6 an annual basis. You know, you'll do your ethics
7 training and your conflict of interest and stuff like
8 that, yeah. That would be the only time I would -- that
9 would come up for me. But I don't think -- that's not
10 in the building inspection manual.

11:40:26

11:40:43

11 Q Okay. So this is ethics training that is
12 provided by the city attorney's office talking about --

13 A Yes.

14 Q Okay. So apart from that, is there anything
15 that you're aware of that's written down in the building
16 department about not accepting gifts or money from
17 contractors or project sponsors or engineers?

11:40:54

18 A No, not that I know of, no.

19 Q Have you ever heard of that happening?

20 MR. WANG: Objection. Vague.

11:41:13

21 THE WITNESS: No. I would say no.

22 BY MR. EMBLIDGE:

23 Q Why do you hesitate?

24 A I'm sorry. I didn't -- I'm thinking of your
25 question. I'm thinking. I was -- I was just thinking

11:41:26

1 about the answer. No, I didn't hesitate. I -- it's not
2 something that I -- it's not something that I sort of
3 have been -- you know, it's never came across my
4 conversation, if that's what you're asking, so.

5 Q Okay. Have you ever heard of contractors or 11:41:45
6 engineers or project sponsors performing work for
7 anybody at DBI on the DBI person's personal property or
8 real estate?

9 A No. But if people do work, they have to hire a
10 contractor. But, no, I haven't heard anything, no. 11:42:07

11 Q Are you aware of any rules against DBI
12 personnel having work performed for them on their
13 property by contractors or project sponsors that they
14 are -- whose projects they're overseeing?

15 A No, I don't -- I haven't -- don't think I've 11:42:34
16 seen anything on writing on that, no.

17 Q And what about anything in writing about you
18 shouldn't accept discounted work from contractors or
19 engineers that come into DBI?

20 A No, I don't -- I don't know any -- I don't -- I 11:42:52
21 don't think I've seen it written anywhere specifically,
22 no.

23 Q Is that -- in your career at DBI, is that a
24 rule you would assume people at DBI follow?

25 A If I've came across it anywhere, it's been at 11:43:13

1 that ethics training or the videos that you would -- the
2 training videos that you'd be shown. I mean, you do
3 them every year, every two years. And I believe that's
4 -- it's on the Form 700, I'd say. We fill that in every
5 year. But, you know, it's not something that you're 11:43:31
6 going to read on a daily or weekly basis or -- I don't
7 -- no one has ever said to me at DBI, "Here's a list of
8 these things," I mean, that I -- apart from my ethics
9 training, and that's -- personally that's the way I
10 would handle that, you know. 11:43:47

11 Q The Form 700, is that something that every
12 building inspector has to fill out?

13 A Every city employee, I believe. But every
14 building inspector, yes.

15 Q All right. When the building inspection 11:43:59
16 division receives a complaint for work that's done
17 without permits, what are the steps that the building
18 inspection division goes through to investigate a
19 complaint like that, work done without permits?

20 A Well, I'll answer it how I would handle it. I 11:44:20
21 mean, it's just taken of an inspection investigation.
22 So it's work without a permit. You're going to -- once
23 you get the complaint, you'll get a number on it. It
24 will be, you know, a description of what that actual
25 compliant will be. And you'll check -- if it's work 11:44:38

1 without a permit, you're going to check the address, the
2 block of lots to see are there any permits for the work,
3 and then you'll go into the property to see what's going
4 on. You'll try to get entry into the property, and if
5 someone is working and you check that they didn't have a
6 permit, you're going to issue probably a notice of
7 violation.

11:44:55

8 Q So you got to where I was going to get to
9 pretty quickly. So if you go out there, you check the
10 database, you don't see any active permits, you go to
11 the site, you see that there's work occurring at the
12 site, what are the options that an inspector has? Is it
13 just issue a notice of violation, or are there other
14 options that an inspector has on how to handle that
15 situation?

11:45:09

11:45:31

16 MR. WANG: Objection. Incomplete hypothetical.
17 Go ahead.

18 THE WITNESS: Doing work without a permit is a
19 notice of -- it's a code violation. It's a notice of
20 violation.

11:45:36

21 BY MR. EMBLIDGE:

22 Q But does an inspector have the flexibility or
23 the option to just try to work things out with the
24 contractor and say, you know, "I should issue you an
25 NOV, but if you promise me you'll go down this afternoon

11:45:50

1 and pull a permit for this, I won't issue the NOV"?

2 MR. WANG: Incomplete hypothetical. Calls for
3 speculation.

4 THE WITNESS: No, I don't -- I don't -- I -- I
5 don't think so. That's -- if you're right there and 11:46:05
6 you're doing work without a permit, write a notice of
7 violation. If you see the work taking place and you
8 have to get into the property to see that, write a
9 notice of violation.

10 BY MR. EMBLIDGE: 11:46:19

11 Q So to put it another way, it's mandatory that
12 the inspector write a notice of violation when they
13 observe work that they believe is being done without a
14 permit?

15 MR. WANG: Objection. Misstates testimony. 11:46:31
16 Go ahead.

17 THE WITNESS: I think that's what you're --
18 that's what you're going to do most of the time. But an
19 inspector is out there, and he -- it's their decision,
20 but if you're doing work without a permit, it's just as 11:46:41
21 easy to write it up for a notice of violation, you know,
22 so.

23 BY MR. EMBLIDGE:

24 Q Well, you say it's just as easy to write it up
25 as what? What else could an inspector do other than 11:46:52

1 issue an NOV?

2 A Well, I mean, any time I've gone out, if
3 there's someone doing work without a permit, they're
4 generally getting a notice of violation. But on
5 occasions you're not going to be able to write it right 11:47:03
6 away. You might have to go back to the office. And in
7 between that, if the permit can -- if they got a permit
8 the next day, you still -- you might still have the
9 notice of violation written, but it will be closed
10 pretty quickly, you know, so. But generally we tell the 11:47:18
11 inspectors the building code says that if you're doing
12 to work without a permit, issue a notice of -- it is a
13 code violation.

14 Q Are there exceptions to that rule, that if
15 there is -- if you go to a site and you see work being 11:47:30
16 done without a permit, are there exceptions to the rule
17 of issue a notice of violation?

18 MR. WANG: Objection. Misstates testimony to
19 the extent that you're referring to it as a rule.

20 But go ahead. 11:47:50

21 THE WITNESS: Not that I'm aware of, no.

22 BY MR. EMBLIDGE:

23 Q As your attorney pointed out, I used the word
24 "rule." Are there rules about that that are -- that you
25 know of that are written down about what to do when an 11:48:00

1 inspector sees work being done without a permit?

2 A If it's -- I haven't looked at it recently, but
3 if it's anywhere it might be in this, Office Policy and
4 Procedure and the -- probably is maybe where you'll find
5 it.

11:48:16

6 Q What is a special inspection?

7 A So a special inspection is a third party
8 inspection that are when a permit is reviewed by DBI and
9 the engineer that has designed the project, between our
10 engineer and the engineer of record. For example, the
11 structural issues would be a special inspection, would
12 be reinforcing steel, concrete placement, welding.

11:48:38

13 You'll see those. They're called special inspections.
14 So they're pulling permit on the plans. And in addition
15 to building inspection approval, you'll need a special
16 inspection from the engineer of record or testing
17 agency.

11:48:57

18 More recently we've started to see that with
19 Title 24 requirements, where they're now a special
20 inspection item as well. So we will need something from
21 a third party to verify that that -- that everything is
22 in accordance and done correctly. And then those
23 reports are submitted in prior -- once that work is
24 done, before final inspection, we have to have the
25 special inspections completed by us requesting -- as

11:49:06

11:49:25

1 part of the agreement when the permit got issued, you're
2 submitting also the special inspection letter. Our
3 staff will review that and clear the special
4 inspections, which will enable you then to get a final
5 inspection eventually.

11:49:41

6 Q So when you say a special inspection should be
7 done by a third party, what do you mean by a third
8 party?

9 A Engineer of record or a testing agency, testing
10 agency. The engineer of record or the testing agency.

11:49:51

11 Q So somebody that's not the project sponsor?

12 A Well, the engineer of record. So I said third
13 party. Sorry. Maybe third party is not the right word.
14 The engineer of record can do the special inspections on
15 his own drawings, the engineer of record. But if they
16 want to, they could use a testing agency. They could
17 use a special inspection agency as well. So then it's
18 got to be done. But the project sponsor can't do them.
19 It has to be the -- it would need to be an engineer. It
20 would to be a special inspection agency. A homeowner
21 can't do his own special inspections.

11:50:08

11:50:23

22 Q I'm sorry, I didn't hear that.

23 A A homeowner cannot do their own special
24 inspections.

25 Q Right, because you want it -- you want it done

11:50:35

1 by somebody that's independent of the property owner;
2 right?

3 A Yes, yes. The licensed engineer or special
4 inspection agency.

5 Q Are there written rules about that, that a 11:50:46
6 property owner can't do their own special inspections,
7 that it needs to be done by an independent certified
8 engineer or testing agency?

9 MR. WANG: Objection. I think that misstates
10 testimony as to independent engineer. I think he said 11:51:06
11 the engineer of record can do it. Sorry, I just want to
12 make sure it's clear.

13 BY MR. EMBLIDGE:

14 Q So the question, Mr. Duffy, is, are these rules
15 about special inspections written down somewhere? 11:51:16

16 A The special inspection on the -- on the special
17 inspection sheet, on the plans, there are instructions
18 as to how to go through the special inspection process.
19 It's also in the building code, and it's Chapter 17, I
20 believe. In the California Building Code, you'll find 11:51:39
21 special inspection tests. But that's where you'll find
22 it, I believe.

23 Q Would there be something in there that you're
24 aware of that talks about the fact that a developer or
25 property owner can't do their own special inspections? 11:51:53

1 MR. WANG: Objection. Vague and ambiguous.

2 Sorry. Go ahead.

3 THE WITNESS: I -- if it's any -- it doesn't
4 say that they can't, but I think it says more about who
5 can do the special inspections.

11:52:05

6 BY MR. EMBLIDGE:

7 Q What if I'm a property owner but I'm also an
8 engineer, can I -- can I do special inspections on my
9 own project, on my own property?

10 A Are you the engineer of record?

11:52:23

11 Q Can I be?

12 A I think so, but I don't know for sure.

13 Q So it's possible that if I'm developing a piece
14 of property and I'm also an engineer, I can be the
15 engineer of record and do the special inspections, and
16 that would be okay with DBI?

11:52:40

17 MR. WANG: Objection. Calls for speculation,
18 incomplete hypothetical.

19 Go ahead.

20 THE WITNESS: I don't know the answer to that
21 question.

11:52:53

22 BY MR. EMBLIDGE:

23 Q That's just -- you've never come across that?

24 A I don't work in special inspections that much.

25 I -- just something we -- I would see the reports coming

11:52:58

1 in, and they're cleared by our staff who are trained to
2 clear special inspections. I've never worked in the
3 special inspection program.

4 Q When the building inspection division receives
5 a complaint for work done outside the scope of permits,
6 what steps would you take or would people under your
7 supervision take to investigate that kind of complaint?

11:53:14

8 A So you've got a building permit and you're
9 working outside the scope of it. Again, we open the
10 complaint. The department would open the complaint, it
11 would be assigned a number and -- with the description,
12 all the information that we talked about earlier, and it
13 would be assigned then to an inspector to investigate.

11:53:31

14 Q What investigation would the inspector do? I
15 assume there would be a site visit. Would there also be
16 some investigation into documentation?

11:53:53

17 A Yes, I would imagine so. The building
18 inspector is going to -- you know, I mean, if they get
19 that complaint on some project that's underway, they're
20 goes to -- they're going to know. They're going to look
21 up the address, see what permits are on the property,
22 try to make contact with the person doing the work or
23 the homeowner or whatever they need to get in there.
24 They'll need to see the drawings. They'll look at the
25 complaints, the plans, the permits, and see if things

11:54:11

11:54:24

1 are being done that are outside the realm of that
2 permit.

3 Q How does the building inspector get access to
4 the plans?

5 A Well, you go to the site and look for the
6 approved plans.

11:54:33

7 Q Oh, okay. So you wouldn't get them from within
8 the department? You would look for the plans at the
9 site?

10 A You could but it's easier for the district
11 building -- it's easier for a building inspector just to
12 go to the site and look for the drawings. Having to go
13 through a request and get plans for everything down
14 there, it's just more efficient to go to the site and
15 have a look at what's approved right there. You know,
16 you don't really -- most of the time I tell the
17 inspectors just go with -- go out there, look for the
18 plans, tell them that there's a complaint, that they're
19 exceeding or doing something beyond the scope, and do an
20 inspection and look at what's approved and then take it
21 from there. But you could print the plans, but it's
22 just a little bit more. It's probably more work for you
23 and not as efficient, I would say.

11:54:47

11:55:02

11:55:17

24 Q How do you -- how does the building inspector
25 decide what to do about work that looks to be outside

11:55:36

1 the scope of a permit? Forget that question. I'm going
2 to ask a different question.

3 I asked you before about if a building
4 inspector sees that there's work being done without
5 permits, we talked about issuing a notice of violation;
6 right? 11:55:52

7 A Yes.

8 Q Okay. So what if a building inspector goes out
9 there and sees work that the building inspector
10 concludes is outside the scope of the permits, what 11:56:06
11 options does that building inspector have as far as
12 dealing with that situation?

13 A So you have decided that you -- you've looked
14 at the plans and the permit, you've looked at the work
15 that's done, and you see they've exceeded the scope of 11:56:26
16 the permit. You could issue a notice of violation for
17 that.

18 Q Okay. Are there exceptions to that (connection
19 failure)?

20 A Did you finish your question? Sorry. 11:56:33

21 MR. WANG: Yeah, I think you cut out a little
22 bit, Scott.

23 BY MR. EMBLIDGE:

24 Q Okay. Sorry. So I'm just thinking, look, in
25 the real world any time a building inspector goes out, 11:56:46

1 they're goes to see something that's going to deviate a
2 little bit here or there from the plans or be exceptions
3 to what's on the permit or on the plans, that it's not
4 just black and white. So what I'm trying to understand
5 is what kind of discretion does the building inspector
6 have when observing the work at the site and deciding
7 whether or not it is work outside the scope of permits
8 for which a notice of violation should be issued.

11:57:08

9 MR. WANG: Objection. Incomplete hypothetical,
10 calls for speculation, assumes facts.

11:57:26

11 BY MR. EMBLIDGE:

12 Q Was my question clear, Joe?

13 A It's very -- I don't know if your question is
14 clear. I know what you're asking me, but I -- it's just
15 such a -- you know, there's a lot of -- there's a -- you
16 have to see what the work is. I mean -- I mean, I guess
17 I can answer structural changes, architectural changes,
18 something that you saw that rose to the level of a
19 notice of violation you would issue it. But you might
20 consult with a senior. It just depends on what it is.
21 I mean, like, the door behind you. If it's hinged on
22 the other side and it shows it swinging one way and it's
23 not the other way, that's not really -- is it shown on
24 the plans, no, but you might -- you're not going to
25 write a notice of violation for that.

11:57:40

11:58:00

11:58:15

1 So, you know, when it rises to changes to
2 layout, structural changes, things that are completely
3 different from the plans, I think building inspectors
4 would write a notice of violation for that. If it's in
5 the code, they have the right to write the notice of
6 violation. Minor, minor stuff that's so cosmetic or
7 something that doesn't need it, I wouldn't go there.
8 But I wouldn't write it. I wouldn't think they're
9 writing that. But building inspectors do come back to
10 the office, they'll talk to their supervisor, and
11 they'll take some photographs or videos. They'll have a
12 look at it and see what it is, and maybe it needs a
13 bigger discussion.

11:58:29

11:58:47

14 Q Okay. Great. So that was just what I was
15 getting at. Are there rules or procedures written down
16 about when a deviation from the plans is significant
17 enough to justify a notice of violation versus, as you
18 said, cosmetic or minor?

11:58:58

19 A No.

20 Q So how do you make those judgment calls about
21 when something is minor versus when something is
22 significant, that it really needs a notice of violation?

11:59:21

23 A Well, in my experience, that comes from good --
24 a training of an inspector. When they first start,
25 they're out going along with another inspector, tagging

11:59:40

1 going along with a senior and, you know, training them
2 and giving them that judgment call. The building
3 inspectors in the city have latitude, and, you know,
4 when we think they're -- you know, if they're
5 experienced enough and they're trained right, they're
6 going to -- they're going to make that call, and they're
7 going to know the call. And if they're unsure of the
8 call, they are encouraged to speak to their supervisor.

11:59:55

9 Q Does DBI do anything to make sure that building
10 inspectors are consistent in making those judgment
11 calls, that, you know, Inspector Jones isn't too strict
12 and Inspector Smith isn't too lax?

12:00:11

13 A We have -- we have senior spot checks that we
14 do on some of their -- you'll look at the work they're
15 doing on their daily inspection reports. I think more
16 what those things are in that scenario is that might
17 find -- someone might call you, a senior or a supervisor
18 or a chief, and say, "Hey, you know, the inspector came
19 out today. I don't think it's such a big deal, and he's
20 going to write me up," and so then I'll involve a senior
21 or chief to make it work and agree or disagree. And you
22 sometimes get a -- that'll come more from a customer
23 complaining that they don't think it's a big issue and
24 someone might, so.

12:00:33

12:00:47

25 Q Have you been involved in situations like that,

12:01:03

1 where a customer complains to you that an inspector was
2 too harsh?

3 A Not that I can remember, but I'm sure I have,
4 but I can't -- I can't remember any specific cases. I
5 would deal with a lot of calls and e-mails on a daily
6 basis, and there might be something like that, that
7 you'll work -- that you'll get involved in, but I'm sure
8 I have, but I can't remember specific cases. It's just
9 part of inspecting buildings and inspectors making calls
10 in the field versus not making a call, and yeah. I
11 mean, you deal with that all the time. You know, you
12 don't -- I don't recall any specifically. It's just
13 part of -- I see it as being a part of a senior's job or
14 a chief's job, to be honest with you.

12:01:20

12:01:36

15 Q Going back to the training. So there was --
16 there's that training that occurs during the first few
17 weeks of a new building inspector coming on board. Is
18 there follow-up or additional training that occurs for
19 building inspectors?

12:01:49

20 A Building inspectors on -- when I said "building
21 inspectors," there's ongoing training with building
22 inspectors. Every two weeks we have a staff meeting,
23 biweekly staff meeting. We bring up items of a -- you
24 know, on inspection protocol, issue for certain
25 documents. So that's an ongoing thing. There's safety

12:02:06

12:02:24

1 training that's mandated. They always get that. But,
2 yeah, there's always -- they've got a lot of information
3 sheets in the San Francisco Building Code. They're
4 encouraged to read them and look at them.

5 The other thing that we have is that building
6 inspectors are really encouraged to -- if we don't --
7 you want a building inspector to be calling the
8 supervisor to ask for advice. They're encouraged to ask
9 for some. You know, they can call their supervisor if
10 they're unsure of something. And the seniors check in
11 with the inspectors, if everything is okay, at least I
12 did. So, yeah. I mean, it's an ongoing thing. But
13 hopefully that's the answer.

14 Q Are there formal trainings or formal courses
15 that you give at DBI for building inspectors apart from
16 the staff meeting?

17 A Sorry. We do annual CALBO training, which is a
18 -- you know, it's a code group. I can't remember what
19 that -- California Building Officials weekly -- annual
20 training. You sign up for two or three classes a year.
21 You need to keep your licensing certifications up to
22 date so you can do online training, et cetera. And the
23 department does sometimes do code training in house. We
24 haven't been able to do it with any of the COVID stuff,
25 but we have in-house training, yes.

12:02:37

12:02:53

12:03:12

12:03:27

12:03:48

1 Q What's the difference between a notice of
2 violation and a correction notice?

3 A A correction notice is a notice to document
4 that things are -- that the building inspectors went out
5 there and there's items on the correction notice that
6 are -- that need to be referred, like say they're
7 missing some blocking or they don't have the same -- the
8 proper rebar sizing or there's something in the plans
9 that are -- that hasn't been completed correctly. You
10 could issue a notice of correction for that.

12:04:00

12:04:16

11 Q But how is that different than a notice of
12 violation? Couldn't -- wouldn't you issue -- couldn't
13 you issue a notice of violation for the same thing?

14 A Not really because you're really just going out
15 there. Our job is to inspect work. And as part of
16 inspecting work, if someone's got some items that they
17 need to get corrected so they could have another
18 inspection, you're just going to tell them that they're
19 -- you know, "You're missing some blocking," or could be
20 anything. Could be, you know, that you put in a
21 two-by-six instead of two-by-eight or, you know, have a
22 question consulting your engineer about this detail. So
23 that's really just corrections as you're doing your
24 ongoing inspections with different -- it's different
25 than a notice of violation, in my opinion.

12:04:29

12:04:42

12:04:55

1 Q What's the difference to the contractor? Is it
2 more difficult to deal with a notice of violation than
3 it would be to deal with a correction notice?

4 MR. WANG: Objection. Incomplete hypothetical,
5 calls for speculation.

12:05:14

6 Sorry. Go ahead.

7 THE WITNESS: Yeah, well, the notice of
8 violation is going to document, I mean, a violation of
9 the building code for something that rises to that. I
10 mean, it's -- but it's not really -- a correction notice
11 is just part of an inspector's daily -- as we speak,
12 there's probably inspectors out there looking at
13 something that's not constructed. Someone might have
14 something missing, bolts missing, clips missing,
15 something that's missing, shear walls not nailed up
16 right. Things that you're just going to come across on
17 an inspection. So not everybody passes. So that was --
18 correction notices are issued for that.

12:05:25

19 BY MR. EMBLIDGE:

20 Q So if there's a problem with the way the shear
21 wall was fastened, you would issue a notice of
22 correction, and then you'd come out again and make sure
23 that they had re-done the shear wall in a way that
24 satisfies an inspector?

12:05:39

12:05:52

25 A That's right, yes, yeah, yes.

12:06:09

1 Q Okay. That Exhibit 11, the policies and
2 procedures you were looking at already, do you have that
3 one?

4 A Yes.

5 Q Okay. Could you go to page 5, please.

12:06:26

6 MR. WANG: This is the Bates number ending in
7 517?

8 MR. EMBLIDGE: Hang on. I'm on the -- I'm
9 sorry.

10 BY MR. EMBLIDGE:

12:06:49

11 Q Could you go to Exhibit 11, not Exhibit 10.

12 A Yeah, I have 11.

13 Q Okay. And do you see on page 5 it refers to
14 blue dots?

15 A Yes.

12:07:04

16 Q What is a blue dot, what is that?

17 MR. WANG: Objection. Calls for speculation.
18 Go ahead.

19 Actually, lacks foundation as well.

20 You can answer.

12:07:20

21 THE WITNESS: Okay. I think they were doing
22 that a year or two ago, but I haven't seen anything with
23 a blue dot on it in a while, so I don't know what it is,
24 and I don't know what this document is. But I do
25 remember something at one point where there might have

12:07:49

1 been a case, but I haven't -- I don't think -- that's
2 not something we're doing currently that I know of.

3 BY MR. EMBLIDGE:

4 Q Okay. Now, could you go to Exhibit 10, please,
5 and if you could look at the first page with typing on
6 it, page 1 of 16.

12:08:01

7 A Yeah.

8 Q So if you look at the second paragraph up from
9 the bottom, it says, "The first Notice of Violation
10 shall be issued by the District inspector, posted on the
11 structure or delivered to a responsible party."

12:08:25

12 Is that the process that the building
13 inspection division usually follows?

14 A Yes.

15 Q Okay. And on the next page, under "Time
16 Limits," there's a series of time limits associated with
17 various violations. Do you see that?

12:08:42

18 A Yes.

19 Q "Work without a permit that will not result in
20 life and safety hazards," it says, "30 days."

12:09:12

21 What does that mean, what needs to happen
22 within 30 days?

23 MR. WANG: Objection. Vague.

24 Go ahead.

25 THE WITNESS: I think from my, you know, just

12:09:25

1 looking at notices of violation is I think you file a
2 permit within 30 days is generally the information we're
3 telling people on the notice of violation.

4 BY MR. EMBLIDGE:

5 Q What about work outside the scope of a permit,
6 is there a time limit to address that?

12:09:37

7 A Generally on every notice of violation there is
8 a time limit at the bottom on the corrective action, you
9 know, below right -- above the corrective action.
10 You'll give them time to -- an applicant time to file a
11 permit, appeal a permit, get a permit signed off. So,
12 yeah, there generally is, yes.

12:09:55

13 Q Is it generally 30 days?

14 A There's nothing to say that it can be or
15 shouldn't be. It could vary.

12:10:09

16 Q So how does the building inspector decide how
17 many days to give the project sponsor?

18 A I don't think it says anywhere -- anywhere that
19 you would -- that depends what it is. I mean, eminent
20 hazards or dangers, you're going to shorten the time.
21 Anything that you think is important enough you might
22 shorten it. But generally most notices of violation
23 that I see, usually 30 days is the standard. But you
24 could reduce it if you wanted to. And usually not more
25 than 30 days, but you can go anywhere from zero to --

12:10:28

12:10:47

1 24 hours to 30 days.

2 Q Why would you do less than 30 days?

3 A If it's something that's an eminent hazard or
4 danger or something that you think should be applied
5 pretty quickly, it's good to give them less time. Some
6 people want less time.

12:11:02

7 Q Other than something that's a health and safety
8 hazard, is there any other reason a building inspector
9 would give somebody less than 30 days to address a
10 notice of violation?

12:11:18

11 MR. WANG: Calls for speculation, incomplete
12 hypothetical.

13 THE WITNESS: Not really. I mean, it's -- it's
14 -- again, it's a judgment call in the field from the
15 inspectors if they -- you know, all these notices of
16 violation are reviewed by seniors as well or, you know
17 chief, and if they think it's too severe or not severe
18 enough, they can ask them to give them more time. A lot
19 of people as well, we'll give time and then they'll ask
20 us for some more time, just an extension of time to get
21 something in order, something like that. It all depends
22 on the situation. But if you wanted to -- if I felt
23 there was something that was important enough, I could
24 reduce the time. Then we will -- you know, usually when
25 you issue a notice of violation, it generates a

12:11:31

12:11:51

12:12:04

1 conversation. People will come to see us. They'll want
2 to get -- you know. It all depends, it all depends.
3 It's a case-by-case basis, you know.

4 BY MR. EMBLIDGE:

5 Q Okay. But I'm trying to understand if there's
6 something besides health and safety concerns which
7 would, in your mind, shorten the time from 30 days?

12:12:15

8 A It's case by case. It's hard to know. I can't
9 really answer that.

10 Q Can you give me another example, bigger than a
11 health and safety concern, that would shorten the time?

12:12:32

12 A Not really, no.

13 Q Okay. I want to understand the line, sort of,
14 between work done without a permit and work outside the
15 scope of a permit. So let's say you have a permit to
16 remodel a bathroom, but in the course of doing the
17 remodeling permit, you did some rewiring that wasn't
18 shown on the original permit. Is that work without a
19 permit or work outside the scope of the permit?

12:12:55

20 A So you've got a building permit, and you did
21 some electrical work?

12:13:21

22 Q Right.

23 A Well, you need to get an electrical permit. So
24 you wouldn't have a permit for the electrical work, so
25 that would be, I would say, in my opinion, a work

12:13:32

1 without a permit because you didn't have an electrical
2 permit though you were doing electrical work because
3 you're supposed to get a separate electrical permit.

4 Q Okay. And is that a situation where the
5 building inspector has discretion on whether or not to
6 issue a notice of violation?

12:13:46

7 A I don't -- well, when I get asked these
8 questions, I always think of myself, have I ever done
9 it. So if I was out there and someone was doing
10 electrical work without a permit, I -- you would -- that
11 would need to really be coming from the electrical
12 inspection division because it's electrical work. You
13 know, you're not -- I don't think I've ever written
14 anybody up for doing electrical work without a permit.
15 You would refer it to the electrical inspection
16 division, which is typically what we do on notices of
17 violation. We'll refer them to plumbing and electrical
18 as well and let them do their part. I'm a building
19 inspector. I'm not going to write someone up for doing
20 electrical work without a permit. It's not really what
21 I -- I'm not a qualified electrical inspector.

12:14:08

12:14:18

12:14:32

22 Q Okay. But so would you tell the project
23 sponsor, "Hey, I see you've done electrical work.
24 You've got to get an electrical permit"?

25 A Well, yeah. I mean, yeah, you'd serve -- yeah.

12:14:50

1 I mean, you'll let them know that they need to get an
2 electrical permit or that they -- you're going to refer
3 it to the electrical inspection division to have them
4 follow up if they haven't done so already.

5 Q I see. Okay. Now, what about -- so you're 12:15:05
6 remodeling a bathroom and you said you were going to --
7 on the plans that you're going to replace one of the
8 windows in the bathroom, but you decided to replace both
9 windows. So the inspector comes out and sees that
10 you've actually replaced two windows, not one window. 12:15:20
11 Is that work outside the scope of a permit? Is that
12 work without a permit? What is that?

13 A That would be, in my opinion, work outside the
14 scope of the permit because you have a building permit,
15 and you've done some additional work. 12:15:37

16 Q Does a building inspector in that situation --
17 is the building inspector required to issue a notice of
18 violation or is there some other flexibility the
19 building inspector has to deal with that situation?

20 MR. WANG: Incomplete hypothetical. 12:15:55

21 Go ahead.

22 THE WITNESS: Yeah. Thanks.

23 I -- it would all depend. You'd have to -- you
24 have to look at it and see. I would need to be in that
25 situation myself, to be honest with you. 12:16:04

1 BY MR. EMBLIDGE:

2 Q What would be the types of things you would
3 look at to figure out --

4 A Well, I mean, they might have done structural
5 work that maybe doesn't look right. You know, it all
6 depends. It all depends on what that -- but it's a
7 cas-by-case basis. But you're going to look at it as --
8 as a -- if you think it rises to a notice of violation.

9 And again, that just comes from good experience and
10 training and looking at things, you know, as a -- you
11 know, you can involve your senior if you need to. But
12 it all depends on that window, what you did with that
13 window, and I just -- it's hard, it's very hard to
14 answer it unless I was standing in front of that
15 situation.

16 Q I guess what I'm getting at is, say you look at
17 the windows and you have no issues structurally or no
18 issues with the way in which the second window was
19 installed, but it's not shown on the plans. Do you --
20 do you need to issue a notice of violation in that case,
21 or do you have discretion to say, you know, it's just --
22 "It's no big deal. Instead of replacing one of the two
23 windows, they replaced them both"?

24 MR. WANG: Objection. Incomplete hypothetical.

25 THE WITNESS: Yeah, you know, again, it's hard

12:16:13

12:16:28

12:16:44

12:17:03

12:17:20

1	to answer it. When you get into windows and you get	
2	into materials on the exterior of a building, you're	
3	starting to think about planning visible from the	
4	street, stuff that's going to cause someone to have to	
5	go to the planning department to get a building permit	12:17:33
6	for that. So you might end up writing a notice of	
7	violation in that case, or you might just say -- it all	
8	depends. I would just -- it's so -- it's so broad that	
9	it's so hard to know unless you're standing there	
10	looking at that. But I would need to -- I would need to	12:17:48
11	weigh it all up and see where that window is. Is it a	
12	historical building, for example. Is it the right	
13	material. I don't know, and, you know, if you weigh on	
14	the side of caution, write the notice of violation	
15	because they need a permit for it. But I would need to	12:18:02
16	look at it because I just weigh it up, to be honest with	
17	you.	
18	BY MR. EMBLIDGE:	
19	Q Joe, you should be a lawyer. Sorry. I know	
20	you consider that an insult, so I'll withdraw that.	12:18:14
21	A No, no, no, I don't.	
22	Q Well, let's switch subjects to communication,	
23	and what I mean by that is, in your job, how do you	
24	typically communicate with project sponsors and	
25	contractors and engineers about projects?	12:18:36

1 MR. WANG: Objection.

2 BY MR. EMBLIDGE:

3 Q Is it typically by e-mail or text or phone or
4 all of the above? What's your practice?

5 A All of the above.

12:18:47

6 Q You're not somebody, you know, like me, I much
7 prefer e-mail to text. It doesn't matter to you?

8 A I don't mind. I mean, whatever way you contact
9 me. I would say that, you know, at DBI I do a lot of
10 e-mails. I also do a lot of phone calls, and

12:19:06

11 occasionally I'll do texts, yeah. But anyway, whatever
12 way you contact me. You know, I'm not a big, quick
13 typer. I'm a carpenter by trade, actually, so I never
14 went to typing school, and maybe I should have. But
15 I'll get the phone and call you and talk to you and, I
16 mean, I -- that's my preferred method, but whatever it
17 calls for I'll do, you know. But big long text aren't
18 something I'll do. I like talking to people, so.

12:19:27

19 Q Now, are there rules that you know of at DBI
20 about how to communicate with members of the public?

12:19:47

21 A No, not that I know of.

22 Q Do you have a DBI-issued cell phone?

23 A I do, yes.

24 Q Do all building inspectors?

25 A Currently, yes, I believe so, yes. We have all

12:20:01

1 DBI cell phones.

2 Q Are you aware of any rules or policies at DBI
3 about the use of a DBI-issued cell phone?

4 A No.

5 Q Are you aware -- go ahead. I'm sorry.

12:20:17

6 A Well, sorry, I would imagine it falls under any
7 city. This DBI issued cell phone you mentioned, you
8 know, your -- it's city property. So anything at DBI
9 that I have -- I have city car, I've got a city cell
10 phone. It's city property. That's what I'm aware of.

12:20:40

11 Q Are you aware of any rules that restrict your
12 use of the city cell phone to city business?

13 A I wouldn't use it for anything else, as I
14 wouldn't use any city resource for personal stuff. So
15 you would be -- yeah, I think that's what you're asking
16 me. It's the city -- any city -- city vehicle, city fax
17 machine, city telephone, city cell phone, that's for
18 city use. That's your work phone.

12:21:03

19 Q Okay. I agree with you. That's how I would
20 approach things. But I'm wondering if there are any --
21 if that's written down anywhere that you know of.

12:21:21

22 A Not that I know of, no.

23 Q What about the other way around. You have a
24 personal cell phone, I assume?

25 A Oh, yes.

12:21:30

1 Q And do you ever use the personal cell phone to
2 communicate about DBI business or projects?

3 A If someone calls me or contacts me on my
4 personal cell phone about work, I may or may not get
5 back to them. I usually get back to them on my DBI cell 12:21:49
6 phone. That's currently what I do. You know, that's
7 what I -- it's a good practice, and that's what I do,
8 get back to them on -- give them my e-mail address, give
9 them my city cell phone, say, "Here, this is the
10 number." But if it's something you can answer quick, go 12:22:03
11 ahead and answer it, yeah.

12 Q Are you ever -- are you aware of any rules
13 about that at DBI?

14 A No, no.

15 Q What about, I assume you've got an e-mail, an 12:22:12
16 "SF gov" e-mail address; right?

17 A Yes.

18 Q And I assume you have a personal e-mail
19 address; right?

20 A Yes. 12:22:25

21 Q Are you aware of any rules about when you
22 should or shouldn't use the "SF gov" e-mail or your
23 personal e-mail related to doing business?

24 A I'm not aware of any rules, but I wouldn't use
25 my personal e-mail myself for work-related stuff. I 12:22:41

1 just don't think that that's -- that's something that I
2 would do. I've got an e-mail address at work. I don't
3 why I would use a personal one for -- I'd say for any
4 work issues, you know. I don't even know how someone
5 would get my e-mail address, my personal one at work.
6 And I would -- yeah, I would refer them back to my work
7 contacts. But I don't know of any rules against it, but
8 work is work and personal is personal.

12:22:55

9 (Exhibit 45 is introduced.)

10 BY MR. EMBLIDGE:

12:23:09

11 Q Could you look at Exhibit 45. It's a 58-page
12 document, and it --

13 A Oh, yeah.

14 Q -- says "Employee Handbook" on the front.

15 A Yeah.

12:23:19

16 Q Have you ever seen that before?

17 A I'm sure I have, yes, yes, yes.

18 Q When do you think you would have seen it?

19 A I probably got one in my office. You know, we
20 would give these to new employees, and it's something
21 that you should have. You know, human resources would
22 want you to have it.

12:23:37

23 Q You say you probably have one in your office.
24 I mean, do you? Is it something you -- I mean, I know
25 my law firm has an employee handbook, but I couldn't

12:23:51

1 even tell you where it is or what it says. When is the
2 last time you looked at the employee handbook?

3 A I haven't looked at this in a while. Yeah, I
4 don't -- can't remember.

5 (Exhibit 46 is introduced.)

12:24:11

6 BY MR. EMBLIDGE:

7 Q Okay. Could you look at Exhibit 46. It's a
8 really thick document --

9 A Yeah.

10 Q -- entitled "Good Government Guide."

12:24:19

11 A Okay.

12 Q Have you ever seen that document?

13 A No.

14 Q Have you ever heard of something called --
15 (connection failure) -- Hummingbird within DBI?

12:24:35

16 A I'm sorry, I think you just lost your internet
17 there or whatever at the time.

18 Q Can you hear me now?

19 A Yeah. That's better.

20 Q Okay. Hummingbird, have you ever heard of some
21 kind of database or communication device called
22 Hummingbird?

12:24:44

23 A No.

24 Q Okay. So I was talking about preferred means
25 of communication, e-mail, texts, phone. When you

12:25:07

1 communicate -- or when you used to communicate in
2 writing with Ed Sweeney, would you generally e-mail with
3 him or text with him or use some other means of written
4 communication?

5 MR. WANG: Just objection. Assumes facts.

12:25:24

6 Go ahead.

7 THE WITNESS: Well, I worked with Ed Sweeney,
8 so I would imagine e-mail would be the most common way
9 we would -- we would -- he would correspond with me,
10 e-mail, yeah.

12:25:40

11 BY MR. EMBLIDGE:

12 Q As opposed to texting?

13 A Yeah. I don't -- yeah. I don't -- we --
14 e-mail would be -- Ed -- you know, that would be -- if
15 we worked together, it would be e-mail.

12:25:46

16 Q When you say "if we worked together," didn't
17 you work closely?

18 A We did, yes, yes, exactly. That's what I mean,
19 yeah. Yeah, e-mail would be our source of speaking.

20 Q What about Mauricio Hernandez?

12:25:58

21 A I e-mail with Mauricio as well, yeah. I e-mail
22 frequently with him, yes.

23 Q Is it safe to assume you would be using the
24 city e-mail as opposed to personal e-mail?

25 A Yes, exactly. I don't use my personal e-mail

12:26:15

1 for work stuff, so I don't know how -- yeah. That would
2 be -- that's my way of going anyway, I mean, yeah.

3 Q When a notice of violation is issued, is all
4 work supposed to stop at a project?

5 A If it's a full stop-work order, yes.

12:26:50

6 Q Okay. So explain to me what that means and
7 when you would have a full stop-work order and when you
8 wouldn't, please.

9 A There's a box on the notice of violation that
10 says "stop all work." If the box is checked, you're
11 stopping all work. And occasionally you will find a
12 project where you might ask them to stop work at a
13 certain level just or an area. You'll need to define
14 that in the notice of violation somewhere, that you're
15 not stopping all the work, that work may continue in a
16 different area. So as long as you define that on the
17 notice of violation, sometimes you will allow work to
18 continue.

12:27:07

12:27:26

19 Q Under what circumstances would you allow work
20 to continue at a project even though you found a
21 violation?

12:27:36

22 A My experience, just speaking on my work, you
23 could issue a notice of violation or an inspector might
24 issue a notice of violation for a project to stop all
25 work. A customer or the owner or the contractor or the

12:27:56

1 engineer or the architect could come back and say, "Hey,
2 you know, this issue is out in the backyard. I need to
3 get the bathroom finished on the third floor. You know,
4 it's nothing to do with the violation." So therefore,
5 we would sometimes entertain their request to allow work
6 to continue, pending the resolution of an area in the
7 other building. That's an example of when I would
8 issue, you know, a partial stop-work order versus a full
9 stop-work order.

12:28:08

10 Q Well, are there times when you would issue a
11 notice of violation without stopping work at all?

12:28:23

12 A So we're talking about a project where there's
13 a permit and they're working and there's a project
14 underway and you've given them a notice of violation,
15 but you're not stopping all the work at all. You're not
16 stopping any work. It would be very rare, but I can't
17 -- I can't remember any cases. Typically a notice of
18 violation has some sort of a stop to it because you
19 don't want to keep them working if they're in violation.
20 But there might be, but I can't -- I'm just thinking,
21 I'm just thinking. I'm not really sure that there is
22 any that I've ever seen. Normally there would be some
23 sort of a stop on it. But maybe there aren't. Maybe
24 there's somebody else that's -- you know, I mean, most
25 of the time it's a stop, some sort of stop work at some

12:28:42

12:29:02

12:29:16

1 area.

2 Q Have you heard the phrase used "serial
3 permitting"?

4 A I have heard that used, yes.

5 Q Do you know of any documents at DBI that define
6 what that means, serial permitting?

12:29:28

7 A No, no, nothing that I know of.

8 Q What do you understand it to mean?

9 A Serial permitting is a term that is used on
10 complaints sometimes by people saying, hey, someone's
11 pulled out multiple permits, you know, over the period
12 of a short -- or over the period of a year, and they've
13 got like five, six permits. You've got too many permits.

12:29:52

14 Serial permitting I think is used a lot at board of
15 appeals, funny enough. But there's not -- I don't think
16 there's anything that I've seen in DBI that says -- used
17 that -- used that term, that I'm aware of. So there
18 might be something new that I haven't come across yet,
19 but I don't -- I don't know if there's -- I hear people
20 using it, but it's more used on the outside than it is
21 within DBI.

12:30:12

12:30:29

22 Q Got it. What about the phrase "a permit
23 expedite"?

24 A I have heard that phrase, yes.

25 Q What do you understand that to mean?

12:30:45

1 A Permit expeditor, well, a permit expeditor is
2 someone who, you know, frequents DBI planning a lot.
3 They -- they're in the business of obtaining -- people
4 -- if you don't want to deal with the city, you'd hire a
5 permit expeditor to come down and run your permit, try
6 to get your permit for you whether they've got --
7 they've got to go to different city agencies. They'll
8 file a permit. They've got to walk the plans through.
9 They'll maybe deal with inspections. They'll deal with
10 various aspects of the permitting process for you from
11 start to finish. In my experience, that's what I
12 expect. That's what permit expeditors are, yeah.

12:31:05

12:31:18

13 Q Can you give me some examples of people out
14 there that you consider to be permit expeditors?

15 A Names?

12:31:36

16 Q Names, yeah.

17 A Where would you -- I mean, there's so many
18 people. I mean, you give me the name, and I'll tell you
19 if they're an expeditor in my opinion. You know what, I
20 think there's -- I know there's some language somewhere
21 in DBI on the -- used to be on 1660 Mission about permit
22 expeditors, I think, or consultants, and they had to
23 register with the city or something like that. They had
24 a -- maybe they had to register or there's some sort of
25 rules that they have to adhere to. I used to see that

12:31:48

12:32:02

1 in the lobby of old 1660. But, I mean, there's a lot of
2 expeditors around. There's -- there's a lot of
3 expeditors. I deal with a lot of people on a daily
4 basis or weekly basis. I mean, I could give you all --

5 Is there names that you have or what do you
6 want?

12:32:17

7 Q No. I'm just -- like "serial permitting," it's
8 a phrase that I hear a lot, but I don't really know what
9 it really means. So, like, would you consider Rodrigo
10 Santos to be a permit expeditor?

12:32:33

11 A I've heard the term. Sorry, it's just that
12 when you're talking permit expeditors, I would consider
13 a permit expeditor and a permit consultant almost the
14 same thing. But Mr. Santos is an engineer, but I
15 believe he also sometimes does that permit consulting or
16 expediting business, yes.

12:32:47

17 Q What about Amy Lee?

18 A Amy Lee is in that business, yes, she is.

19 Q Eric Jacobs?

20 A That's right, yes, he is, yes.

12:33:00

21 Q Bruce Baumann?

22 A Yes.

23 Q Okay. Have you ever heard concerns around DBI
24 that the permit expeditors get more favorable treatment
25 than members of the general public?

12:33:19

1 A I haven't heard at DBI as much as I've heard it
2 brought up at the building inspection commission. I
3 have heard it brought up in forums, yes.

4 Q Are you aware of any permit expeditors that you
5 believe get more favorable treatment at DBI than others?

12:33:39

6 MR. WANG: Objection. Vague.

7 Go ahead.

8 THE WITNESS: No.

9 BY MR. EMBLIDGE:

10 Q When you say you've heard it at the building
11 inspection commission, what is it you've heard? I'm
12 sorry.

12:33:46

13 A Well, the people in public, they're bring it up
14 that, you know, that these expeditors are -- you know,
15 they've got an in DBI or they've got -- you know, they
16 get preferential treatment. There's definitely been --
17 it's been well documented, I think, as well, you know,
18 in the -- in the commission. I've been at recent
19 commission meetings as well being an acting deputy
20 director, and even last year maybe there was some that
21 was brought up as well. So I've heard people raise it
22 on the -- from the outside to the commissioners.

12:33:59

12:34:14

23 Q Do you believe that those concerns that the
24 public have raised have any basis in reality at DBI?

25 A The way I look at permit consultants, and I'm

12:34:29

1 going to say that, it's a bit like if you've got a house
2 and you want to get a housecleaner. Do you want to
3 clean your own house or do you want to hire someone to
4 clean your house. I look at that the same way. I mean,
5 someone -- you might get someone to come down and get
6 your permit. There's services there. You can go on
7 Yelp nowadays and look for anything anywhere, and you'll
8 get them, and you'll find someone. If you want to do it
9 yourself, feel free. But I just find that those people,
10 they're coming down there, they're getting their -- you
11 know, they're in there, they're applying for the
12 permits. People are willing obviously to pay them for
13 that just like they are to clean your house. So that's
14 the way I look at it, Scott, you know.

12:34:42

12:34:56

15 Q Are you aware of any rules or procedures DBI
16 has put in place to make sure that expeditors don't get
17 preference over members of the general public?

12:35:09

18 A With working in inspections, I'm not involved
19 that much in plan review or people coming through the
20 door for intake and stuff, but I think they brought in
21 something there one time for "Accutus" (phonetic) or
22 something, but I'm not really -- I'm not the person --
23 I'm not the person most knowledgeable on that one. I'm
24 sorry. But just knowing from -- just knowing what's
25 going on. I do think a few years ago they brought in a

12:35:26

12:35:41

1 "Cumatic" (phonetic) or "Culus" (phonetic) thing and --
2 but that's all I know.

3 Q Okay. A few more questions, and then we'll
4 take a break for lunch.

5 What's an as-built permit?

12:35:56

6 A As-built permit. Yeah, it's a term that I --
7 you know, I've heard it since I started with DBI.
8 As-built. So you're documenting. You've got a permit
9 for something. It may be a sprinkler layout, It might
10 be a mechanical layout, and there's some changes, and
11 the building inspector will want, like, an as-built
12 revision for that so that we get actually what is there
13 versus what was on the drawing. I dealt with abandoned
14 commercial properties more than anything, and you'll see
15 an as-built sprinkler plan. Somebody goes in there.
16 The layout of the sprinklers doesn't always work for
17 that the building when it's built, so they'll need an
18 as-built revision. That mean you're going to have to
19 get another permit to document that as-built condition.

12:36:21

12:36:28

20 Q So how is that different from a correction
21 permit, right? You observe something out there that is
22 different from what's on the plans. Is an -- why would
23 somebody get an as-built permit versus a correction
24 permit versus a notice of violation if there's a
25 deviation from the approved plans?

12:36:46

12:37:11

1 A Okay. That's a good question. I mean, you
2 talk about correction notices. That -- it's the same
3 thing. It's pretty similar, actually. So correction
4 notices -- nowadays the inspectors are using handheld
5 devices. We're using -- you know, they're using those
6 out in the field. You can -- you can ask -- you can
7 issue like a correction require or, you know, these are
8 the -- you need this before I can final a project or I
9 can move to the next phase of the inspection.

12:37:22

10 So it is in an essence a correction notice.
11 It's maybe just not put on an official correction
12 notice. That -- you know, even now I see the inspectors
13 will document on the job card "corrections required,"
14 and that will then correlate with what's in the
15 inspection history. So it's the same thing. It's just
16 not on one of the older correct -- I call them the older
17 correction notices where the inspector handwrites them,
18 because nowadays they can talk into the devices. So
19 there is -- technology is kind of catching up with the
20 correction notice, but it's more in the field. You
21 can't final a project. They need to get an as-built
22 revision for -- it's usually -- as I said, in my
23 experience I've seen it used a lot in as-built, mostly
24 for mechanical and sprinklers, occasionally for
25 architectural, but normally for the other -- a fire

12:37:36

12:37:49

12:38:05

12:38:18

1 alarm, sprinklers, mechanical layout.

2 Q And what's a revision permit?

3 A Okay. So a revision permit is a change from
4 the permit that you've got. If you're making a change,
5 you're adding something, you need to get a revision for

12:38:36

6 that. You can -- you're changing the permit, a revision
7 to your permit application to document a change or
8 omission or whatever. Whatever it is, it's got to show
9 the difference. It's usually bubbled on the -- what

10 that change is so you can show specifically that it's
11 only a small change versus the whole project again.

12:38:50

12 Q So is that -- so that could be issued in
13 response to a notice of violation?

14 A Yeah, yes, it could, yes.

15 Q Okay. How long would you like for lunch? And
16 we should ask Jessica the same thing.

12:39:05

17 A Me, oh, I -- short as you want. I don't mind.
18 It doesn't matter to me. I'm easy

19 Q 30 minutes okay with everybody?

20 Okay. So let's say we'll resume at 1:10.

12:39:30

21 THE VIDEOGRAPHER: We're going off the record
22 at 12:30.

23 (A lunch recess was taken.)

24 (Whereupon, Mr. Rosenbaum is no longer present
25 during proceedings.)

12:39:37

1 THE VIDEOGRAPHER: We are back on the record at
2 1:13.

3 BY MR. EMBLIDGE:

4 Q Okay. Mr. Duffy, one follow-up question about
5 Chris Schroeder. You mentioned that he's no longer in
6 inspection services. Do you know when he was
7 (connection failure)?

13:14:29

8 MR. WANG: I'm sorry, could you repeat that.
9 You kind of cut out at the end.

10 BY MR. EMBLIDGE:

13:14:45

11 Q Oh, do you know when Mr. Schroeder
12 approximately was transferred out of inspection
13 services?

14 A No, I don't know. I'd say a couple of years
15 plus, but I'm not exactly sure when.

13:14:55

16 Q Were you involved in the decision to have him
17 transferred out of inspection services?

18 A No.

19 Q Do you have an understanding as to why he was
20 transferred?

13:15:10

21 A I don't know.

22 Q Okay. Let's talk now about revoking permits,
23 revocation of permits. Who at DBI has the authority to
24 revoke permits?

25 A Usually the revocation letters are written by

13:15:28

1 the chief building inspector and anyone above that, I
2 guess director, deputy director, chief. That would be
3 -- normally the revocation of a permit would be done by
4 -- at that level and above.

5 Q Have you ever seen it done by anyone other than 13:15:46
6 the chief building inspector, the deputy director for
7 the inspection services, or the director of the
8 department?

9 A The revocation letter, no, I've never seen that
10 signed by anyone except the chief and above. 13:16:00

11 (Exhibit 47 is introduced.)

12 BY MR. EMBLIDGE:

13 Q Okay. Could you look, please, at Exhibit 47.
14 Exhibit 47 is an seven-page document. It's an e-mail
15 string. On the first page there's an e-mail from 13:16:12
16 Marivic, M-a-r-i-v-i-c, Cuevas, C-u-e-v-a-s, dated
17 August 12, 2016.

18 A Okay.

19 MR. WANG: I just want to lodge a quick
20 objection that I think it's actually multiple e-mail 13:16:31
21 strings, different strings, all attached into one
22 exhibit.

23 But go ahead.

24 MR. EMBLIDGE: Fair enough.

25 BY MR. EMBLIDGE: 13:16:38

1 Q So could you just look through that enough to
2 be familiar with it, especially your e-mail -- I'm
3 sorry, Patrick O'Riordan's e-mail on pages 4 and 5 of
4 the document.

5 MR. WANG: Just for the record, Scott, sorry,
6 to make sure I'm on the same page, does it have the
7 Bates number ending in 1291?

13:17:05

8 MR. EMBLIDGE: That is the page I'd like him to
9 focus on, yes.

10 MR. WANG: Okay. Thanks.

13:17:20

11 THE WITNESS: Okay.

12 BY MR. EMBLIDGE:

13 Q So this apparently is some sort of dispute
14 about a project at 421 and 427 Oak Street. Do you see
15 that?

13:17:52

16 A Yes.

17 Q And you're copied on some or all of these
18 e-mails. Do you remember anything about this particular
19 project?

20 A I think the project was finished, and there was
21 -- they were maybe going through some stuff, you know,
22 that -- foundation or that. I think I just actually --
23 Patrick might have asked me to get involved in it. But
24 just not very -- I don't recall it very well, but I --
25 just because I think it's down at the bottom of Oak

13:18:01

13:18:21

1 Street right there. I might have been out at one
2 meeting right there.

3 Q Okay. If you look at the bottom of the page
4 that's Bates stamped 1291, the paragraph that begins, "I
5 also have spoken to other colleagues." Do you see that?

13:18:40

6 A Yes.

7 Q And about four lines down Mr. O'Riordan says,
8 "We are happy to discuss your request to revoke permits
9 and to reopen closed notices of violation, though such
10 actions are rarely taken and would require approval by
11 the Deputy Director for Inspections."

13:18:50

12 Do you agree that revoking permits is an action
13 that is rarely taken?

14 A Well, I mean, it depends when you say rarely.
15 I mean, I don't -- we revoke permits. DBI revokes
16 permits. But I don't know what your -- what your "rare"
17 would be, Scott, versus me. Like, I mean, I -- we do
18 revoke building permits. I -- "revoke and to reopen
19 closed notices of violation." When I read that, yeah.
20 I mean, he it said a few things there. He said about
21 revoking permits. Reopen a notice -- closed notices of
22 violation would be something that is rarely taken, in my
23 opinion, but unless we signed it off where you closed it
24 in error. The building permit -- the revocations are --
25 I mean, what is rare. I don't know how many that would

13:19:13

13:19:31

13:19:48

1 be. I've never checked really how often they're done.

2 But you don't want to revoke a permit, I suppose.

3 Q Why not?

4 A Well, it's not something you do on a daily
5 basis. That's what I said about rare versus -- you
6 know, I don't know. It's not -- it's probably not done
7 everyday.

13:20:03

8 Q You just said you don't want to revoke a
9 permit. Why not?

10 A Well, you don't want to be doing it everyday.
11 That's what I said. It's not like a normal inspection
12 or even a notice of violation. We issue a lot more
13 notices of violation than we revoke permits. So it's --
14 it's ...

13:20:15

15 Q Why is that?

13:20:27

16 A Because you just don't. I mean, it's -- it's
17 -- revocation is revocation, isn't it. Stop-work order
18 is a stop-work order. An inspection is an inspection.
19 It's kind of like a -- it's a high level of decision, I
20 would say, so therefore it's not something that you deal
21 with a lot.

13:20:45

22 Q What do you mean by a high level of decision?

23 A Deputy director, director, chief.

24 Q Why is it, as far as you understand it, that
25 people at that level need to be involved when you're

13:20:57

1 revoking permits as opposed to suspending permits?

2 A Suspending permits, normally suspension of
3 permits -- we would suspend permits on request from the
4 planning department. The revocation of permits, it's
5 got to be signed by the chief and probably the chief
6 then needs to speak to somebody above about it, but.

13:21:19

7 Q But my question is why. I mean, you don't have
8 -- you don't have the chief signing off on every notice
9 of violation; right?

10 A Right, right, right.

13:21:34

11 Q So what is it about revocations that is
12 important enough that it needs that kind of high-level
13 sign off?

14 A Well, you're revoking the permit. It's not
15 notice of violation. It is stop-work order. The permit
16 could still be there, but the revocation is an action
17 that you're revoking the actual scope of work on that
18 permit. You know, it's revoking a permit. There's a
19 difference on a stop-work order on a project with a
20 permit versus a revocation. It's pretty -- you know,
21 it's an action that is taken on a higher level.

13:21:47

22 Building inspector can't do it. Senior inspector
23 wouldn't do it. So it's discussed at a higher level.

13:22:04

24 Q Okay. But I think the problem is you
25 understand the difference between those things better

13:22:18

1 than I do. So why is it a bigger deal to revoke a
2 permit than to issue a notice of violation with a
3 stop-work order? From the contractor or the project
4 sponsor's perspective, what is the different impact?

5 A So if I give you a stop-work order, I'm telling 13:22:39
6 you to get a permit to -- you know, stop all work,
7 obtain a new building permit with whatever -- whatever
8 process you need to do to get that. Revoking a permit,
9 we're -- when you get the notice -- sorry, when you get
10 the permit that we're telling you to get for the notice 13:22:56
11 of violation, your permit is probably still -- your
12 permit is still good again unless you need a completely
13 new permit and you need to cancel the permit. There is
14 different scenarios. If you revoke the permit, you're
15 kind of left without a permit, then, aren't you. 13:23:09

16 Q Okay. And then what do you need to do to get
17 the project back on course?

18 A You're still going to need a permit, you know,
19 you're still going to need a building permit.

20 Q So if my permit is revoked, I need to stop all 13:23:24
21 work; right?

22 A Uh-huh.

23 Q You need to answer that audibly.

24 A Oh, I'm sorry. Say that again, and then I'll
25 answer it right. 13:23:37

1 Q If I'm a project sponsor and my permit --
2 permits are revoked, I need to stop all work on the
3 project; correct?

4 A You don't have a permit, so, yeah, you would be
5 stopped, yes. Typically you'll get a stop-work order
6 and a revocation. I believe that's what we do. Yeah,
7 it's usually one leads to the other.

13:23:54

8 Q And then I would need to essentially start over
9 again applying for new permits before -- and getting
10 those new permits issued before I could resume work on
11 my project; correct?

13:24:11

12 A If you follow the direction on the notice of
13 violation and maybe on the revocation letter as well,
14 but certainly you're going to be talking to -- you're
15 going to be speaking to DBI and maybe planning or
16 whoever else is involved in that process, yeah.

13:24:30

17 Q Okay. But again, what's -- why is it more
18 significant to revoke my permits as opposed to issue a
19 notice of violation and a stop-work order?

20 MR. WANG: I'm going to object. Calls for
21 speculation, potentially legal conclusion of the
22 building code.

13:24:49

23 But go ahead.

24 THE WITNESS: I was actually going to say they
25 are two different -- I mean, the revocation is in the

13:25:01

1 building code, and it's more significant because we
2 don't have -- you're revoking the permit that you have
3 whereas the notice of violation doesn't do that. You
4 still have the permit if you get a stop-work order.

5 BY MR. EMBLIDGE:

13:25:19

6 Q And what criteria are -- what criteria is DBI
7 supposed to apply in determining whether or not to
8 revoke a permit as opposed to simply issue a notice of
9 violation and a stop-work order?

10 A It's follows -- it's in the code. It's
11 whatever's in the building code. I'm not -- if I saw
12 the language, I believe it's 106A at .4, .5, but I can't
13 repeat that language off the top of my head. But it
14 gives you reason there in the building code to do that.

13:25:34

15 Q Okay. In your experience, what are the reasons
16 that DBI has used for revoking permits?

13:25:54

17 A Well, I haven't been involved in that much,
18 revoking permits, because I've been a senior building
19 inspector for a lot longer than I've been a chief, so I
20 don't really have that much experience in actually
21 issuing any revocations.

13:26:15

22 Q You've only issued one under your signature
23 that I could find. Is that consistent with your memory?

24 A I think I've done more than that, but recently
25 maybe, yeah, you might have found one, yeah. Yeah, I

13:26:30

1 might have been acting chief or something like that
2 because they're signed by chief. They're not signed by
3 me, you know. So I don't revoke the permit. So you may
4 -- you may just have found one, yeah, with my name on
5 it. It might have been when someone was off. I did 13:26:41
6 cover chief for a number of -- number of times. When
7 someone would be off they would make me chief for a
8 while.

9 Q Okay. So let's just sort of walk through some
10 reasons for revoking a permit. One reason DBI revokes 13:26:53
11 permits is if the planning department requests that they
12 revoke; correct?

13 A I would be more inclined to see suspension
14 requests from the planning department rather than a
15 revocation request from the planning department. 13:27:14
16 Sometimes planning will send us a letter asking for the
17 suspension of permits while -- if it there's issue with
18 planning code complaint, something that they're dealing
19 with an enforcement action, the permits will get
20 suspended, and then when they get maybe back on track 13:27:28
21 again, they'll reinstate those permits. But I don't, me
22 personally, see that revocation request coming from
23 planning. I'm not that familiar with that.

24 (Exhibit 48 is introduced.)

25 BY MR. EMBLIDGE: 13:27:41

1 Q Could you look at Exhibit 48, please. It's a
2 revocation document dated November 17, 2011, "Revocation
3 of Permits."

4 A What number was it?

5 Q It's one page. It's Exhibit 48. It's dated
6 November 17, 2011, entitled "Revocation of Permit."

13:27:59

7 A Give me a second. I'll find it.

8 Here we go. Right on the bottom.

9 Q Okay. So this appears to be an example of
10 where DBI received a request from the planning
11 department requesting that a permit be revoked. Do you
12 see that?

13:28:30

13 A Yes, I do. You always find the one that my
14 name is on. I -- yeah, I see that, yeah.

15 Q Okay. So just to be clear, I mean, I could
16 show you a dozen others. One reason that DBI revokes
17 permits is based on requests from planning; correct?

13:28:45

18 A Well, in this case, yes, that is the case. I
19 didn't say it never occurred, but it's more rare that I
20 would see suspension requests more so than revocation
21 requests from planning.

13:29:09

22 Q Right, of course, because it's more severe to
23 revoke a permit than to suspend a permit; right?

24 MR. WANG: Objection. Vague.

25 Sorry, go ahead.

13:29:21

1 THE WITNESS: Sorry, Ed. I didn't know you
2 were going to speak.

3 A suspension is -- a suspension would be
4 something that -- usually when you see a suspension it
5 usually means that there's a problem. They need to 13:29:33
6 resolve it. They get that permit reinstated when they
7 get that issue resolved. Sometimes you'll see a
8 suspension request for six months. Sometimes you'll see
9 it for three days. Sometimes planning decides they
10 might just suspend a permit for a very short period of 13:29:47
11 time and then ask us to reinstate it again. Happens a
12 lot.

13 BY MR. EMBLIDGE:

14 Q Right. It's much more common for planning to
15 ask you to suspend a permit than revoke a permit; right? 13:30:00

16 A If it's something that they have got an issue,
17 yes. If they're dealing with the case, yes.

18 Q Well, of course. They'd have to be dealing
19 with the case, otherwise they wouldn't be asking you to
20 suspend or revoke. 13:30:15

21 A Yeah.

22 Q Let me just ask that question again. As far as
23 requests from planning, it's much more common for
24 planning to request that DBI suspend a permit than for
25 planning to request that DBI revoke a permit; correct? 13:30:27

1 A I can only speak to my experience, and yes.

2 Q Okay. Also, the board of appeal might request,
3 as the result of a decision that the board of appeal
4 makes, that DBI revoke a permit; correct?

5 A That's correct, yes.

13:30:44

6 (Exhibit 49 is introduced.)

7 BY MR. EMBLIDGE:

8 Q Could you look at, please, Exhibit 49.

9 Exhibit 49 is a three-page document. The first page is
10 Bates stamped 1077 and is e-mailed to you from Liz Watty
11 at planning.

13:30:58

12 A I've got it, yes.

13 Q Can you look at this and tell me what this is
14 about. It seems to be some discussion between you and
15 planning about the appropriate terminology to use.

13:31:15

16 A Yeah. Okay. Yeah, yeah. I see it, yeah.

17 Q Do you remember this?

18 A No, I don't remember it specifically, but I can
19 see my name on it.

20 Q Okay. So you don't remember what the problem
21 was that you were trying to address about amending and
22 disapproving and revoking?

13:31:59

23 A Yeah, I think I do, but from reading the e-mail
24 I can decipher that it's -- obviously the planning
25 department, I think they're asking us to cancel the

13:32:17

1 permit when in fact it should be disapproved, you know,
2 because they can't -- it can't -- something can't meet
3 the planning code. And I think it's harder on our
4 system, for the permit tracking system, to put in the
5 proper -- the proper language of that. But I don't
6 think we wanted to call it a canceled permit because
7 cancel -- there's only -- in DBI you cancel a permit by
8 the applicant getting it done once. Say you get a
9 building permit tomorrow and then you decide, "Oh, it's
10 too expensive. I don't want to do it. I want my money
11 back. I want to get a refund." Then we'll do a
12 cancelation of that permit. Your permit will show up
13 canceled.

13:32:37

13:32:47

14 And then the other way to cancel a permit is if
15 you have a filed permit and we don't get any action from
16 you. Say you haven't responded in one year, two years,
17 you'll also see canceled, but that would only be on a
18 filed permit. So one is an issued permit cancelation.
19 Sometimes planning was sending, I think, over something
20 to us that should have said maybe "disapproval," but
21 they were asking for a cancellation, so we didn't want
22 to use -- it sounds like I didn't want to use
23 "cancellation" terminology for something that they were
24 not able to approve, which would have been a disapproval
25 letter, letter of disapproval. That was all.

13:32:55

13:33:12

13:33:25

1 We deal with this a lot because sometimes
2 you'll get -- planning will disapprove a permit, then
3 there's an appeal on the disapproval. That changes the
4 stage. And then the board of appeals will come back
5 with their decision. And sometimes, you know, that
6 whole language of "upheld" or "overturned," it really is
7 -- you need a couple of people reading it to make sure
8 that we get the right status on that permit again. But
9 I think that's what that was about. It was more just
10 terminology of what we wanted to do with this permit
11 rather than say "canceled."

13:33:42

13:33:56

12 (Exhibit 50 is introduced.)

13 BY MR. EMBLIDGE:

14 Q Could you look at Exhibit 50, please. It's a
15 one-page document, "Revocation of Permit," May 4, 2016.

13:34:06

16 A Yes.

17 Q This, I believe, is an example -- tell me if
18 I'm correct -- of where the board of appeals has asked
19 DBI to revoke a permit?

20 A Yes, it looks like it, yes.

13:34:35

21 Q Okay. So we've got sometimes planning might
22 ask DBI to revoke permits, sometimes the board appeal
23 might ask planning to revoke permits. But are there
24 times where DBI revokes permits on its own, without a
25 request from planning or the board of appeal?

13:35:00

1 A Yes.

2 Q And how often have you seen that occur, DBI has
3 acted on its own to revoke permits?

4 MR. WANG: Objection. Vague.

5 Go ahead.

13:35:15

6 THE WITNESS: I don't know how -- the term "how
7 often." I mean, we would have it documented in our
8 system if we revoke a permit. There's always a letter,
9 should be a letter. It should say why and what the
10 reason is. So, I mean, how often, I don't know, Scott,
11 what that would be, but it's -- you know, it's done.
12 It's a process. It's in the code. We do use it.

13:35:30

13 BY MR. EMBLIDGE:

14 Q Okay. I understand you haven't gone through
15 all the documents. I have tried. But in your
16 experience, have you seen that happen more than once a
17 year, once every six months, where DBI revokes permits
18 not at the request of planning or at the request of the
19 board of appeal?

13:35:43

20 A Yes, I have seen that, yes.

13:36:04

21 Q Okay. Can you give me any examples?

22 A No, not off the top of my head, no.

23 Q Can you tell me the reasons that you're aware
24 that DBI has revoked permits in circumstances where it
25 wasn't requested by planning or the board of appeal?

13:36:25

1 A Again, if you look at the code section, if it
2 met -- if somebody decided that that was something that
3 was going to be revoked, they'd use that code section,
4 but I --

5 Q No, I'm not -- I'm not asking you to speculate 13:36:39
6 about possible circumstances. I'm asking you to think
7 about the ones that you think have actually happened.
8 Do you have any recollection of what it was about that
9 project or what it was about that permit that caused DBI
10 to revoke the permits? 13:36:56

11 A I can't remember any offhand. I mean, if you
12 give me one in front of me and I read it, it would maybe
13 resurrect my memory. But I don't -- I don't -- I mean,
14 it's -- as I say, it's different than a notice of
15 violation. It's a revocation. But for me -- I believe 13:37:12
16 there was one. I'm thinking of just -- you know, you
17 got me thinking. I would say that any of the ones that
18 maybe I got involved in, there may have been a --
19 someone got a building permit and the plans weren't
20 accurate or they got a permit and they went completely 13:37:36
21 -- like the kitchen/bath remodel permit, and the next
22 thing half the house is gone. We're going to revoke
23 that permit because it was just not -- it's not what it
24 is. So, you know, maybe that's the one I've done. But,
25 you know, I don't -- as I say, I haven't done a lot of 13:37:51

1 them, so -- but, you know, if there's a permit issued in
2 error, that would be one. "Obtained in error," I should
3 have said.

4 Q Okay. So you brought up an example that's
5 right up where I'm scratching my head. You're talking 13:38:06
6 about the situation that unfortunately seem to happen
7 where somebody applies for a permit to do a minor amount
8 of work, like a kitchen/bath remodel, and then lo and
9 behold they've added a basement or they've added a third
10 floor. In those circumstances, do you believe DBI would
11 revoke those permits as opposed to issuing a notice of
12 violation?

13 MR. WANG: Objection. Calls for speculation.
14 Go ahead.

15 THE WITNESS: You know, I don't -- I don't know 13:38:41
16 of any policy for that, Scott. Again, it's like
17 earlier, I mean, you're looking at it on a case-by-case
18 basis. I mean, that's what I do now if I'm acting
19 chief. You know, I mean, I look at it to see what it
20 is. If it rises to that, I probably would. But I don't
21 know enough about -- you're going to look at each
22 specific thing and do that. I mean, it's just sometimes
23 you do. It's discretion, I guess.

24 BY MR. EMBLIDGE:

25 Q You've been acting chief since when? 13:39:06

1 A March of last year.

2 Q How many permits have you revoked in the past
3 13 months?

4 A Probably less than ten, I would say.

5 Q And how many permits have you revoked when it
6 wasn't at the request of planning or board of appeal?

13:39:24

7 A I'd say that number maybe, but maybe a couple
8 of them might have been board of appeals ones. I can't
9 remember.

10 Q Okay. In the last 13 months, can you recall
11 the circumstances about any of those projects where you
12 authorized revoking the permits?

13:39:41

13 A Just the most recent ones where someone got a
14 permit for, say, exploratory demo and then we went out
15 there and they had already excavated or something or
16 they went beyond the scope of that permit. They went --
17 just went way -- you know, not -- just exceeded the
18 scope to a point that, you know, they got the permit,
19 but then they went and did something completely
20 different. And maybe they got that permit just as a
21 guise to do bigger things, and we might have caught
22 them, and then there's no point in that permit -- revoke
23 it because they're going to need a completely new
24 permit. That was the last one I'd done.

13:40:00

13:40:11

25 Q Okay. But, Joe, in your answer you said

13:40:28

1 "maybe" and "they might have." So what I need to
2 understand is, are you recalling a specific project, or
3 are you thinking maybe this happened?

4 A You asked me -- you asked me about my
5 experience in the 13 months. The last one -- the one
6 that I'm using is definitely -- that happened.

13:40:46

7 Q Okay. Do you recall the address?

8 A I don't. Sorry.

9 Q Okay. So other than where the permit
10 applicants applied for one permit but then went way
11 beyond the scope of the work that they were saying they
12 were going to perform, can you think of any other
13 circumstances since you've been chief building inspector
14 where you've authorized the revocation of permits?

13:41:09

15 A Again, you know, when I go -- you go in
16 everyday, and you do what you have to do. I mean, every
17 revocation permit might -- I'm going to tell you, some
18 of them, Scott, I can't remember what they actually
19 where. You know, you read the -- you read the language
20 on them. You'll be in discussions about it obviously.

13:41:31

21 But specific ones, no. I mean, they -- we -- I think I
22 -- there's a couple them. Just we're working on a
23 couple of them now. They're an ongoing thing. I mean,
24 if you go into the -- into the drive in DBI you're going
25 to get a list of all the ones that we have done. You

13:41:50

13:42:05

1 know, but I do that much stuff down there, and I just
2 can't remember specifically revocation of permits versus
3 a board of appeals hearing versus something else. I
4 mean, I just don't -- they don't stick out for me as
5 something that I would remember, to be honest with you.

13:42:21

6 (Exhibit 51 is introduced.)

7 BY MR. EMBLIDGE:

8 Q And that's fine. If you don't remember and
9 that's the answer, that's fine. I'm just -- I will
10 represent to you that the city has produced to me over
11 90,000 pages of documents in this case. We've put them
12 all in an electronic search engine, and I've searched
13 for revocations and I've searched to see where your name
14 has been associated with them, and if you look at
15 Exhibit 51, that's the only one I could find.

13:42:28

16 Exhibit 51 is from March 21, 2013. Can you see that
17 document?

13:42:48

18 A I think you've shown it to me already, yes.
19 Yeah, but that's because I wasn't a chief building
20 inspector. My name wouldn't be on them. You probably
21 see Patrick O'Riordan's name or somebody else, whoever
22 is chief, you know.

13:43:05

23 Q No, no, no. We're not communicating. Okay.
24 First let's look at Exhibit 51. That is March 21, 2013.
25 This was one where you signed the revocation of permit,

13:43:26

1 and it relates to 3560 San Bruno Avenue. Do you see
2 that?

3 A Yes.

4 Q Do you remember this at all?

5 A I'm sorry, I don't. I -- at that time I was
6 only acting chief for a couple of months or maybe --
7 Carla Johnson was rotating us in every -- I wasn't a
8 chief for very long that time. I know that.

13:43:44

9 Q Okay. So you don't recall why you were
10 involved in a decision to revoke these permits as
11 opposed to issuing a notice of violation; correct?

13:44:02

12 A Correct, correct.

13 Q Okay. So now -- now let's go back to more
14 recent history where you say in the last 13 months,
15 somewhere short of ten times, you have been involved in
16 decisions to revoke permits; right?

13:44:20

17 A (Nonverbal response.)

18 Q You need to say "yes."

19 A Yes.

20 Q And you've told me about somebody grossly
21 exceeding the scope of the permit for which they
22 applied. My question is just, do you remember, as you
23 sit here today, any other reason that you've authorized
24 the revocation of permits in the last 13 months besides
25 work that was grossly in excess of the applied-for

13:44:30

13:44:52

1 permits?

2 A Exceed maybe, I'm not sure, maybe existing
3 conditions correctly on plans. That would be a reason.

4 Q Do you remember that happening or are you
5 saying that could be?

13:45:08

6 A It was on a -- I believe the one -- there was
7 one of them on a permit application, yeah. There was
8 one on a -- I think it was just a bathroom remodel
9 permit that didn't have a bathroom or something. They
10 put down "bathroom," and there was no bathroom, so we
11 revoked the permit.

13:45:18

12 Q Do you remember the address for that or the
13 street?

14 A There is one going on. I believe it's on 11th
15 Avenue.

13:45:29

16 Q That's one that's under review right now?

17 A Probably about a month ago. I think that's the
18 one I was talking about, the most recent one.

19 Q Was that the one with going way beyond the
20 scope?

13:45:46

21 A Yes, it went beyond the scope and also it was
22 an SRO building, and they put down they were remodeling
23 existing bathrooms, but there wasn't -- there was only
24 two bathrooms, and they said they were remodeling five
25 bathrooms, so the accuracy of the permit was way off,

13:46:07

1 you know. We gave a notice of violation and revoked the
2 permit.

3 Q Are there any other examples you can think of
4 regarding what caused you to decide to revoke permits
5 rather than simply issue notices of violation?

13:46:22

6 A Just because I've been doing this chief thing
7 for so long, or just for the last year, that's the only
8 ones I can remember. Before that I can't really
9 remember. You know, I don't have a great memory, Scott,
10 to be honest with you.

13:46:39

11 Q Me either.

12 A If it happened a week or two -- it might have
13 been about a month ago, that one, and then I -- yeah, I
14 can't remember anymore in the last -- you know, before
15 that I can't really remember.

13:46:53

16 Q Can you remember when this case was in front of
17 the board of appeal, the case we're here about today,
18 what we call the Six Dogs project?

19 A Yes, I do.

20 Q Okay. So I wrote this brief in the board of
21 appeal, and I listed, I don't know, 15 egregious
22 projects where people had done work that far exceeded
23 the scope of the permits, and their permits weren't
24 revoked. Did you look into any of those projects and
25 see if I was right or wrong?

13:47:05

13:47:24

1 A No. The hearing was a long time ago. But I
2 didn't look into it, no.

3 Q Yeah. Joe, what I'm getting at is, from my
4 list of stuff I've seen project after project, you know,
5 whether they were Rodrigo Santos projects or John
6 Pollard projects, where people say they're going to do
7 this little remodel, and they gut the whole house or
8 they take all the walls down or they excavate a new
9 level, and those permits aren't revoked. So my question
10 to you is, what is the criteria DBI uses to decide "This
11 one was really bad, and it needs to be revoked" as
12 opposed to this other one, "We're just going to issue
13 notices of violation and have them go back in and file
14 amended permits"?

13:47:41

13:48:01

15 MR. WANG: Objection. Calls for speculation,
16 misstates testimony.

13:48:18

17 Go ahead.

18 Or asked and answered, is what I meant.

19 Sorry. Go ahead.

20 THE WITNESS: Scott, I -- at the time of that
21 hearing, and you may have had them on the brief, I
22 wouldn't have been involved in revoking permits, you
23 know. I mean, I was in -- I was certainly involved in
24 issuing notices of violation, but it wouldn't have been
25 my decision. As a senior building inspector, I wouldn't

13:48:26

13:48:40

1 have been able to make that decision.

2 But I don't know -- I don't know if there was
3 -- are you asking me was there a -- what decision or
4 policy? Is that what I thought you asked me? Did you
5 use the word "policy"? 13:48:53

6 BY MR. EMBLIDGE:

7 Q Yeah. I'm just trying to understand if you
8 think I'm crazy because when I look at all these
9 records, I see -- and, you know, I did a public records
10 request for revocation of permits, and now we've got 13:49:05
11 these documents in the course of this case. I see very,
12 very few revocations issued by DBI, and yet I see many,
13 many projects where egregious out-of-scope work has
14 happened, and those permits were not revoked. So my
15 question is, is what I am stating inconsistent with your 13:49:27
16 experience at DBI?

17 A It might be, but to be honest with you, I've
18 written notices of violation on projects, and, you know,
19 it doesn't matter who they're for. You know, I would be
20 the senior. That would be my role. If my inspector 13:49:48
21 would get me involved in it, I'd write a notice of
22 violation, ask him to wrote the notice of violation.
23 The revocation, you'd need to ask people higher than me,
24 you know, at that time, you know.

25 One thing, you know, I would say that, you 13:50:01

1 know, it's probably an issue that -- it's probably --
2 they probably will be looking at that maybe because
3 you're bringing it up and maybe because of that. But
4 it's certainly -- I -- at that time, as I said, I wasn't
5 -- I wasn't -- most the time I would write a notice of
6 violation. That's my -- that's about my work done on
7 it. You know, that's a higher decision than me.

13:50:22

8 Q So when you were a senior, were there times
9 where you would go to the deputy director or the chief
10 building inspector and say, "Hey, I think this one has
11 really gone too far, and I think this one deserves a
12 revocation"?

13:50:39

13 A I can't -- I can't remember if I did. I
14 thought you were going to ask me that question,
15 actually, there before you even asked it. But I --
16 yeah, not really. I mean, you know, the stop-work order
17 is, you know, is on the project. I mean, if somebody
18 else above me wants to revoke it. I don't remember
19 being in discussions with people saying, "Yeah, let's
20 revoke their permits as well." Wouldn't have been
21 something that at my level I was, you know, involved in.

13:50:55

13:51:12

22 Q Well, what about -- what about projects that
23 you were involved in in some way? Did you ever find out
24 that permits were revoked and you thought that the
25 revocation was not warranted?

13:51:32

1 A No, I don't think so.

2 Q How about projects where you thought the
3 permits should have been revoked but they weren't?

4 A Same. Again, no, not really, no.

5 Q You said a little earlier that somebody may be
6 looking into this issue. Who might be looking into this
7 issue, and what issue are we talking about?

13:51:46

8 A Well, you know, if you've been watching the
9 building inspection commission recently, I think there's
10 -- you know, there's -- our new -- the leadership down
11 there now are looking at reforms. They're looking at
12 our whole process. They've hired a policy director.

13:52:02

13 You know, I mean, there's a lot of changes at the new
14 DBI at 40 -- 49 South Van Ness, and I think what you're
15 going to find is that, you know, I think there's going
16 to be an updating of all sorts of policies and
17 procedures, I think. Anyway, Scott, that's just -- you
18 know, I'm part of the BIC. When I go there I have to
19 read out some numbers. But just listening to what some
20 of the commissioners are asking for, I think that that's
21 kind of they're -- the future holds, I would say, you
22 know.

13:52:16

13:52:30

23 Q Got it. When -- we talked before about when
24 there's a notice of violation issued, typically there's
25 something like a 30-day period for the applicant to

13:52:56

1 address the issues in the notice of violation, assuming
2 there's no life safety issues; right?

3 A Yes.

4 Q Okay. How does a revocation play into that?

5 Does DBI waive the 30 days before deciding to revoke, or
6 are permits revoked even before the applicant has a
7 chance to address issues in a notice of violation?

13:53:12

8 MR. WANG: Objection. Incomplete hypothetical,
9 vague.

10 Go ahead.

13:53:31

11 THE WITNESS: I've never been involved in that,
12 in something that you just described.

13 BY MR. EMBLIDGE:

14 Q What do you mean? I'm sorry.

15 A I can't answer the question because I've never
16 -- I don't know the answer to what you said, what you
17 asked me.

13:53:38

18 Q Well, okay. Let's look at -- go back and look
19 at Exhibit 51. It's the San Bruno Avenue revocation.
20 Can you think of a time when you've been involved in a
21 situation and permits have been revoked before the
22 applicant had an opportunity to address issues raised in
23 the notice of violation?

13:53:55

24 MR. WANG: Objection. Incomplete hypothetical.

25 THE WITNESS: I can't remember me being

13:54:20

1 involved in that, no.

2 BY MR. EMBLIDGE:

3 Q Okay. Just one second, please.

4 Okay. I want to ask you some questions about
5 some specific individuals. Do you know John Pollard?

13:55:00

6 A I do, yes, yes.

7 Q How do you know him?

8 A He's a contractor. He's got a company. His
9 office is pretty close to where the DBI is, you know, so
10 he would have been somebody I've seen around the office.

13:55:23

11 Q So I'm going to list six different businesses,
12 and I'd like you to tell me if you understand that he is
13 associated with any of these businesses. One is called
14 SF Garage.

15 A Yes.

13:55:39

16 Q One is called Mercury Engineering.

17 A Yes.

18 Q A-One Permitting?

19 A Yes, I think so. I'm not sure about that.

20 Q SF Permitting?

13:55:53

21 A No.

22 Q Soft Story Solutions?

23 A No, I didn't know that was him.

24 Q And 512 Construction?

25 A No.

13:56:08

1 Q Okay. Who are you aware of that works with
2 Mr. Pollard?

3 MR. WANG: Objection. Vague.

4 THE WITNESS: Mr. Pollard, you know, he usually
5 has someone from the office. You know, he's got an
6 office staff, I think, that come down to DBI. Over the
7 years I've dealt with people from the office just
8 through different things. I think his sister might have
9 worked for him at one point as well.

13:56:27

10 BY MR. EMBLIDGE:

13:56:42

11 Q Mr. Pollard's sister?

12 A Yeah, yeah. Way back. Like, years ago.

13 Q All right. Do you remember her name?

14 A Was it Rebecca or something. I'm not sure.

15 Q What about Kim Lee?

13:56:52

16 A I think I do, yes.

17 Q What about Annabel McClellan?

18 A No.

19 Q Do you know anyone named Annabel McClellan?

20 A Do I know her?

13:57:11

21 Q Yeah.

22 A I've heard the name before, but I don't know
23 her.

24 Q In what context have you heard her name?

25 A I can't remember, to be honest with you.

13:57:19

1 Q Okay. What about Gina Weyant, W-e-y-a-n-t?

2 A "Gina"?

3 Q "Gina."

4 A I think Gina used to -- worked at his office at
5 one point. I can remember that lady's name from coming
6 into third floor counter to renew permits or whatever
7 they needed to do.

13:57:39

8 Q And Harold Howell, H-o-w-e-l-l?

9 A I've seen that name on plans, but I don't know
10 the person.

13:57:53

11 Q Are you aware of Mr. Howell having had his
12 engineering license suspended?

13 A No.

14 Q Okay. You're going to get me because I'm going
15 to mispronounce an Irish name. Ciaran Harty. I think
16 it's C-i-a-r-a-n, Harty, H-a-r-t-y. Do you know that
17 person?

13:58:10

18 A I know the name, but I don't know the person.

19 Q Do you -- what are you associating with the
20 name?

13:58:27

21 A I think they might have had an appeal on a
22 permit one time, because I remember that name. There is
23 -- there is a -- that name is in -- there's a few
24 contractors with that name, Harty. I don't know -- I
25 don't know that gentleman particularly personally or --

13:58:44

1 you know, I couldn't -- put it like this, if he was in
2 front of me now, I wouldn't know what he looked like.

3 Q What if John Pollard was in front of you, would
4 you recognize him?

5 A Yes, yes, of course.

13:58:56

6 Q Have you dealt with Mr. Pollard in any social
7 setting outside of DBI?

8 A He would have been at the building inspectors
9 golf tournament. That's where I'd see him. Other than
10 that, no. I met him outside DBI a couple of times.
11 You'd see him outside DBI because I'd park my car in the
12 back there on Gough Street. His office is right there.

13:59:13

13 Q Right. But I mean, you know, having drinks
14 with him, having lunch with him, socializing with him in
15 some way outside of business.

13:59:32

16 A No, I -- no, not that I -- not that I can
17 remember, Scott, no.

18 Q Have you ever reviewed permits for projects in
19 which Mr. Pollard or his companies had been involved?

20 A I don't do the review of permits. I work in
21 inspections.

13:59:42

22 Q Well, I'm sorry. Have you ever, in the course
23 of the your work in the building inspection division,
24 done any work or supervised someone doing any work on
25 projects where Mr. Pollard was involved?

14:00:01

1 A Oh, yes, I'm sure I have, yes, yes.

2 Q Can you recall any projects in which
3 Mr. Pollard was involved where you or those working
4 under you have issued notices of violation?

5 A Not recently, no. Maybe several years ago. I
6 would have been involved in -- I can't remember the
7 addresses. I know there was one in the Castro where
8 there was a foundation. There was an issue with that.

9 But I don't know the addresses, Scott, to be honest with
10 you. I haven't been involved with or dealt -- had to
11 deal with Mr. Pollard in a while. You know, if he comes
12 into the office, you would have seen him, say hello.

13 But personally, no, I haven't had to deal with him
14 recently. But I would have been -- I would have -- I
15 would have aware of it. We did -- I remember a notice
16 of violation going back to somewhere on Castro Street
17 way back, a few years ago.

18 Q When is the last time you dealt with
19 Mr. Pollard?

20 A Good question. I can't remember actually, you
21 know.

22 Q More than a year?

23 A Probably, yeah, yeah, yeah, probably.

24 Q Can you recall any time projects that
25 Mr. Pollard was associated with came before the board of

14:00:19

14:00:40

14:00:53

14:01:06

14:01:16

1 appeal when you were the DBI representative at the
2 board?

3 A No, no, I can't actually.

4 Q Do you recall projects that Mr. Pollard was
5 associated with allegedly involving excavation that
6 damaged the foundation of neighboring buildings?

14:01:35

7 A Permits that were before the board of appeals
8 or just permits in general?

9 Q In general.

10 A I wouldn't have been handling specifically any
11 myself. You know, I mean, I had my own districts and
12 stuff like that. So I don't remember recently having to
13 deal with any of his projects, no, definitely not.

14:01:56

14 Q I'm just -- I'm asking in -- in your time in
15 the building inspection division, are you aware of
16 Mr. Pollard's projects being called out as projects that
17 have damaged the foundation of neighboring buildings?

14:02:13

18 A I can't think of any addresses, Scott. You
19 know, I mean, I'm sorry. There may have been, but I'm
20 not really -- nothing is coming to the top of my head
21 right now for any -- you know, I mean, you know, you see
22 people in the office, but, I mean, if it's not one of
23 mine, it's not one of mine. I'm not getting involved in
24 it. You know, it's not kind of one of the ones -- he
25 might have been about that, but I don't know for sure.

14:02:39

14:02:55

1 You know, but recently, no. It has been a few years
2 since I had any notices of violation on any of his
3 properties or even had to deal with him on a project.
4 I've definitely seen him at DBI, but I can't -- I think
5 you're asking me have I heard people talking about it at
6 DBI, maybe DBI staff.

14:03:19

7 Is that what you're asking?

8 Q Either you personally experienced or you heard
9 it become discussed.

10 A Well, it's not coming to me, like, I mean, as
11 much as I -- I mean, I can -- I definitely understand
12 the question, but I don't really have any recollection.

14:03:31

13 Q Well, let me ask it a different way. In your
14 experience in dealing with Mr. Pollard at DBI, have you
15 considered Mr. Pollard and his staff to have dealt
16 honestly with you?

14:03:51

17 A Any time I dealt with him I would have been
18 just maybe at the counter for renewing permits recently.
19 That's all I can remember. I mean, just coming in,
20 getting permits, stuff like that. You know, it's been a
21 few years since I was dealing with him on anything that
22 would have -- there would have been a violation on.
23 There was one project that I -- two projects maybe,
24 another one down on Washington Street that his name was
25 on that I was helping out with at one point. I might

14:04:09

14:04:27

1 have been the senior down there. But that -- that went
2 on for quite a few years and probably changed between
3 seniors and moving around. But that might have been
4 one. But yeah, I haven't -- I haven't had to deal with
5 him much recently.

14:04:46

6 Q Okay. But that wasn't my question. My
7 question was, in your dealings with him, have you
8 believed that Mr. Pollard and his staff have dealt with
9 you and DBI honestly in terms of their projects?

10 A Well, yeah. I mean, I -- I deal with people as
11 I get them, and if you have a problem, you tell them
12 what it is and you tell them what the -- I mean, that's
13 -- I mean, I just -- I don't know what, you know, that
14 -- I don't even know what that means. I mean, I -- if
15 people come down and they've got -- did he lie to me or
16 did somebody tell me a lie, no. I don't remember that
17 ever happening, no, no.

14:05:02

18 Q Well, what about projects where the work that
19 was represented on the plan was grossly exceeded? Are
20 you aware of Mr. Pollard being involved in those kinds
21 of projects?

14:05:20

14:05:36

22 A Not me specifically, no. I wasn't aware of any
23 of those, no.

24 Q When you say not you specifically, are you
25 aware of others at DBI that have dealt with Mr. Pollard

14:05:49

1 on projects where he has grossly exceeded the scope of
2 his permits?

3 MR. WANG: Objection. Calls for speculation,
4 assumes facts.

5 Go ahead.

14:06:02

6 THE WITNESS: I'd say Mr. Pollard probably was
7 dealing maybe with my -- maybe Patrick O'Riordan, maybe
8 another senior. I don't know, but I -- I don't know if
9 you would say "grossly exceeded." I wouldn't -- don't
10 really get involved in stuff that I'm not dealing with.
11 I've got enough of my own stuff to do on a daily basis.
12 I'm not going to get my nose stuck into something that
13 doesn't concern me.

14:06:15

14 BY MR. EMBLIDGE:

15 Q Okay. Do you remember a project in the last
16 few years at 3847 18th Street?

14:06:24

17 A I have seen the address before, but I wasn't
18 directly involved so I don't remember specifically what
19 it was about, no.

20 Q Okay. This was a project that came before the
21 planning commission many times and the board of appeal I
22 think at least twice.

14:06:43

23 A Okay.

24 (Exhibit 52 is introduced.)

25 BY MR. EMBLIDGE:

14:06:54

1 Q It involved -- well, why don't you look at
2 Exhibit 52, please.

3 A Okay.

4 Q Exhibit 52 is a two-page e-mail string. The
5 first page is Bates stamped 76757.

14:07:06

6 A 52?

7 Q Yes, please.

8 A Okay. I have it.

9 Q Why don't you take a second to look at that,
10 and let me know when you've had a chance to look at it.

14:07:23

11 A Okay.

12 Q Does that refresh your memory at all about this
13 project and the fact that it was getting some close
14 scrutiny?

15 A I think I remember back when Patrick O'Riordan
16 had to speak at the planning commission. Yeah, he spoke
17 at the planning commission. I know he had to do that a
18 couple of times. I see my name on an e-mail here from
19 Jeff Horn. I think half the people in the planning
20 department think I'm on DBI. I seem to get included in
21 every e-mail from them for some reason, and a lot of the
22 times I have to Jeff, "Hey, it's not one of my -- I'm
23 not involved in that one." So they kind of -- between
24 him and Scott and Corey and people that got that, that
25 know me from probably board of appeals and stuff, but I

14:07:56

14:08:10

14:08:26

1 do get -- I do get copied on a lot of stuff from
2 planning that I'm not dealing with. But I do remember
3 DBI being asked to go to the planning commission, yes,
4 yes.

5 (Exhibit 53 is introduced.)

14:08:37

6 BY MR. EMBLIDGE:

7 Q Would you look at Exhibit 53, which is an
8 e-mail from you to Mr. Dratler, D-r-a-t-l-e-r.

9 A I have it here, yeah.

10 Q Do you remember this e-mail?

14:08:56

11 A Yes.

12 Q So as I read this, it looks like Mr. Dratler
13 maybe was making some accusations and including
14 accusations against you, and you were unhappy about
15 that; is that fair?

14:09:15

16 A Yeah. I do remember writing this e-mail. I
17 don't even know if I sent this e-mail or not. I
18 certainly remember writing it. That was one that I
19 think Patrick O'Riordan had mentioned to me that, you
20 know, I got brought up, my name got brought up by
21 Mr. Dratler.

14:09:30

22 And I know Mr. Dratler. I've known him for
23 many, many years, you know, and I would actually like to
24 think that he's got a better respect for me and that he
25 would consider me, you know, a pretty decent person and

14:09:40

1 a good employee of DBI. And, you know, I know he
2 contacts us about different issues. So from that
3 perspective, you know, I was -- Patrick mentioned to me
4 that it was -- you know, my name had been brought up on
5 a project that -- and I knew I hadn't been involved in 14:09:53
6 that project, so I wanted just to let him know that, you
7 know, I'm happy to talk to him about anything and I had
8 not been the -- I mean, for me to be -- for my name --
9 you wouldn't like your name dragged up in a public
10 hearing on something that you actually weren't involved 14:10:08
11 in, you know. So, you know, maybe it's a little bit
12 quick of me to send the e-mail, but I never got a reply.
13 I don't even know if I sent it or not, to be honest with
14 you.

15 But I definitely felt -- I remember the time 14:10:17
16 very clearly. I actually think I was back in Ireland
17 visiting my parents, and I came back and was told about
18 it. So I kind of got on the keyboard and started
19 typing. But, you know, again, Mr. Dratler and I -- he
20 sends us e-mails, and I respond to them. And if he's 14:10:31
21 got an issue with anything, I'm more than happy to look
22 into it for him. I wanted to get out that I -- I think
23 he made a comment, like, I was, like, doing inspections
24 out there or something. I -- it's just been so long
25 ago. I don't I -- things have -- my duties have become 14:10:46

1 more -- a lot more than responding to an e-mail from
2 Mr. Dratler. But at that time I just -- you know, I
3 felt like I was getting probably -- he was wrong because
4 I hadn't been the one that was involved in that project.

5 Q Did you have an understanding as to what it was 14:11:01
6 the planning commission was concerned about in terms of
7 this project at 3847 18th Street?

8 A I think it had to do with an excavation, but
9 that was it. I wasn't involved in any stop-work orders
10 or inspections or any -- any part of it at all. But I 14:11:23
11 think I remember the issue was excavation and the amount
12 of excavation. Just going off memory.

13 Q So going back to this issue about revocations
14 -- well, first of all, are you aware whether the permits
15 for 3847 18th Street were ever revoked? 14:11:50

16 A No. I wasn't -- Scott, when you say I was at
17 the board of appeals, I don't remember it at the board
18 either. Again, just something that wasn't in my
19 wheelhouse, this one, and I wasn't involved in any of
20 that. 14:12:04

21 Q So you don't know one way or the other whether
22 the permits were revoked; right?

23 A I don't know. I'm sorry. No.

24 Q Okay. So you talked about Section 106A.4.5 of
25 the building code about revocation, but that section 14:12:18

1 says that the director of building inspection can
2 suspend or revoke a building permit whenever the permit
3 has been issued in error on the basis of incorrect
4 information. But there are, wouldn't you agree, many
5 times when the information submitted on building permits
6 turns out to be inaccurate compared to what ends up
7 being done at the site?

14:12:35

8 MR. WANG: I'm just going to object to the
9 extent it misstates the language of the code.

10 But go ahead.

14:12:56

11 THE WITNESS: Can you ask it again, please.

12 BY MR. EMBLIDGE:

13 Q Yeah. Why don't you look at Exhibit 51, which
14 you've already looked at. It's the March 21, 2013,
15 letter.

14:13:09

16 A Okay. Right here. Yeah.

17 Q So, like most of the revocation letters, the
18 first paragraph quotes the building code. Do you see
19 that?

20 A Yes.

14:13:22

21 MR. WANG: Objection to the extent it misstates
22 the document as quoting from the code.

23 But go ahead.

24 BY MR. EMBLIDGE:

25 Q So there have -- every time a permit is issued

14:13:29

1 and it's found that there was incorrect information
2 supplied, the department doesn't revoke the permit;
3 right?

4 A They may.

5 Q I know they may, but don't -- isn't that dealt
6 with, in most circumstances, in a way less severe than
7 revoking the permit?

14:13:53

8 MR. WANG: Objection. Vague.

9 Go ahead.

10 THE WITNESS: Yeah, but there's another few
11 lines in that section, "or in violation of any ordinance
12 or regulation or other provision of the Building Code."

14:14:09

13 BY MR. EMBLIDGE:

14 Q Yeah. I'm not asking you about that section
15 yet. I'm asking you about the incorrect information.
16 So there are all sorts of times when you and your team
17 have gone out and inspected projects and found that the
18 site conditions are different than what were represented
19 in the permit application; correct?

14:14:18

20 A Yes.

14:14:41

21 Q All right. And when you see that, you
22 sometimes issue a correction notice. Sometimes you
23 issue a notice of violation. But it would be very
24 unusual for you to revoke a permit based on that;
25 correct?

14:14:57

1 A It all --

2 MR. WANG: Objection. Incomplete hypothetical.

3 I'm sorry. Go ahead.

4 THE WITNESS: I'm quick.

5 It all depends. I mean, it just goes back to
6 that case-by-case basis. But, I mean, you asked me
7 about one earlier there, and I think we revoked -- I
8 definitely revoked the one I referenced on 11th Avenue
9 for incorrect information supplied. So that permit was
10 revoked.

14:15:04

14:15:24

11 BY MR. EMBLIDGE:

12 Q Right. But that was because it had gone way
13 beyond the scope of the permit; right?

14 A They said on the permit that there was
15 something existing that wasn't existing, so that's
16 incorrect information.

14:15:34

17 Q So what I'm trying to get at -- and I'll stop
18 belaboring the point -- I'm trying to understand where
19 you draw the line and say, "Yes, in this case, the site
20 condition is different from what was represented on the
21 permit, but it doesn't justify revocation," versus in
22 this other case the site condition is different from
23 what was represented on the permit, and it does justify
24 revocation. What are the factors that go into crossing
25 over that line?

14:15:58

14:16:20

1 A You know, again, it's dealt on a higher level
2 than me and my experience going back, but it's just a --
3 it's a case-by-case basis, and it might be inconsistent.
4 But, you know, I would have to -- I would need to be
5 involved in that specific case and all the factors that
6 led into it before I would make that decision. Like,
7 you know, you're right. I would need -- and you know, I
8 -- I'm a very -- you're asking me, and I'm giving you my
9 personal, you know, experiences and how I work everyday.
10 I -- you know, I really -- I really just -- you want to
11 be -- you want to be kind of -- these are buildings.
12 Someone has done something. You want to look at it.
13 You want to weigh it up and see. There's a lot of
14 factors that will come into play, and, you know, what
15 you might do today you may not do tomorrow. Whether
16 that's right or wrong or not or consistent or
17 inconsistent at DBI, you're going to look at it on a
18 case-by-case basis, and that's how I would handle it if
19 I was dealing with it, you know. And so I hope that
20 answers it.

14:16:38

14:16:56

14:17:12

14:17:28

21 Q Are you familiar with a project in which
22 Mr. Pollard was involved at 2068 (connection failure)?

23 A 2068?

24 Q Pine, Pine Street.

25 A No, no, no. Wasn't me, no.

14:17:43

1 Q What about 2046 Filbert Street?

2 A No. Sorry, Scott. Unless my name is on these
3 or I, you know, gave an inspection or I wrote the NOV, I
4 won't know about that, no.

5 Q All right. Could you look at Exhibit 9. That 14:18:01
6 one relates to 2046 Filbert Street. It does have the
7 name "Duffy" on it. I thought it was Donal, but he does
8 not recall it being him, so maybe it was you. Could you
9 look at that and tell me.

10 A No problem. 14:18:30

11 Yeah, you know what, this is not me. There's
12 only two Duffys at DBI. But, yeah, you know, this is
13 actually -- one of the planning department people
14 brought this up about two weeks ago, and people do bring
15 it up. Unfortunately our complaint data sheets don't 14:18:43
16 differentiate between -- they just give you a last name,
17 and we have some people with the same last name. But,
18 you know, why I -- why I would say that this is, though,
19 and, you know, I don't know. You can -- you can point
20 it -- it definitely wasn't me. 14:18:57

21 If you see there that on the -- if you're
22 looking at the document on the date where it goes
23 4/4/19, and then the second line down 4/4/19, it says,
24 "Case Update. Case reviewed and assigned to complaint
25 investigation team per MH," that's Mauricio Hernandez. 14:19:12

1 And then Suzanna Wong, "SLW" is the initial. That's one
2 of our administration staff. And it looks like it was
3 assigned to the compliant investigation team, and Donal
4 Duffy works under Mauricio. He's one of his
5 investigation inspectors. So he may have not remembered 14:19:34
6 it, but it would have been one of his ones. It
7 definitely wasn't me, not in 2019 and not in this area.
8 I don't -- I'm not -- I don't think I've ever supervised
9 building inspections in the 20 -- the 2000 block of
10 Filbert. 14:19:50

11 Q Okay. Well, then it's probably not.

12 A And we're going to get it changed. We're
13 working with MIS to get that changed.

14 Q Are you aware of anyone at DBI that has given
15 Mr. Pollard or his company any kind of favorable 14:20:08
16 treatment?

17 MR. WANG: Vague.

18 Go ahead.

19 THE WITNESS: I'm not -- I mean, what do you
20 mean by -- what are you talking about? 14:20:19

21 BY MR. EMBLIDGE:

22 Q If -- leniency on inspections or expediting
23 issues involving their projects, any kind of favorable
24 treatment like that.

25 A I'm not personally aware of that, no. I have 14:20:39

1 heard -- I've obviously listened to and read articles
2 and stuff like that. You would read it. But have I
3 personally seen it, not really, no, no, no.

4 Q And what is it you've heard?

5 A Well, just from -- I think it got brought up in 14:20:56
6 this case maybe, and it's for 18th Street. A case, you
7 know, when I watched that video, there was accusations
8 that inspections had been done and things were done.
9 But, you know, I'm not -- just you go in there everyday,
10 and you work. I mean, we work hard down there. I do 14:21:15
11 anyway. And, you know, what goes on around you goes on
12 around you, and I really don't pay much attention to it,
13 Scott. You know, I mean, I have no idea why he -- what
14 he would be doing in there or who he would be talking
15 to, what he would be talking to them about. If he's 14:21:31
16 dealing with me, he's dealing with me. If he's dealing
17 with someone else, he's dealing with someone else. I
18 just stay out of stuff, you know. I get my own stuff
19 done.

20 Q Yeah. I hear you, and I'm sure you know I'm 14:21:39
21 not accusing you of giving any favorable --

22 A No, I know.

23 Q But I do need to try to figure out to get to
24 the bottom of what might be completely off-base rumors
25 or might be true. So you said you watched a video. A 14:21:51

1 video of -- what was the video you watched?

2 A The hearing that Mr. Patrick -- Patrick
3 O'Riordan had shown me the video, and Mr. Dratler was
4 saying the things about me on the planning commission
5 thing. And I think that was a project that you said he 14:22:08
6 was involved in and there was stuff that happened, you
7 know, so I think that was the basis of that discussion
8 at that hearing at that time. So I did watch that, but
9 that's a long time ago.

10 Q And what have you heard, if anything, about who 14:22:23
11 at DBI is alleged to have given Mr. Pollard favorable
12 treatment?

13 A You know, I'm not sure. I'm not really -- it's
14 not an easy question for me to answer because I -- you
15 know, I mean, I don't put much into stuff, Scott. I go 14:22:44
16 to work everyday. I do my stuff and I -- I'm not -- you
17 know, I don't get caught up in gossip and stuff like
18 that. I'm not going to sit here and tell you I do, you
19 know, because I'm not going to -- that's really a
20 question that I -- I don't know the answer to, to be 14:22:59
21 honest with you.

22 Q No. I'm not asking you to buy into the gossip.
23 I'm just asking you to tell me what you've heard in
24 terms of who at DBI is alleged to have given Mr. Pollard
25 more favorable treatment. 14:23:15

1 A You know, it's not really -- I don't know, you
2 know. I've -- where do you go with that, you know. I
3 mean, it's not my -- you know, I'm not -- I'm here today
4 to talk about, you know, what -- the department I work
5 for and things that I do. I'm not going to get caught
6 up into this sort of stuff, you know. I'm sorry. I
7 just don't have -- I don't have an answer for you.
8 Leave it at that.

14:23:32

9 Q Well, okay. Let me be more direct, then. I'm
10 not saying you believe it. I'm not saying you have any
11 evidence of it. But you have heard, have you not, that
12 Ed Sweeney is accused of giving Mr. Pollard more
13 favorable treatment on his projects? You've heard that
14 said?

14:23:46

15 A I think that -- I'm pretty sure that got said
16 at this hearing, did it not, on this 18th Street thing?

14:24:01

17 Q I don't know.

18 A I don't know either, you know. But if that's
19 -- if that's what's out there, that's what's out there,
20 you know. You can't stop people from talking. You
21 can't stop people from saying things, you know.

14:24:15

22 Q I know. But I'm asking you to tell me what
23 you've heard people say. So haven't you heard people
24 say around DBI that Mr. Pollard is connected with
25 Mr. Sweeney and Mr. Sweeney has given him favorable

14:24:29

1 treatment?

2 A You know -- you know, Scott, you've probably
3 seen the articles like I've seen them in Mission Local.
4 People bring them into work. I actually don't even read
5 them much anymore. But there's been comments on Mission
6 Local, for example.

14:24:38

7 Q I know that.

8 A Yeah.

9 Q But I don't -- but I don't know what's been
10 said around DBI. I know it's been said in the Mission
11 Local.

14:24:47

12 A You're talking to the wrong guy. I don't go in
13 there everyday talking about people. I don't have much
14 time for it. You know, I -- I have an office of my own.
15 I do my own, you know that, and I don't -- I'm not
16 getting caught up in that.

14:25:00

17 Q I'll leave that one alone, then. Kevin Cheng,
18 C-h-e-n-g, do you know him?

19 A Yes, I do, yes.

20 Q So is he a contractor, as far as you know?

14:25:14

21 A I know Mr. Cheng, and I'm actually dealing with
22 him currently on something. 214 State Street, he's one
23 of the owners up there. Back in 2014, at the end of
24 2014, I actually -- I think I was the senior inspector
25 for District 18, and we ended up giving him a stop-work

14:25:40

1 order up there. I did a stop-work order on than one and
2 so I've been dealing with him on and off on that. I
3 haven't dealt with him in a long, long time, to be
4 honest with you. And then recently he's looking at us
5 to give him a -- something about the appeals board that 14:25:55
6 he wants us to relook at and process on the -- came from
7 the appeals board. So I have been dealing with him
8 recently which is why I remember his name, but I would
9 remember him anyway from that project.

10 Q So what were the issues on 214 State Street? 14:26:11

11 A Misrepresentation on plans. I think they
12 over-excavated as well, so.

13 Q In general what was the level of
14 misrepresentation on that project?

15 A It was pretty -- 14:26:27

16 MR. WANG: Objection. Vague.

17 Sorry. Go.

18 THE WITNESS: I don't mind, Ed.

19 It was a -- I think they -- getting back to it,
20 I remember it because it was a pretty -- you know, I 14:26:31
21 think they showed existing levels that were nonexistent
22 in the building.

23 BY MR. EMBLIDGE:

24 Q Okay. So just for me to break that down, so
25 they would show, for example, a lower level of a 14:26:43

1 building as an existing condition when in fact that
2 lower level wasn't there, and then they went and built
3 out a lower level; is that fairly accurate?

4 A Yes, yes, I think. I haven't seen the plans in
5 a few years. But again, it was one of those ones that 14:27:03
6 hasn't been resolved yet. It was at the planning
7 commission a couple of times as well, I believe. We get
8 the -- I get the e-mail about it. But, yeah, I mean,
9 they completely brought in a set of plans that were not
10 accurately describing the existing conditions on the 14:27:16
11 building correct, and then they ended up excavating
12 those levels to create them. It was just a -- it wasn't
13 a -- it was a bit of a mess, that one, yeah, yeah. And
14 the neighbors -- they also caused some damage to the
15 neighbors' land and the garden, and then on the other 14:27:34
16 side there might have been some issues. But we were
17 getting -- we were getting calls from the neighbors
18 about that one, yeah.

19 Q I bet. So on that one, why not revoke the
20 permit? 14:27:47

21 A I don't know. It's a good question. I was --
22 I did a stop-work order on it. I don't know why we
23 didn't revoke the permits. I can't -- I can't answer
24 that. I don't know.

25 Q Was there any discussion about whether the 14:27:58

1 permits should be revoked that you recall?

2 A Not in my wheelhouse, no. I was definitely --
3 it was -- involved in the stop-work order, but I didn't
4 do the revocation. But maybe we should have. Maybe
5 it's a good point, you know. But we did not revoke, no.

14:28:18

6 You're saying they were not revoked?

7 Q As far as the records that I can find, they
8 were not revoked.

9 A Okay. Yeah. I mean, I did the stop-work order
10 on it, and that was -- you know, I mean, we ...

14:28:27

11 Q Did it ever get resolved?

12 A No. I think the planning commission wanted to
13 put them -- put it back the way it was, and maybe
14 they're trying to sell it. He keeps telling us he's
15 trying to sell it or get rid of it. I mean, it's seven
16 years later, you know. I wish they would get it sorted
17 out. It's one of these ones you don't want to see. You
18 don't want to see those because they're just -- there's
19 no end to it, like, you know, so you want to get those
20 finished and try to get them moved on. But I don't know
21 what's happened with it. All I know is that we still
22 have that building in the same condition. I think we
23 let them take the shoring out. I'm not involved in that
24 part anymore.

14:28:44

14:28:56

25 Q Sp when you say you'd like to see them get it

14:29:05

1 finished and get this resolved, am I correct that your
2 general attitude as a senior inspector and now chief at
3 DBI is you want to see things done by code but you also
4 want to be a problem solver to get projects finished; is
5 that a fair statement?

14:29:33

6 A I would -- I would say you're -- yeah. I mean,
7 I think you know that anyway. But, yeah, I am the --
8 you know, I don't -- for me, these are -- these are
9 issues that are resolvable. Everybody has got -- you
10 get a notice of violation, you get a revocation, you're
11 still going to need the other permit to fix it. You
12 know, I personally think that, you know, everybody
13 should be working to get that permit issued, get the fix
14 it, get it fixed, get the building sold. Do whatever
15 you need to do.

14:29:49

14:30:05

16 I mean, I always came up with that. I mean,
17 you get -- you do get upset sometimes. People, they do
18 things. I don't know what causes people to do things.
19 But certainly I wouldn't say I'm -- I don't want to
20 paint myself as being the -- you know, easy about it,
21 but at the end of the day they're still going to need --
22 this building is not going to stay in this condition, or
23 these buildings aren't going to stay like this forever.
24 So, yes. And the corrective action is always good when
25 you see the end of that. When you see one where we

14:30:15

14:30:30

1 stopped it for a while and they've got going again and
2 they've had to go back to planning or do whatever it
3 needs to do and then they come out on the other end and
4 they get their building finished and they finally get
5 their CFC, it's a good day for everybody. So, yeah,
6 from that end of things, I would say absolutely, yeah.

14:30:41

7 Q Okay. Now let's talk about a different person.
8 Rodrigo Santos. You know Mr. Santos; correct?

9 A Oh, yes.

10 Q And do you socialize with Mr. Santos outside of
11 work?

14:30:59

12 A No.

13 Q Have you ever been involved in inspecting or
14 having people under you inspect work on projects that
15 Mr. Santos has been involved in?

14:31:18

16 A Inspecting the work, I don't remember the last
17 time I would have done an inspection on any of his
18 projects, no, but I've been there for other reasons.

19 Q Well, but people under you have been involved
20 in inspecting his work?

14:31:35

21 A Oh, yes, yes, yes.

22 Q And have you ever come across projects
23 Mr. Santos has been involved in where you were troubled
24 by the accuracy of representations Mr. Santos made?

25 A We just talked about one, yes, yes. That is a

14:31:55

1 problem, yes. State Street.

2 Q Oh, the Kevin Cheng, 214 State Street?

3 A Yes. That's one.

4 Q Have you been involved in or supervised
5 inspectors who have been involved in other projects
6 involving Mr. Santos where, similar to 214 State Street,
7 there have been substantial misrepresentations on plans
8 about the scope of work?

14:32:13

9 A Yes.

10 Q Can you think of any addresses associated with
11 those?

14:32:29

12 A I would have been involved in, well, a few,
13 yeah, probably. Let's see. 457 Roosevelt would have
14 been one. I was involved in that one.

15 If you've got any addresses, I ...

14:32:55

16 Q Yeah. 1945 Green?

17 A No, I wasn't involved in that one, no. That
18 Filbert address, that's not one of my areas.

19 Q 1228 Funston?

20 A No, not me either.

14:33:10

21 Q 125 Crown Terrace?

22 A No, I wasn't involved in Crown Terrace, no.

23 Q But you're aware of that project?

24 A Yes, yes. I actually got the call the night
25 that the cribbing came down from the rim and barriers,

14:33:22

1 the building inspector, but that was my only involvement
2 in that one.

3 Q What do you recall about Roosevelt Way?

4 A Excavation below the ground level where they
5 went down a level to get another level underground and
6 really under the guise of a foundation permit.

14:33:39

7 Q Okay. Can you go a little slower there for me.
8 So how did you get involved in that project and what did
9 you discover?

10 A If my memory serves me right, it was the
11 neighbors were concerned about undermining of their
12 foundations, and the building inspector -- I think it
13 was Kevin Birmingham was involved in that, and he asked
14 for me to help him with -- get involved in the issuance
15 of the notice of viol- -- the review and the issuance of
16 the notice of violation. They hadn't -- the contractor
17 went ahead and kept working, and we had to issue another
18 notice of violation on it. So it ended up -- then they
19 ended up getting a whole new engineer in there and a
20 whole new shoring and they had to go through planning.
21 I just think they're actually just back working on that
22 one now.

14:33:55

14:34:08

14:34:29

23 (Exhibits 54 and 55 are introduced.)

24 BY MR. EMBLIDGE:

25 Q Can you look, please, at Exhibits 44 and 45.

14:34:36

1 They're both about Roosevelt Way. Did I say 45, I'm
2 sorry. I mean 54 and 55.

3 A Okay. Yeah.

4 Q So 54 is off the planning information map.

5 A Right.

14:35:12

6 Q And is that description by Jeff Horn there, "An
7 expansion and alteration." Do you see that?

8 Is that consistent with what you found at the
9 -- at the site?

10 A Yeah, yeah, that's about right, yes.

14:35:35

11 Q Okay. And then 55, that shows, on the second
12 page of 55 -- I'm sorry. I should be identifying these
13 for the record. Exhibit 54 is a three-page document
14 from the San Francisco Property Information Map.

15 Exhibit 55 is a two-page document from permit and
16 tracking system, permit and complaint tracking system.
17 And on the second page, your name is listed there for
18 site verification. What did you -- what does that mean,
19 "site verification," in the context of this project?

14:36:04

20 A Oh, to cancel the permit. Yeah, so when you're
21 canceling a permit, the inspection description, you
22 always put in, it's called a "111," a site verification
23 code. So the permit would be canceled and, you know,
24 the -- no good anymore, getting a new permit, and
25 starting again. So then when you're putting in the

14:36:29

14:36:46

1 inspection, there's no -- there's a code in our
2 inspection that -- building inspection divisions, we
3 have all these inspections codes for, like, "122" is
4 rebar. "126" is raw frame. "106" is a final. "134" is
5 okay to cover. There is a -- there is a code for
6 cancelation, but you would be canceling the permit. It
7 wouldn't be a -- you would be canceling the -- you would
8 be doing, like, a cancelation, and you don't really want
9 to do that on a permit. When you're doing cancelation
10 of a permit that someone has asked for -- to cancel,
11 you'll do a site verification. You'll put down "111."
12 So, you know, that's why it's there.

14:37:04

14:37:21

13 Q Okay. I've got to understand that. So all I
14 was asking -- trying to ask was, it says on the second
15 page "Inspections," and on September 23, 2019, you did a
16 site verification. I was trying to understand what that
17 means, "site verification."

14:37:37

18 A It's just a code you put in when they're going
19 to cancel the permit, yeah.

20 Q Okay. And this is -- cancelation is something
21 requested by the project sponsor?

14:37:53

22 A Yes, that's right, yes.

23 Q Okay. And so on 457 Roosevelt Way, these
24 permits were never revoked; is that accurate?

25 A Doesn't look like it, no, no. They got issued

14:38:10

1 and then canceled.

2 Q Have you -- are you aware of accusations that
3 Mr. Santos has received more favorable treatment than
4 other applicants at DBI?

5 A No, no.

14:38:32

6 Q Do you understand that DBI now has a practice
7 of a higher level of review of projects that Mr. Santos
8 is working on?

9 A I certainly do, yes, yes.

10 Q Okay. So what do you understand about that?
11 What -- what is the policy and how did it get
12 implemented?

14:38:50

13 A Well, it's an ongoing issue. So if you're
14 Mr. Santos and you come to DBI for your permit, you have
15 to get it reviewed by a plan checker, which everybody
16 does. But in addition to a plan checker, he now has to
17 get through -- supervisor of the plan checker has to
18 review it as well to review the plan checker's work to
19 get that permit issued before that permit is issued.
20 Actually, in the last few weeks, they've now started
21 like a -- we're doing like a pre-issuance inspection on
22 some of his projects.

14:39:07

14:39:24

23 (Reporter requests repetition.)

24 THE WITNESS: So that means that even when he
25 applies for the permit, in certain cases we want to see

14:39:43

1 is he actually portraying the actual proper scope of
2 work, the proper conditions. That's only been brought
3 in, like, in the last week or two.

4 BY MR. EMBLIDGE:

5 Q What's your understanding of why these policies
6 have been implemented?

14:39:59

7 A Well, you know, it's no secret that the man is
8 under, you know, charges, investigations. You know,
9 there was a couple of instances where permits were
10 recently obtained, and we realized that they were
11 actually flawed. So we're like, hey, you know,
12 obviously there's other people involved in this,
13 probably city's attorney's office. And DBI, their
14 director, O'Riordan, asked that we implement some more
15 additional measures on his permits to stop him getting
16 building permits that are -- that are not right, you
17 know. So, very unfortunate. A lot more work.

14:40:14

14:40:37

18 Q Has, to your knowledge, DBI instituted that
19 kind of policy or practice for anyone else, besides
20 Rodrigo Santos?

14:40:58

21 A Not recently. Apparently it was done many,
22 many years ago because they -- I've been in a couple of
23 discussions about it, and it was done for a Mr. Jimmy
24 Jen way back, a long, long time ago. I think he was
25 going through some stuff and -- way before my time. And

14:41:14

1 so there was talk we had done this before for a while
2 with him as well. It wasn't me, though. I didn't do
3 that, but, yeah.

4 Q Someday I'll tell you what I know about Jimmy
5 Jen. It's not pretty.

14:41:28

6 What about Mr. Pollard, has there been any talk
7 about having an approval process like this for his
8 projects?

9 A No, not that I'm aware of, no. Not on my --
10 not on my radar. I think, just to expand on what I said
11 a minute ago, I think -- you know, they're doing this
12 new -- this new ordinance now from the board of

14:41:43

13 supervisors, the expanded control ordinance, and that's
14 going to be something coming up forward in the next --

15 where if you've got three projects for certain types of
16 violations, you're going to be on a list, and I think
17 the list is going to require that we do a certain amount
18 of -- DBI is being asked to do extra scrutiny on certain
19 entities. And if people -- I think if you get three

14:41:58

20 NOVs in 18 months for certain activities, you're going
21 to then be scrutinized for your work. So I just wanted
22 to say that. But in answer to your question for
23 Mr. Pollard, I haven't, no. It hasn't -- it hasn't -- I
24 haven't seen anything.

14:42:15

25 Q Does the policy talked about that applies to

14:42:31

1 Rodrigo Santos, does it also apply to Albert Urrutia?

2 And that is U-r-r-u-t-i-a.

3 A No.

4 Q Okay. So it appears that Mr. Urrutia now has
5 his own business. Is that what you -- consistent with
6 what you understand?

14:42:55

7 A Yeah. And just let me go back a little bit
8 because you're asking about the pre-issuance. Talking
9 about the pre-issuance inspection. On the permits that
10 he's getting approved, I'm not sure whether plan review
11 would be the supervisor. I'm not involved in plan
12 review. But I don't know if he's getting his permits
13 extra scrutiny on the issuance of the permits. We're
14 not doing pre-issuance inspections for him. The -- I've
15 heard that there is -- that they've split up and he has
16 his own company now. That's what I heard, yeah.

14:43:07

14:43:27

17 Q All right. Let's take a ten-minute. Resume at
18 2:55, please.

19 THE VIDEOGRAPHER: We are going off the record
20 at 2:43.

14:43:39

21 (A brief recess was taken.)

22 THE VIDEOGRAPHER: We are back on the record at
23 2:54.

24 BY MR. EMBLIDGE:

25 Q Mr. Duffy, going back to the special procedure

14:55:20

1 that had been put in place for Mr. Santos, do you know
2 if that applies to his company RS Engineering?

3 A Our computer people are working on that, yeah.
4 It probably will be, yes, yes.

5 Q And what about his son, Alex Santos?

14:55:41

6 A Not that I'm aware of, no.

7 Q I mentioned Albert Urrutia. Is he someone that
8 you socialize with outside of DBI?

9 A No.

10 Q Do you know Kristen Urrutia?

14:56:01

11 A No.

12 Q Do you know Tim Brown?

13 A I know the name, I know the name, I know the
14 name. But I don't know on my -- you know, I wouldn't
15 know his face. I wouldn't recognize him, if that's what
16 you're asking.

14:56:21

17 Q What about John Kantor, K-a-n-t-o-r?

18 A Again, I know the name from -- they just had an
19 appeal recently. They've had a few appeals at the board
20 of appeals, yeah.

14:56:34

21 Q Is that the project out in the Avenues -- oh,
22 gosh I'm losing it. 20 -- 27 --

23 A 27 17th Avenue. Mr. Kantor does contact us
24 about that sometimes.

25 Q Okay. Have you dealt with Mr. Kantor socially

14:56:57

1 outside of DBI?

2 A No.

3 Q What do you understand to be the issues
4 relating to that project?

5 MR. WANG: Vague as to "that project."

14:57:11

6 Go ahead.

7 BY MR. EMBLIDGE:

8 Q Sorry. 27 17th Avenue.

9 A Well, I mean, sorry Ed. I spoke too quick
10 again.

14:57:21

11 There's been a few appeals on the -- on the
12 permit going back for a few years now, and it just keeps
13 coming up at the board of appeals, and Mr. Dratler is
14 the appellant and Mr. Kantor is the owner. So I do know
15 that part. But, yeah, I think it all started back maybe
16 five, six years ago, the notice of violation that I was
17 not involved in, but I did represent the department at
18 the appeal.

14:57:34

19 Q Are you aware of any permits for that project
20 that were ever revoked?

14:57:51

21 A Not -- I wasn't dealing with that project, no.
22 Only -- only at the board of appeals, but, no, I wasn't
23 aware of any, no.

24 Q Apart from that project, have you had any
25 involvement with or issues with any projects involving

14:58:07

1 Tim Brown or John Kantor?

2 A Not that I'm aware of, no.

3 Q Are you aware of any controversy relating to a
4 project at 846 34th Avenue?

5 A Controversy, Mr. Dratler filed a complaint on 14:58:36
6 that project, and it reached my level last year because
7 I don't think he was happy with some of the work of our
8 inspector, so I was asked to investigate that. So I did
9 deal with 34th Avenue. Like, in the last year I
10 definitely was involved in that one, yes. I do remember 14:59:02
11 it because I think it was a new owner of the property,
12 and I had to go and meet him and explain why I was out
13 there.

14 Q Did you conclude that there were any problems
15 with that project? 14:59:16

16 A From what I remember, the building was
17 completely finished. There was a new owner, and it was
18 over the height issue, and we didn't find there was any
19 problem with the height. They may have had issues
20 during construction, permits and stuff like that, but I 14:59:30
21 wasn't there for that. I actually was on the site with
22 a senior inspector. McHugh and myself went out there,
23 and we met with somebody out there and measured, you
24 know, the height that Mr. Dratler had been saying on his
25 e-mails. But, no, we didn't -- we didn't take any 14:59:40

1 action because the property appeared to be in compliance
2 with the approved permits.

3 Q So the issues that Mr. Dratler was calling to
4 your attention was that the finished project was taller
5 than it should have been?

14:59:58

6 A He was concerned about the height of the
7 project and that we might have missed something, but
8 everything was -- everything added up. I mean, I think
9 there was a permit that went through planning, and it
10 got approved and then issued and signed off, and our
11 inspector was there, and everything was okay, according
12 to what I saw anyway, you know, measuring the height.

15:00:13

13 Q Do you know Patrick Buscovich?

14 A Yes.

15 Q How do you know him?

15:00:29

16 A I used to see him everyday of the week pretty
17 much in the old pre-COVID at 1660 Mission Street. He's
18 an engineer. He's also what you would call a permit
19 expeditor, permit consultant. So I know him from coming
20 in and out of DBI over many, many years.

15:00:41

21 Q Is he someone you socialize with outside of
22 DBI?

23 A No, I wouldn't socialize with Pat, no -- not --
24 no. Same as the rest. No, no.

25 Q Have you ever had any problems regarding

15:00:55

1 projects that Mr. Buscovich has been associated with?

2 A No.

3 Q Do you consider him generally knowledgeable
4 about the building code?

5 A Yes.

15:01:08

6 Q In your dealings with Mr. Buscovich, do you
7 believe he's been honest and forthright with you?

8 A Yes.

9 Q So one of the plaintiffs in this case is Rachel
10 Swann, S-w-a-n-n. Do you know her at all?

15:01:23

11 A No.

12 Q Another plaintiff in this case is Dennis
13 Richards, who I'm sure you know used to be on the
14 planning commission. But other than that, do you know
15 Mr. Richards (connection failure)?

15:01:37

16 A Do I know Mr. Richards? I lost you there a
17 little bit.

18 Q Yeah. Besides the fact that I'm sure you know
19 Mr. Richards was on the planning commission, do you know
20 him at all?

15:01:50

21 A Yes, I do.

22 Q How do you know him?

23 A Mr. Richards, I know Mr. Richards through
24 Mr. Buscovich, I believe, and I met him -- might have
25 met him once possibly in the last few years and -- but

15:02:01

1 -- and I was working with him, I think, on -- he's
2 called -- he's contacted me a couple times about
3 building code processes or DBI processes in the past,
4 but that's about it.

5 Q You say you may have met him through
6 Mr. Buscovich. What do you mean by that?

15:02:21

7 A I think I -- I think Pat might have mentioned
8 that he was going to call me about something or he was
9 going to -- just like a text or a call, and I think I
10 met him one night. Actually, it might have been -- it
11 might have been after one of the board of appeals
12 meetings or I met him somewhere social. I definitely
13 bumped into him somewhere, and I think it was the Cafe
14 Solano, but that's just -- just going off memory there.
15 I definitely met him because I -- I know I -- you know,
16 I do remember speaking with the man, but I can't -- I
17 think Pat Buscovich may have told me that he had some
18 questions about a property and he was going to contact
19 me, and I think he did, but I don't know where it ever
20 went, but, yeah.

15:02:35

15:02:52

15:03:09

21 Q Was that about -- was your understanding that
22 that was about a property that Mr. Richards was
23 interested in -- interested in because it was before the
24 planning commission or interested in personally?

25 A Well, I think what he was trying to -- I think

15:03:21

1 there was something on the 3R report that he needed to
2 get help with and cleaned up, and sometimes we do what's
3 called -- and it's part of the senior duties -- a unit
4 count verification. So that means if there's any
5 discrepancy about the legality of a unit and maybe it's
6 a records thing, DBI can maybe go through the records
7 and we see that something needs to be corrected, that
8 falls on a senior inspector. And I think that's what it
9 was about. It was about a property where, you know, the
10 units -- legality of a unit. There might have been
11 another one that he may not have been a property owner,
12 but he was helping maybe a neighbor or something like
13 that. I just actually finished up with that one, so.

15:03:36

15:03:54

14 Q Was that one that Deborah Holley was involved
15 in?

15:04:12

16 A That's correct, yes. Deborah was doing that
17 one with me, yes, on -- I can't remember the name of the
18 street.

19 Q Yeah. Beaver maybe?

20 A 22 Beaver. There you go.

15:04:20

21 Q Have you ever attended any meetings with
22 Mr. Richards?

23 A No, I don't think so, no.

24 Q The time when you have this recollection of
25 maybe he was at a board of appeals meeting and maybe at

15:04:51

1 Soluna, what do you recall about that?

2 A You know, I believe we were in Soluna one
3 night, and he -- they might have been there as well, and
4 that's maybe where I met him. I've been introduced to
5 him or something. I just vaguely remember that. Sorry. 15:05:10

6 Q Okay. Now, we talked about Darryl Honda a
7 little bit. You know Mr. Honda; correct?

8 A Yes, I do, yes.

9 Q Did you know him before he was on the board of
10 appeal? 15:05:21

11 A No, no.

12 Q Has he ever asked you for information about
13 projects, outside of board of appeal meetings, about
14 projects either he's involved in or his real estate
15 clients are involved in? 15:05:42

16 MR. WANG: Objection. Vague.

17 Go ahead.

18 THE WITNESS: No more than anyone else would,
19 Scott. I mean, he might call me about -- may contact me
20 about old permits or what does someone do or these 15:05:52
21 people got a violation or whatever it was. I mean, no
22 different than what I do everyday of the week. So, you
23 know, whoever it is that contacts me. He would have
24 contacted me possibly about that, yes.

25 BY MR. EMBLIDGE: 15:06:11

1 Q Okay. Let's just go to Exhibit 38.

2 A 38?

3 Q 38. It's a 28-page document of Darryl Honda
4 text messages.

5 A Yeah.

15:06:20

6 Q So let me go through some of these with you.
7 If you could start at page 6. Page 6 is Bates stamped
8 968 in the bottom right corner.

9 A Gotcha.

10 Q So there's some text exchanges between you and
11 Mr. Honda where he's asking, "Do you know anything about
12 this property's notices of violation?" And he asks you,
13 "Is it okay if I have a question live?"

15:06:49

14 Is this an exchange that's occurring during the
15 board of appeal meeting?

15:07:08

16 A I don't know. It might be.

17 Q Was that a habit or a pattern of Mr. Honda,
18 that he might text you during a board of appeal meeting
19 about projects that were in front of the board?

20 A No, no, not really, no.

15:07:25

21 Was this -- was this something that was in
22 front of the board?

23 Q It appears to have been on a Wednesday at 5:14,
24 and then he says, "Is it okay if I ask a question live?"

25 And you respond and say, "I hope I can answer

15:07:39

1 it."

2 A Oh, okay.

3 Q And then you say, "We got all the good ones
4 here tonight."

5 So to me that sounds like you guys are talking
6 about a board of appeal meeting.

15:07:43

7 A Yeah, we might have been. You know, I mean, I
8 think it's innocent enough text messages, and, you know,
9 it's -- yeah, it wouldn't be something we would do
10 regularly, no.

15:07:56

11 Q And then at the bottom of that page there's an
12 e-mail from you that says, "WTF. You guys still there?
13 We've been in Soluna for a while."

14 Is that you saying to Mr. Honda, "Hey, you
15 know, get over here. Finish your -- wrap up your
16 meeting"?

15:08:14

17 A Yeah. I mean, sometimes what happens is,
18 Scott, that I would have been finished at the -- DBI's
19 end of things would have been done, and they might have
20 been dealing with urban forestry or who knows what case,
21 you know, that's just dragging on and on and on. And
22 they might have said they were coming over and I might
23 have went over for some food and they didn't show up, so
24 I just wanted to know what was going on, you know, so
25 just -- you know.

15:08:27

15:08:39

1 Q Got it. If you go to the next page, there are
2 a whole series of texts on October 24th and 25th that
3 all seem to relate to the building inspectors golf
4 tournament. Do you see that?

5 A Okay. Yeah.

15:08:59

6 Q So what was your role? This was in 2018. What
7 was your role as far as organizing that tournament, or
8 what did you have to do?

9 A Well, as I said to you before, like, the golf
10 -- the building inspectors annual golf tournament and
11 the Building Inspectors Association golf tournament has
12 probably been going on for 50 years. Actually, I think
13 they just did their 50th year. So my role in the last
14 few years has been -- I usually book the golf course and
15 -- because I actually play over at Harding, and I know
16 the people that run it, and I book -- I book the golf
17 course, and then kind of -- you know, if someone wanted
18 to play in it, they would contact me. But there's other
19 people as well. There's four or five of us involved.

15:09:16

20 It's sort of a subcommittee. So if someone wants to
21 play, they'll contact me. I don't really do much else.
22 I go out and play on it and just sort of, you know, meet
23 and greet people when they show up. And then if
24 someone, like this one here, looks like he wants to
25 play, and he's texting me about it so, yeah.

15:09:30

15:09:47

15:10:02

1 Q Do you -- do you recruit people to play?

2 A I think I said earlier we usually send out an
3 e-mail and they put up some flyers in the department,
4 and if people want to play, they can play. We wouldn't
5 need to recruit people. I mean, it's usually a -- it's
6 just a fun day out with people. It's nothing. You
7 know, it's people just meeting up and having a good day
8 out there and, you know, enjoying their golf and coming
9 in usually -- it's usually over by 6:00, and everybody
10 goes home, you know.

15:10:21

15:10:35

11 Q But it's not like -- I've been involved in
12 nonprofits where we have an annual fundraiser, and my
13 job is to try to recruit ten people to come and donate
14 money. That's not the way it works for you guys?

15 A No. You wouldn't -- you wouldn't have to do
16 that. I mean, what are we, you know, \$200 a player. At
17 Harding that's -- you're going to lose money on that
18 probably, to be honest with you. You're not going to
19 make any money. That's about what it costs, and maybe
20 even more than that. It's not a money making venture.
21 It would never be. Basically we don't -- certainly I'm
22 not involved in it for that. I believe if there is any
23 money made on it, they'll -- we give out the money to
24 charity. We'll donate to charities or whatever, you
25 know. I know that I went back to "Healy" (phonetic) a

15:10:53

15:11:08

15:11:28

1 couple of times, and they give some money to that fund.
2 They do good things. It's a good day. But it's not a
3 big money making event. Like, it's not -- it's not ran
4 like a nonprofit, which I do as well for an organization
5 that I'm in as well where you try to make a lot of
6 money, but that's not the what the building inspector
7 tournament has been about. It's never been about that,
8 to be honest with you. Like, you know, it just -- I
9 wouldn't be a part of it if it was, to be honest with
10 you.

15:11:42

15:11:50

11 Q Does it have sponsors like the RBA tournament
12 where a Realtor or a contractor or an engineer will be a
13 sponsor?

14 A They do have some sponsorships, yeah. I'm not
15 involved in that part of it, but they do have some
16 sponsors. Not that many. Not, like, dozens of signs.
17 You might have somebody that maybe isn't able to play
18 and they want to -- they want to sponsor, you know, put
19 a sign up. They'll do that as well, but there's not a
20 lot of them.

15:12:04

15:12:15

21 Q Could you go to the tenth page of that
22 document, Exhibit 38. It's Bates stamped 972 at the
23 bottom.

24 A Okay.

25 Q So this appears to be more texts about a

15:12:29

1 tournament, a golf tournament. In the middle of the
2 page, there's a text from you that says, "Hi Daryl. I
3 got you Joel Bahman," B-a-h-m-a-n.

4 A Yeah.

5 Q Who is Bahman?

15:12:52

6 A Bahman I think is his -- you know, I think it's
7 a friend of Darryl's, but I know him to be -- he works
8 for -- he comes down to the building department as well.
9 He works for a company, an architect company I think.
10 So I know Bahman from the counter, just coming into DBI.

15:13:09

11 Q Is that SIA Architects?

12 A That's who he works for, yeah, SIA, yeah.

13 Q Okay. Two pages later, please. You'll see a
14 text from you toward the top of the page on November 2,
15 2018. It says -- well, first, the text before that
16 thanks you, and then you respond, "Always Daryl. You're
17 part of the crew."

15:13:32

18 Do you see that?

19 A Yes.

20 Q What did you --

15:13:44

21 MR. WANG: I just want to quickly -- sorry --
22 just advise him to read as much as you need before and
23 after the text so you get the context before you answer
24 questions about it. Sorry. I didn't mean to interrupt.

25 BY MR. EMBLIDGE:

15:13:55

1 Q Yeah. So I'm going to ask you what you meant
2 by that. If you need to read some more of the texts
3 around there to understand what you mean by it, please.

4 A Well, it looks like he was thanking me for a
5 wonderful time, and I just replied, "Yeah. You're part
6 of the crew." I mean, I -- that's a figure of speech
7 with me, Scott. You know, I mean, it's kind of an Irish
8 thing. But I think he plays at it most years and
9 probably what I was meant -- what I meant by that.

15:14:10

10 Is that what you're getting at?

15:14:23

11 Q Yeah. What -- what is the crew, the crew of
12 people -- the crew of people that usually play at the
13 tournament? The crew of something else?

14 A No, it wouldn't be the crew of anything else.
15 It's probably just that he's part of the -- he usually
16 -- he comes out every -- he plays in it -- I think he
17 played in it a few years. Like, you know, it's a figure
18 of speech with me. We don't have -- there's nothing --
19 you know, there's nothing untoward about it. I think
20 you know me well enough to know that. But, yeah, I
21 don't have to explain that as anything other than my
22 terminology probably, you know, so, yeah.

15:14:39

23 Q And then two texts later you sent him an e-mail
24 about The Pearl. Do you see that?

15:14:48

25 A Oh, yeah.

15:15:05

1 Q What's that about?

2 A I think me and him were talking one night, and
3 I was telling him this place was opening up and I saw
4 some -- somebody sent me an e-mail about it. I just let
5 him know that "Hey, there's a -- I see they're
6 advertising." You know, he was mentioning -- must have
7 said something -- he must have been talking to me about
8 that. We were trying to find -- he was trying to find a
9 place for his company's party or something, and I
10 mentioned about The Pearl to him.

15:15:19

15:15:28

11 Q What is The Pearl? I've never heard of it.

12 A It's a venue place down Potrero Hill. So for
13 some reason I was on their e-mail list, and they sent me
14 an e-mail, and I was telling him that I got it. You
15 know, he must have mentioned to me there -- I think what
16 happened was he had less than two days to book
17 somewhere, and he was telling me this one time when I
18 met him, and I said, "Well, let me," you know, so then
19 they sent me this e-mail.

15:15:45

20 Q And then if you could look at the bottom of
21 that page where he sends you a text that says, "hey bro
22 are you coming?"

15:15:58

23 Could you look at those texts and tell me if
24 you recall what that was about?

25 A 12/7/2018, "Hey bro are you coming? We are on

15:16:13

1 the corner of Van Ness and Sutter," okay. Yeah, okay.

2 Q What do you recall him asking you?

3 A I think he wanted me to go to a luncheon or
4 something like that that I didn't really want to go to,
5 and, you know, I just -- I don't -- you know, to be 15:16:39
6 honest you, like, you know, you're so busy down there at
7 DBI. I don't -- I think it's -- I think it looks like
8 it was around Christmastime. He might have invited me
9 to a Christmas luncheon, so. I didn't go.

10 Q And he says, "Send my apologies" -- or you say, 15:16:54
11 "Send my apologies to Bahman and Reza," R-e-z-a.

12 A Yeah.

13 Q Reza is another person associated with SIA?

14 A He is, yes. That's right, yeah.

15 Q Is he -- is he the owner? 15:17:04

16 A I don't know. He's a guy that comes out. I've
17 met him before at DBI. I've met him over projects as
18 well, so, you know.

19 Q All right. How about the next text about --
20 it's from Darryl. He says, "are you in the office?" 15:17:18
21 And I think it's supposed to say "B&K," B, ampersand, K
22 Electrical?

23 A Yeah.

24 Q So is that him inviting you to their Christmas
25 party? 15:17:34

1 A It appears to be, yes, it appears to be, yeah.

2 Q Do you remember anything about that, whether
3 you went?

4 A No, I wouldn't have been -- I wouldn't have
5 went to that. You know, it wouldn't be something that I 15:17:45
6 would be at. You know, you get a lot of invites from
7 people to go to things, but I'm not rude or anything. I
8 just -- lunchtime for me is kind of like my time for
9 getting my stuff done or going somewhere. I don't
10 really -- I mean, luncheons are -- these types of things 15:18:02
11 aren't for me. I don't really -- I don't think I've
12 gone to a Christmas -- anybody's Christmas party or
13 lunch apart from anything that I would be with friends,
14 you know, so, and I don't know anybody at B&K
15 Electrical. And, you know, again, the text above it, 15:18:18
16 I'm probably just being nice to him, but, you know, I
17 would never have any intention of going to that, to be
18 honest with you. It's just not something I'm interested
19 in.

20 Q That's why I'm not a very good businessman, 15:18:29
21 because I don't go to those things either.

22 A Too much food and take up too much of your day,
23 you know.

24 MR. WANG: That's why I left private practice.

25 MR. EMBLIDGE: There you go. 15:18:41

1 BY MR. EMBLIDGE:

2 Q If the look at the next one, there's a series
3 of e-mails on January 10, 2019.

4 A Which one are we on now?

5 Q It is on page 13, two-thirds of the way down.

15:18:54

6 A Are you still on the Number 38?

7 Q 978.

8 A Oh, 978.

9 Q No, no, no. I'm sorry. 975, 975, at the
10 bottom.

15:19:10

11 A 975.

12 Q So it's right after the B&K Electrical one.

13 A Oh, okay.

14 Q And you see it -- there's a series of texts
15 that start on January 10, 2019?

15:19:22

16 A Yes, yes.

17 Q First one is from you. It says, "Hi Daryl. If
18 those guys at Myra," Capital M-y-r-a, "can come to meet
19 me or Pat at DBI it may help."

20 And then there are some more follow-on texts.
21 Could you look at those and tell me if you remember what
22 that was about?

15:19:37

23 A Yeah. This is one I was involved in one -- I
24 think it was 571 Myra Way. It might have been at the
25 board of appeals as well. These guys got into trouble

15:20:06

1 up there with excavation and -- excavation and concrete,
2 and it ended up -- the neighbor -- the neighbor was a
3 really nice guy, and he just really wanted sort of me to
4 hold, get these guys to come to the table. I think they
5 were hiding. Like, I think were sort of, like, 15:20:26
6 reluctant to -- to, you know, they were afraid or
7 something. I don't know. But it a matter of getting
8 them together and trying to get them to get their
9 differences sorted out. So I think what we wanted to do
10 was get them down to DBI to meet Pat O'Riordan and 15:20:38
11 myself just to get a meeting going to say, "Hey, these
12 are the issues. You need to go and talk to this
13 neighbor. You need to get a bit of trust going."

14 So I do really working really hard on 571 Myra
15 Way to make -- you know, to get things under control 15:20:47
16 with the neighbor. I think the neighbor was very
17 appreciative of the help that he got from DBI on that
18 one, you know. So it looks like I was asking him, you
19 know, to come down, and we would probably explain to
20 them what was going on, and then I was meeting with a 15:21:05
21 neighbor. And, you know, again, it wasn't that big of a
22 deal, but the more they hid, the more the neighbor was
23 suspicious, you know, and he just -- he wanted just,
24 like, surveys and monitoring and stuff like that that
25 they should have done anyway. So I think that's what it 15:21:20

1 was about.

2 Q Who were the guys at Myra? Who were the
3 project --

4 A I can't remember, I can't remember, I can't
5 remember. An Asian contractor, Asian owner, you know.
6 Not that good, to be honest with you. Like, they were
7 sloppy,/ you know, just project went really bad. The
8 neighbors -- annoyed everybody up the street. You know,
9 it was held up forever. You know, it took a lot to get
10 it back on track again. Planning, building, a whole new
11 permit, I think, yeah.

15:21:33

15:21:52

12 Q What was your understanding of why Darryl Honda
13 was involved in this?

14 A I have no idea, no idea. He must have known
15 them or something, I guess, you know, so.

15:22:06

16 Q So it says that you wanted to get this sorted
17 out, and Darryl responds on the next page, "Otherwise it
18 will turn into a hot mess."

19 Did it get sorted out?

20 A Yeah, it did. It -- well, you know, I'll take
21 that back. It got sorted out to the point that after
22 the appeal I think I said that I would get involved, and
23 the neighbor definitely wanted me in it involved
24 because, you know, at DBI you're dealing with a district
25 inspector. You're not really -- you know, maybe he's

15:22:19

15:22:32

1 getting a bit of a -- he's just not getting any
2 consistency there with one person. He just needed a bit
3 of, sort of, eyes on it, sort of put everything right.

4 And what I remember about it -- I don't know if they're
5 finished yet, but I know they had to get a proper permit

15:22:49

6 and get things in order, and we were holding their feet
7 to the fire. The unit's -- Daniel Helminiak was the

8 inspector. Just had to bring him up to speed with
9 everything. But I think they did get it sorted out. I

10 wasn't -- once it got going and things got good again

15:23:00

11 and the neighbor was happy, I think it was fine. There
12 was one area at the back where they dug down, and yeah.

13 But I don't know why he was texting me about it. Who
14 knows. You know, he might have known them or something
15 like that, you know, so.

15:23:17

16 Q Okay. Could you go to the next page. It's
17 numbered 977 at the bottom.

18 A Yeah.

19 Q About four texts up from the bottom, there
20 starts a series of texts about 1030 Baker Street.

15:23:29

21 A Yeah, I see that, yeah.

22 Q Could you look at those and then go on to the
23 next page and tell me if you recall what that was about.

24 A I think what happened with that is a bit like
25 what happened earlier. Duffy's name was on the

15:23:54

1 complaint, and he contacted me, and I said it was Donal
2 Duffy that was handling it, and then that was it. I
3 think -- I just said, "Hey, it's not me," you know. He
4 must have saw my name on it and thought it was me or
5 somebody thought it was me, so.

15:24:15

6 Q Okay. On the next page there, the third -- the
7 third text says, "Hey Joe thank you Donald," which I
8 assume is supposed to be Donal, "called me he said he is
9 going to write the note," probably that's supposed to be
10 notice of violation, "I'm here at the property with Reza
11 and Bahman and he said everything is permitted and is
12 OK."

15:24:32

13 Do you remember anything about this project or
14 whether there was an NOV?

15 A It says that he's writing a notice of violation
16 and "I'm here at the property with Reza and Bahman. He
17 said everything is permitted and" -- I don't know who
18 said that. But, no, I think it got mixed up between me
19 and Donal, and I just said he's handling it. So I'm not
20 sure, you know. I wasn't involved in it. I was never
21 out there. Don't know. I stayed a -- stayed away from
22 it, you know. So I don't know anything about it apart
23 from he probably got me mixed up with Donal, you know.

15:24:49

15:25:07

24 Q All right. A couple pages later, on the page
25 that is Bates stamped 980, halfway down are some texts

15:25:37

1 relating to 517 to 521 4th Avenue.

2 A Okay.

3 Q Do you remember looking into that project for
4 Mr. Honda?

5 MR. WANG: Objection. Assumes facts. 15:25:59

6 Go ahead.

7 THE WITNESS: Probably another one that he was
8 dealing with. I think -- I think this one had elderly
9 owners and it had expired permits or something going on
10 with, you know, older permits, a load of expired 15:26:21

11 permits. They needed to get some advice on -- someone
12 they needed to give them advice on what to do. You
13 know, renew them all, get all the records, renew the
14 permits, get us back out there. It's probably -- I
15 think that that's what that was about. 15:26:33

16 BY MR. EMBLIDGE:

17 Q Was that something that the board of appeal or
18 just something where Darryl knew the people?

19 A Yeah. I think he -- you know, being in that
20 real estate business, I guess he does come across 15:26:45
21 people. You know what I mean. If a building is going
22 to get sold, as you know, you know, I mean, you've got
23 to get the permits cleaned up. So a lot of people
24 contact us about that. He contacts me about it. So, I
25 mean, it's just it's standard advice that could be given 15:26:56

1 to anybody. I think that's what that was about anyway,
2 you know. Again, I never went to the property. It
3 would have been just something, "Hey, let me look it up
4 in the computer and see what needs to be done." If the
5 permits were expired, you'd say, "Hey, this is what 15:27:11
6 they've got to do. They've got to get all these permits
7 renewed and final inspection." And if there's stuff
8 found, they're going to have to fix it. You know, get
9 copies of the plans. It's a nightmare, like, because
10 it's a lot of work for -- and it might have been 15:27:21
11 somebody old. I don't know. I remember him telling me
12 something about this one.

13 Q You see the next text. It's from you to him.
14 It says, "thank you for the back up with that case on
15 the public comment." 15:27:36

16 Do you remember what that was about?

17 A No, no, no. But I probably -- maybe DBI were
18 getting slammed or something like that or maybe I was
19 getting a bit of heat. He may have said something nice
20 about me so -- which is always appreciated. 15:27:58

21 Q Do the other commissioners text you during
22 board of appeal meetings?

23 A I -- no, I don't think so, not really, no, no.
24 Who else is on -- well, they've all got my number.
25 Like, I mean, you know. Do they text me during 15:28:18

1 meetings, probably not. But they all -- most of them
2 all have my number. Yeah, they've all got my number,
3 pretty much. Rick Swig has my number, Frank Fung has my
4 number, all those people. Yeah, I don't think they text
5 me during meetings, like, you know.

15:28:31

6 Q Okay. On the next page, that's marked 981,
7 there's some more back and forth it looks like about
8 this 4th Avenue project.

9 A Okay.

10 Q Could you look at the first three or four texts
11 there, please.

15:28:44

12 A (Appears to comply.)

13 Q So is this relating to the one we were talking
14 about that had an elderly --

15 A Yeah, yeah. I think I could tell you what's
16 that about. Is that what you want to ask me?

15:29:12

17 Q Yes, please.

18 A Yeah. You know, again, these are -- what
19 happens is, like, when you get these buildings in
20 San Francisco, people get permits over the years. The
21 permits expire. We might have had some notes that there
22 was corrections needed. Nothing ever got finished. The
23 people move in. They're living away. You know, then
24 the people might die. Their kids take it over. They
25 want to refinance. And then suddenly somebody in a

15:29:23

15:29:36

1 title company says, "Hey, all your permits are expired."

2 And we may not have been out there in ten or
3 15 years, and when you look things up and you see that
4 there's a lot of work going to be needed because first
5 off, you've got to -- you've got to get all the plans

15:29:53

6 ordered. You've got to get all your job cards, which
7 are probably lost. We've got to get into our -- get all
8 your inspection records. You've then got to get someone
9 to renew all your permits. Then you're looking at the
10 electrical permits, the plumbing permits, the DPW
11 permits. We want all of that to be done, you know.

15:30:04

12 So someone is going -- you're going to get
13 somebody to do it, it's going to be cost you a lot.
14 It's just going to be expensive because there's a lot of
15 speed work. And like I said earlier on, I mean, if
16 you're going to do this, it can be -- if you've got the
17 money and the time to do it and you've got the energy
18 and you want to keep coming down to DBI, good luck to
19 you. But you might want to hire someone. So I think
20 that's what that means, you know.

15:30:20

15:30:35

21 Q And so that's why you recommended Amy Lee?

22 A Well, you know, I think -- I've seen that on
23 the thing there. I'm not really a person that
24 recommends people, to be honest with you, although I
25 could recommend people. But I think he used her before

15:30:45

1 one time for something similar on a different one. So
2 it may be just coming back to the same one. She does
3 that sort of stuff. She had definitely been involved in
4 something that had multiple permits, and she knows kind
5 of what needs to be done, you know. But, hey, there's
6 ten or 20 people that I could have given a name for, you
7 know.

15:31:03

8 I'm not big into recommending people, to be
9 honest with you, Scott, so I don't even know -- realize
10 that I'd done that. But, yeah, I mean, that's probably
11 -- I think -- I think he used her before on something
12 similar, on another one. We always come across this all
13 the time, you know. We really do. Many a times a
14 Realtor will stand in front of me and tell me escrow is
15 closing at 4:00, and it's ten minutes to 4:00, and they
16 need to get their 3R report fixed, and you're going,
17 "It's going to take a lot more than ten minutes to get
18 this done. It might take ten months," you know. So
19 that's kind of that. That's what that scenario is.

15:31:14

15:31:26

20 Q Okay. Let's go to page 983. You'll see some
21 more texts about golfing.

15:31:41

22 A Yeah, okay.

23 Q At the bottom of that page there's a text from
24 you that says, "Think you are out with leo mc fadden."

25 A Okay.

15:32:14

1 Q Who is Leo McFadden?

2 A Leo McFadden used to work at DBI many, many
3 years ago.

4 Q What's your understanding of the circumstances
5 under which he left DBI?

15:32:27

6 A Yeah, he got mixed up in something over a
7 property. I guess he had to leave.

8 Q Do you remember what he got mixed up in?

9 A I didn't know the details of it, no. I stayed
10 out of it. Pretty unfortunate to lose your job with the
11 city. But I don't know the details, no.

15:32:42

12 Q What does he do now?

13 A I think he's back doing -- I think he's a
14 contractor. I do see him down -- he used to come down
15 to the office, although, again, I haven't seen him in a
16 long, long time. Maybe two years. But, yeah, he went
17 back to work doing construction again. And what happens
18 there is, so if he was -- like if this guy signed off on
19 his own and Darryl was looking to play on his own,
20 you're going to put the two of them together because you
21 can only put four people in a group. So if you've got
22 three and one or one and one or something like that,
23 you'll put somebody with him. So he must have been --
24 he must have been signed up on his own, you know, so.

15:32:54

15:33:09

25 Q Okay. Now please go to 987. In the middle of

15:33:24

1 the page, there's a page from you to Mr. Honda saying,
2 "Man. I need to own that building. Can you imagine the
3 monthly income. Crazy Stuff."

4 Can you just look at those and tell me if you
5 recall what you were texting with Mr. Honda about and
6 whether this was during a board of appeal meeting.
7 Excuse me.

15:33:47

8 A It might have been. I might have been making a
9 joke about somebody, you know, had a building just, and,
10 you know, it's probably sitting empty or something like
11 that and there's something going on with it. I don't
12 know what it's about. I have no idea. But probably
13 sharing a joke about something, but, yeah. It looks
14 like it's a comment to me, but, you know, so.

15:34:06

15 Q Okay. Then next page, 988, four texts up from
16 the bottom on May 15, 2020, you text him and say, "I can
17 look it up at work and let you know what is needed to be
18 done."

15:34:22

19 Can you tell from any of these texts what
20 that's about?

15:34:46

21 A It's just another query about, you know,
22 similar to the other ones. Sort of, like, getting
23 contacted. Question being asked to me about a permit on
24 a property and I look it up and let you know what needs
25 to be done. Again, probably, knowing Darryl, it was old

15:35:13

1 permits, renew them, get a final, get your inspector out
2 there, get it sorted. Probably what it is. You see
3 lower down he's asking me about job cards, what happens
4 if you lose your job card. So I don't know. Something
5 -- probably something to do with permits.

15:35:30

6 Q Basically you're helping him help his real
7 estate clients get these things resolved?

8 A Well, you're helping a customer. You know, I
9 mean, it doesn't matter who calls me, Scott. I mean,
10 they're going to get the same information they'll get
11 sitting in front of me at DBI if they text me or
12 whatever, you know. So I think that's the way I -- you
13 know, I am and just, you know, I can turn around and
14 tell him to get lost and come down to DBI in the
15 morning. But, you know, something that you know off the
16 tip of your tongue, "Renew a permit, what do I do?"
17 It's easy to tell him to tell anybody, but anybody that
18 would contact me would get the same information, you
19 know. This is the process. This is what you do, so,
20 you know.

15:35:39

15:35:55

15:36:05

21 Q Next page and then we're done with -- thank
22 goodness, with this document. There are a series of
23 e-mail exchanges on June 3, 2020. It starts with you
24 saying to Darryl Honda, "You guys should bring these
25 contractors in who did the damage."

15:36:24

1 Do you recall what that was about?

2 A Yeah. It probably was a case at the board of
3 appeals, you know. I'm not sure. I don't know what
4 that's about. But obviously I was planning it to say
5 that -- these are real recent too, you know, so.

15:36:46

6 Q I mean, I get the, "Still only on the 2nd
7 case," at 7:25 p.m.

8 A Yeah, yeah, yeah, yeah, yeah. There you go.
9 Yeah, yeah. Yeah, maybe I was just letting him know
10 that, you know, sometimes in these cases, you know, I
11 mean, what happens is, you know, when something is
12 really bad up there and you're sit -- you want -- you
13 know at the board appeals some of those cases that
14 people don't want to go there, but sometimes the board
15 should be asking them to come in because these
16 contractors are pretty bad, I think. I think this may
17 have been a tree case where there were -- somebody
18 ripped out trees or something like that, and I said,
19 "Hey, you know, if you're going to be" -- they always
20 talk about how upset they are, but the people are never
21 in front of them that actually did the -- caused the
22 problem, like, so they're -- obviously saying, like,
23 voicing my opinion. Maybe we should see the contractors
24 there to get them a little bit of -- you know, get them
25 called out at the board of appeals, so to speak, you

15:37:04

15:37:21

15:37:33

15:37:50

1 know. Not in a bad way. But a lot of these guys are --
2 if I want somebody to stop something, maybe that's the
3 forum you bring them to, you know, so.

4 Q How would you describe your relationship with
5 Ed Sweeney?

15:38:06

6 A Okay. Well, he worked at DBI around the same
7 number of years that I did. I'm still there. He's gone
8 now. He's retired. But we would have -- we would have
9 -- we worked together on and off over the years, but
10 just I'd consider him somebody that I worked with.

15:38:27

11 Q Do you consider him a friend --

12 A No.

13 Q -- as opposed to a colleague? Okay.

14 A No. He's more -- he was a work colleague,
15 somebody I worked with at DBI.

15:38:40

16 Q At some point in your career did you report to
17 him?

18 A I probably did, yes. I think he might have
19 been my senior for a while way back in the early days of
20 '03, '04. For a little while he was my senior
21 inspector. That -- then he went -- you know what, with
22 one things and another I became a senior and he was a
23 senior, I think, and then he went down to work at plan
24 check, so I wouldn't have been around him when he was
25 working for plan check, and then -- yeah, that was about

15:38:56

15:39:14

1 it. Then he was deputy director of inspections, but I
2 didn't report to him directly.

3 Q Have you ever heard of a group of building
4 inspectors as being described as being part of
5 (connection failure) crew? 15:39:38

6 A I missed you there. Sorry.

7 Q Have you ever -- have you ever heard a group of
8 building inspectors being described as a part of Ed's
9 crew?

10 A No, no. 15:39:46

11 Q Have you ever heard at DBI that if you are
12 closely associated with Ed Sweeney you're more likely to
13 get promoted quickly?

14 A I haven't heard that, no. I mean, you know,
15 Chris Schroeder -- Schroeder was -- Chris -- Chris and 15:40:19
16 him, you know, didn't get along. I have to say that.
17 And that's -- you know, I mean, did I hear him say that,
18 I can't remember if Chris said that. But it sounds like
19 something that he might have said. But he would have
20 been -- you know, he was -- they obviously were -- they 15:40:32
21 didn't -- you know, they didn't hit it off. But I never
22 -- I don't know. I mean, I've been down there a lot of
23 years. I come in. I work now. I -- now I'm doing two
24 jobs down there. I don't get caught up in all that
25 stuff, no. 15:40:48

1 Q Did you ever hear people say that Cyril Yu,
2 Y-u, was promoted quickly because of his relationship
3 with Mr. Sweeney?

4 A No, I never heard that.

5 Q Did you ever hear people say that
6 Mr. Hernandez, Mauricio Hernandez, was promoted quickly
7 because of his relationship with Mr. Sweeney?

15:41:02

8 A No, I didn't, no, no.

9 Q Have you ever socialized with Mr. Sweeney
10 outside of DBI?

15:41:17

11 A He would have been at the golf tournaments, but
12 that's about it. I wouldn't have socialized with Ed
13 Sweeney, no.

14 Q Does Cyril Yu still work at DBI?

15 A I just heard recently that he left, but I don't
16 know for sure on that, Scott. I don't know.

15:41:33

17 Q Did you ever work with Raymond Berrios,
18 B-e-r-r-i-o-s?

19 A Yes, I know Raymond, yes, yes.

20 Q What was he -- what was your working
21 relationship with him?

15:41:45

22 A I don't think I ever supervised him. I think I
23 worked with him as an inspector when I was a building
24 inspector. We sat close to each other at DBI, and I
25 would have known him just from -- nice guy working down.

15:42:01

1 He would have -- he actually would have been the one
2 that called me that night on Crown Terrace because he
3 was the on-call inspector. But I worked with Raymond
4 for many, many, years, yeah, yeah.

5 Q Did you have an understanding as to why he left 15:42:13
6 DBI?

7 A Why he left DBI?

8 Q Yes.

9 A Well, he died, you know, very unfortunately,
10 and I don't know if he had left DBI before he died. I 15:42:25
11 can't remember. But it was really sad and unfortunate
12 that he passed away.

13 Q Did you have an understanding of why he was
14 transferred out of the building inspection division?

15 MR. WANG: Objection. Assumes facts. 15:42:41

16 THE WITNESS: No.

17 BY MR. EMBLIDGE:

18 Q How would you describe your relationship
19 with Mauricio Hernandez?

20 A Well, I work with Mauricio everyday pretty 15:42:48
21 much. Well, you know, we work -- we work together.
22 But, yeah, I have a good professional relationship with
23 him.

24 Q Have you ever reported to him?

25 A No. 15:43:04

1 Q I guess at this point in time he reports to
2 you; is that correct?

3 A For the last three months or four months, yeah,
4 from when I took over the acting deputy director, yes.

5 Q Have you ever socialized with Mr. Hernandez 15:43:17
6 outside of the office?

7 A No.

8 Q I ask you that already. Have you ever heard it
9 said that if you get on Mr. Sweeney's bad side as a
10 contractor or project sponsor that you're going to get 15:43:47
11 unfavorable treatment at DBI?

12 A I haven't heard that said, no.

13 Q Have you heard that said about Mr. Hernandez?

14 A No.

15 Q Have you heard it said that if you're a member 15:44:04
16 of the RBA you'll get favorable treatment at the DBI?

17 A No, I haven't heard that, no.

18 Q Okay. So this lawsuit is in part about a
19 project at 3426 to 3432 22nd Street, which I referred to
20 earlier as the Six Dogs project. Are you aware of that? 15:44:41

21 A Yes, I am aware of it now, yes.

22 Q So I know you have -- since -- since the board
23 of appeal hearing I know you've had involvement with
24 this project, but before the board of appeal hearing
25 what involvement did you have, if any, with this 15:44:56

1 project?

2 A Before the appeal was filed or before the
3 hearing?

4 Q Before the appeal was filed, did you have any
5 involvement with the Six Dogs project?

15:45:10

6 A No, no.

7 Q Okay. So then when the appeal was filed. What
8 did you do to learn about the project and prepare for
9 the board of appeal hearing?

10 A Well, I would have done what I normally do. As
11 I said earlier in the appeals, you know, you read the
12 brief. You know it's coming up, and you're -- you're
13 going to speak to -- I spoke with Ed Sweeney. I spoke
14 to Mauricio Hernandez. I'm sure I had a meeting with
15 them about it. I can't remember exactly, but I would
16 have got some of the facts as to why -- what was going
17 on, and, you know, I knew the project was -- what had
18 happened and, you know, getting -- got the permits
19 revoked. I know you're repealing your revocation. I'm
20 not sure if you were in touch with me, but somebody,
21 maybe from the permit order site might have been in
22 touch. But just get myself onboard with the facts in
23 the case and what I'm going to be speaking about on
24 behalf of the department.

15:45:24

15:45:41

15:45:55

25 Q Who did you talk to other than Mr. Sweeney and

15:46:09

1 Mr. Hernandez to understand the facts of the case before
2 the board of appeal meeting?

3 A Probably only them. Patrick O'Riordan would
4 have been my boss, but I don't think he was involved
5 that much in this one, and I think I only spoke to them 15:46:26
6 about it. I can't remember whether Director Hui spoke
7 to me. I don't think he did. Yeah, that would have
8 been it, I'd say.

9 Q What do you recall about your discussions with
10 Mr. Sweeney regarding the Six Dogs project? 15:46:44

11 A I think I said at the hearing, from what I
12 remember, Scott, is that he was adamant that, you know,
13 it was a stop-work order. I guess it was a site visit.
14 It was a stop-work order. They kept working. They were
15 in a meeting I guess with Buscovich at DBI, and it 15:47:09
16 didn't look like we were going to get any resolution,
17 and therefore he felt that he was -- it was within his
18 rights to revoke the permits, I guess. That was the
19 crux of what I was being, you know -- being told anyway.

20 Then, as you know, Mauricio Hernandez came to the 15:47:29
21 hearing with me because he had really been directly
22 involved in it. It was a pretty -- you know, I'd say
23 it's a high-profile case, you know, that yourself, we
24 all do. And, you know, that's what I would have -- I
25 would have been -- I would have only been defending what 15:47:42

1 they -- what I was being told by Mr. Sweeney and
2 Mr. Hernandez.

3 Q You would only be defending "what," I'm sorry?

4 A Whatever the department's actions were, you
5 know, I would be explaining why they took the actions
6 and asking them why they took the actions. So, you
7 know, we would have -- I think I portrayed that at the
8 hearing.

15:47:54

9 Q Can you recall any instance that you're aware
10 of where notices of violation were issued about a
11 project and within five or six days later the department
12 decided to revoke the permits?

15:48:08

13 A I don't remember any personally, no.

14 Q You said Mr. Sweeney told you that work
15 continued at the project site?

15:48:33

16 A I believe so, yeah, yeah, yeah. That's what I
17 was told.

18 Q Do you recall any specifics about what kind of
19 work supposedly was continued -- continuing?

20 A I believe, you know, Inspector -- Chief
21 Inspector Hernandez -- this is going off memory here.
22 So I think what my recollection was that he had went out
23 there, and whenever he went back, despite being told to
24 stop, there was additional work that had been performed
25 after the inspector visit. That's just me going off

15:48:45

15:49:05

1 memory here today. I don't have anything in front of
2 me, but I can remember that.

3 Q But do you recall anything about what kind of
4 work supposedly had continued to go on?

5 A No, no, no, no, I don't. I may mention there
6 was a thing about the meeting with Buscovich in the
7 office that went bad or didn't work out that well, I
8 guess, and at that point they decided to revoke the
9 permits.

15:49:19

10 Q Have you ever been involved in a case where
11 you've decided or your superiors have told you that they
12 decided to revoke the permits because they didn't feel
13 like the project engineer was being cooperative?

15:49:33

14 A Me?

15 Q Yeah.

15:49:51

16 A I haven't been, no, no.

17 Q How many meetings did you have with Mr. Sweeney
18 about the Six Dogs project before it was presented at
19 the board of appeal, approximately?

20 A I probably had one or two at the most, one or
21 two.

15:50:04

22 Q What about Mr. Hernandez, how many meetings did
23 you have with him before the board of appeal hearing?

24 A Again, probably just same, one or two meetings.

25 Q Based on what you know about this project and

15:50:23

1 what Mr. Sweeney and Mr. Hernandez told you, if this had
2 been a project under your supervision or review, would
3 you have revoked the permits?

4 A I wouldn't have the authority at that time to
5 revoke the permits because I was a senior building 15:50:49
6 inspector. I wouldn't have been a chief, you know, so
7 it's hard to know. I'd need to -- I'd need to look at
8 it more closely, and maybe if I was looking at it today
9 it would be better but not -- at that time I wouldn't
10 have been involved in it, Scott. But I don't -- I know 15:51:07
11 what you're asking me. Yeah, I didn't make the
12 decision, and I'm not sure if I would have made the same
13 decision or not. I can't answer that, to be honest with
14 you. I don't know one way or the other. I would like
15 to -- you know, I said it earlier. Like, I mean, I said 15:51:22
16 for me down there, you're -- what they did, that was
17 their decision, so.

18 Q Yeah. No, I get that. But first of all, you
19 said you were just a senior so you couldn't have revoked
20 the permits, but Mr. Hernandez was just a senior, and he 15:51:41
21 revoked the permits.

22 A No, he was a chief. I think he was a chief at
23 code enforcement.

24 Q Okay. So you believe at that time that he was
25 -- he had the authority to revoke? 15:51:55

1 A Well, if he was the chief. I believe he was
2 the chief inspector at that time in code enforcement.
3 He has been the chief inspector in code enforcement for
4 probably two or three years now, I would imagine.

5 Q Okay. But I'm going to press you on this, Joe,
6 because you looked into the project, you talked to
7 Mr. Sweeney, you talked to Mr. Hernandez to learn enough
8 so that you could make a presentation to the board of
9 appeal. I've got to believe you knew enough about the
10 project to reach a conclusion as to whether, had you
11 been in charge, you would have recommended revocation.

12 A So I wasn't --

13 Sorry, Ed.

14 Q So can't you just give me a straight answer to
15 that one? Would you -- if you were in their shoes,
16 would you have revoked these permits?

17 A I don't know. I really -- you know, you're
18 talking about an action that was taken by someone two
19 levels above me. I'm just not going to -- you know, I'm
20 not -- that's -- that's their call. That's their
21 decision, you know, and I don't think I'm going to go
22 there to say whether I would have done it or not. I
23 mean, I wasn't involved in the discussion. I don't know
24 how it went. The meeting -- if you get a meeting and
25 someone's saying they're not going to comply or

1 whatever, I don't know what forced them to do that. I
2 mean, I -- I just -- the thing about -- I mean, you're
3 talking about personalities here really, you know, more
4 than that, and I know my personality, and I'm definitely
5 open to meetings, have people come in, talk to them. I
6 haven't had too many people run out of the office. I
7 mean, there's some people that get very upset. Some
8 people shout at me. Some people cry. Some people --
9 we've had -- somebody will bring you a box of tissues in
10 the office for people when you tell them what's ahead of
11 them. But I don't know if I would revoke them or not.
12 I just don't know that answer to that. Sorry.

15:53:32

15:53:46

13 Q Okay. Well, I've got to follow through on
14 this. You said, you know, you're talking about somebody
15 that was two levels above you, but you're in that
16 position now, so you have to make these kind of judgment
17 calls now. And based on what you know about this
18 project, come on, would you have revoked the permits?

15:54:00

19 MR. WANG: Objection. Incomplete hypothetical.
20 Go ahead, Joe.

15:54:18

21 THE WITNESS: I'm not dealing with it today,
22 you know. So I would look at it. I would look -- I may
23 or may not. I don't know, I don't know.

24 BY MR. EMBLIDGE:

25 Q As far as somebody refusing to comply, in all

15:54:27

1 your dealings with Mr. Buscovich over many, many, many
2 years, have you ever known him to say, "I don't care
3 what you say. I don't care what DBI says. I'm not
4 going to comply"?

5 A I've had a lot of arguments with Pat or 15:54:45
6 discussions and good -- good conversations, and
7 sometimes they turn into disagreements. But no, he's a
8 -- I've always -- I've always worked with Pat Buscovich
9 on a lot of things, and we do disagree. I mean, I -- he
10 considers himself a code expert, and Pat will tell you 15:54:59
11 something one week where it's okay and then the next
12 week he'll try to tell you it's not, and not in a bad
13 way, but just because he's paid by someone to be a
14 consultant. And, you know, you go back and forth with
15 people. But, you know, at the end of the day you work 15:55:16
16 with him and you work it out, and that's what -- you
17 know, I've vibed on Pat with that for years, so.

18 Q Right. You've been able to work it out.
19 You've never had a situation where -- I mean, God knows
20 I've had a million arguments with Pat Buscovich. But 15:55:30
21 you've never had a situation with him where he's just
22 said, "No, I'm not going to comply with what you say,
23 Mr. Duffy"?

24 A I never -- we weren't -- I don't think I've
25 ever been involved with Pat Buscovich on the revocation 15:55:50

1 of a permit, you know, so.

2 Q Yeah, but this was before the permits were
3 revoked. Right. This was a -- my understanding of what
4 you're telling me is that Mr. Sweeney and Mr. Hernandez
5 told you that they had a discussion or discussions with 15:56:03
6 Mr. Buscovich, and that because he told them he wasn't
7 going to comply with their direction, they revoked the
8 permits. And my question to you is, have you -- in all
9 your experience with Mr. Buscovich, have you ever had
10 that kind of situation? 15:56:23

11 A No, no.

12 (Exhibit 56 is introduced.)

13 BY MR. EMBLIDGE:

14 Q So after -- oh, hang on a second. Could you
15 look at Exhibit 56, please. Exhibit 56 is a one-page 15:56:32
16 document Bates stamped 3588. It's an e-mail from
17 Mr. Sweeney to William Strawn, S-t-r-a-w-n.

18 A Sorry. Give me a second.

19 Q Yeah, sure.

20 A Here I go, yeah. 15:57:15

21 Q Okay. Do you remember this e-mail exchange?

22 A No. I see my name. I was copied on it, but I
23 wasn't -- I don't think I was -- I don't remember it,
24 no.

25 Q Do you remember meeting with Mr. Sweeney, 15:57:31

1 Mr. Strawn, Mr. Hui, Mr. McCarthy, or Mr. Hernandez
2 about the article that Joe Eskenazi wrote in the Mission
3 Local?

4 And I'll give you those spellings later.

5 A No, I don't think I was in a meeting about
6 that.

15:57:52

7 Q Okay. So after the board of appeals decision
8 in the Six Dogs matter, you've been involved in
9 following -- follow-up; is that fair to say?

10 A Yes, yes, yes.

15:58:06

11 Q And who have you been working with on behalf of
12 Six Dogs?

13 A So after the hearing Patrick O'Riordan, chief
14 building inspector, brought it up with me that I'd done
15 the -- I'd done the board of appeals. And, again, just
16 I don't know, 20-something years down there. I like to
17 get things done, so I volunteered, and I actually
18 offered to get involved in it. I think at that time I
19 would have met with Deborah Holley would have been the
20 main one. Stephen Sutro, the architect. Maybe someone
21 else from his office. I met Pat Buscovich out there.
22 Matthew Ralls from DBI. But you said from Six Dogs. I
23 don't know -- I haven't dealt with anybody from -- you
24 know, Mr. Richards or Ms. Swann, but, you know, I've
25 dealt with people that represent them.

15:58:22

15:58:41

15:59:01

1 Q Have you had any problems or issues with
2 Deborah Holley's work in trying to get new permits
3 issued?

4 A No, not at all.

5 Q Have you had any problems or issues with Sutro
6 Architect's work in trying to get new permits issued?

15:59:14

7 A No. We had a couple of meetings out there.
8 The drawings were -- I had to get the drawings done, get
9 them right, and then we met them -- I met them out there
10 afterwards as well with planning staff maybe at one site
11 visit. So just meetings to get the drawings. But no --
12 they've been responsive and, you know, in my limited --
13 my capacity.

15:59:23

14 Q And has Mr. Buscovich been uncooperative with
15 you in trying to clear up these permits?

15:59:39

16 A No. I haven't really been dealing with him on
17 the permits. I think we had structural work and some of
18 the stuff that needed to be done. I only met him out
19 there maybe once or twice. Definitely once, maybe
20 twice. But he has been -- you know, he was there and I
21 met him and, yeah. I haven't spoken to him about it in
22 a long, long time. Deborah Holley follows up with me on
23 it now and again. I think we had something maybe a week
24 or two ago just to see where it was and, you know. It's
25 good.

15:59:55

16:00:12

1 Q Okay. I think I'm finished, but give me a
2 five-minute break, and I'll see if I have any last
3 questions for you.

4 A Thank you.

5 THE VIDEOGRAPHER: We're going off the record
6 at 3:59.

16:00:19

7 (A brief recess was taken.)

8 THE INTERPRETER: We're back on the record at
9 4:05.

10 MR. EMBLIDGE: Thank you, Joe. I know you are
11 incredibly busy, and I've taken up a whole day of your
12 time. I appreciate it. And I have no further
13 questions.

16:06:31

14 THE WITNESS: Thank you, Scott. No problem at
15 all. Thank you.

16:06:42

16 MR. WANG: Nothing for me.

17 THE VIDEOGRAPHER: This concludes today's
18 deposition. The time is 4:06.

19 (Whereupon, the deposition was concluded at
20 4:06 p.m.)

21

22

23

JOE DUFFY

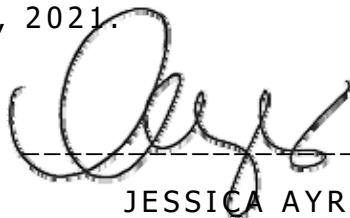
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25

1 I do hereby certify that the witness in the
2 foregoing deposition was by me duly sworn to testify the
3 truth, the whole truth, and nothing but the truth in the
4 within-entitled cause; that said deposition was taken at
5 the time and place therein stated; that the testimony of
6 the said witness was reported by me, a Certified
7 Shorthand Reporter and a disinterested person, and was
8 under my supervision thereafter transcribed into
9 typewriting; that thereafter, the witness was given an
10 opportunity to read and correct the deposition
11 transcript, and to subscribe the same; that if unsigned
12 by the witness, the signature has been waived in
13 accordance with stipulation between counsel for the
14 respective parties.

15 And I further certify that I am not of counsel or
16 attorney for either or any of the parties to said
17 deposition, nor in any way interested in the outcome of
18 the cause named in said caption.

19 IN WITNESS WHEREOF, I have hereunto set my hand
20 the 1st day of May, 2021.

21 
22

JESSICA AYRES

CSR No. 14180

