

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO COURTHOUSE

DENNIS RICHARDS, an individual,
RACHEL SWANN, an individual,
and Six Dogs, LLC, a California
Limited Liability Company,

Plaintiffs,

vs.

Case No. 3:20-CV-01242 JCS

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

-----/

VIDEOTAPED DEPOSITION OF

PATRICK O'RIORDAN

June 23, 2021

Reported By:	HANNAH KAUFMAN & ASSOCIATES, INC.
RENEE SERA	Certified Shorthand Reporters
	150 Executive Park Blvd., Suite 4600
CSR No. 7435	San Francisco, California 94134
	(415) 337-2077

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1 BE IT REMEMBERED THAT, pursuant to Deposition
2 Subpoena, on Wednesday, June 23, 2021, commencing at the
3 hour of 9:36 a.m. thereof, at the office of RENEE SERA,
4 CSR, 792 Grand Avenue, South San Francisco, California
5 94080, via video conference appeared

6 PATRICK O'RIORDAN
7 called as a witness herein, and the said witness, having
8 been duly sworn, was thereupon examined and testified as
9 is hereinafter set forth:

10 THE REPORTER: Do we have an agreement that the
11 witness can be sworn in remotely? 09:34

12 MR. STEVENS: Yes. 09:34

13 MR. EMBLIDGE: Yes. 09:36

14 THE VIDEOGRAPHER: Good morning, we are going 09:36
15 on video record on June 23, 2021, and the time on the 09:36
16 video monitor is 9:36 a.m. My name is Phillip Love, I 09:36
17 am the legal videographer and the court reporter today 09:36
18 is Renee Sera representing Hannah Kaufman & Associates 09:36
19 in San Francisco, California. This is the beginning of 09:36
20 disk one of the deposition of Patrick O'Riordan in the 09:36
21 matter of Dennis Richards, et al, versus City and County 09:36
22 of San Francisco, et al., filed in the United States 09:36
23 District Court, Northern District of California, 09:36
24 San Francisco Courthouse, case number is 3:20-CV-01242. 09:36
25 The today's deposition disposition is being held as a 09:36

1	virtual Zoom call. Would counsel please voice identify	09:37
2	yourself for the record.	09:37
3	MR. EMBLIDGE: Scott Emblidge for the	09:37
4	plaintiffs.	09:37
5	MR. STEVENS: Ryan Stevens for defendants.	09:37
6	MR. EMBLIDGE: Evan Rosenbaum is also present	09:37
7	for the plaintiffs.	09:37
8	THE VIDEOGRAPHER: Thank you. Would the court	09:37
9	reporter please swear in the witness.	09:37
10	(Witness sworn.)	09:37
11	EXAMINATION BY MR. EMBLIDGE	09:37
12	MR. EMBLIDGE: Q.: Good morning, Mr.	09:37
13	O'Riordan, could you state and spell your full name for	09:37
14	the record, please?	09:37
15	A. My name is Patrick O'Riordan. First name	09:37
16	P-A-T-R-I-C-K, last name O apostrophe R-I-O-R-D-A-N.	09:37
17	Q. Thank you. You look familiar but I don't know	09:37
18	if we have ever met. I am Scott Emblidge, I am one of	09:38
19	the attorneys for the plaintiffs in this case. Do you	09:38
20	have -- I assume you have some awareness of what this	09:38
21	lawsuit is about, correct?	09:38
22	A. Yes.	09:38
23	Q. Have you read the complaint in this case?	09:38
24	A. No, I have not.	09:38
25	Q. Can you tell me with whom within DBI you have	09:38

1	discussed this lawsuit?	09:38
2	A. I don't remember discussing in specific with	09:38
3	anyone, maybe Joe Duffy and I had a conversation and	09:38
4	that's about it.	09:38
5	Q. You used the word maybe which is what we would	09:38
6	do in common conversation but in a deposition like this	09:38
7	I don't want you to speculate, I just want to know what	09:38
8	you do and don't recall. Do you actually recall talking	09:39
9	to Mr. Duffy about this lawsuit?	09:39
10	A. Yes.	09:39
11	Q. What do you recall about that conversation?	09:39
12	A. When he was going to the Board of Appeal, I	09:39
13	believe, there was mention of a complaint being filed	09:39
14	potentially at that time so we discussed it at that	09:39
15	time, I think. Beyond that I don't recall additional	09:39
16	conversations.	09:39
17	Q. What do you recall him saying, as best you can	09:39
18	recall?	09:39
19	A. As best I recall, I recall him saying that	09:39
20	there was a suggestion at the Board of Appeal that this	09:39
21	may end up in a lawsuit.	09:39
22	Q. Did you have any kind of response?	09:39
23	A. I don't recall anything other than that, just	09:39
24	hearing that, and that was about it.	09:39
25	Q. Were you surprised that Mr. Duffy was telling	09:40

1	you this dispute might end up in a lawsuit?	09:40
2	A. I wasn't because I was a supervisor at the time	09:40
3	and he would regularly give me updates on what happened	09:40
4	at the board.	09:40
5	Q. Have you ever talked with Ed Sweeney about the	09:40
6	allegations in this case?	09:40
7	A. No.	09:40
8	Q. Have you ever talked with Mauricio Hernandez	09:40
9	about the allegations in this case?	09:40
10	A. No.	09:40
11	Q. Have you had your deposition taken before?	09:40
12	A. Yes.	09:40
13	Q. Okay, about how many times?	09:40
14	A. Probably about ten times.	09:40
15	Q. All relating to DBI issues?	09:40
16	A. Yes.	09:40
17	Q. Okay. Especially in this Zoom environment we	09:40
18	need to make sure we don't talk over each other and you	09:40
19	are doing a great job of letting me finish my question	09:40
20	about before you answer, I will let you finish your	09:41
21	answer before I ask my next question, okay?	09:41
22	A. Okay.	09:41
23	Q. You need to do what you have been doing which is	09:41
24	answer audibly rather than shaking or nodding your head	09:41
25	so the court reporter can take it down. There are going	09:41

1	to be times today when I am going to ask a question that	09:41
2	doesn't make sense to you because it might be a bad	09:41
3	question or I am using terms that you don't understand.	09:41
4	If that happens, please just ask me to rephrase the	09:41
5	question and I will do so, okay?	09:41
6	A. Yes.	09:41
7	Q. If you need a break at any time, let us know	09:41
8	and you can take a break. Is there any reason you can't	09:41
9	give us your best testimony today?	09:41
10	A. No.	09:41
11	Q. I asked you about who within DBI you have	09:41
12	talked to about the allegations in this lawsuit. Is	09:41
13	there anybody other than your attorneys, of course, is	09:41
14	there anybody outside of DBI with whom you have talked	09:41
15	about this lawsuit?	09:42
16	A. No.	09:42
17	Q. Did you review any documents in preparation for	09:42
18	your deposition today?	09:42
19	A. No, I did not.	09:42
20	Q. Okay. We are going to be talking about a	09:42
21	project today it's 3426 22nd Street which we refer to as	09:42
22	the Six Dogs project. Do you understand that if I talk	09:42
23	about the Six Dogs project, that's what I am talking	09:42
24	about?	09:42
25	A. Yes, I do.	09:42

1 Q. Okay, great. I provided some exhibits that I 09:42
2 wanted to use in this deposition, I would like to ask 09:42
3 you about them right now. It's Exhibit 106 which is the 09:42
4 DBI code of conduct. 09:42

5 (Whereupon, Plaintiff's Exhibit 106 was marked 09:42
6 for identification.) 09:42

7 MR. EMBLIDGE: Q.: Do you recognize this 09:42
8 document? 09:42

9 A. Yes, I do. 09:42

10 Q. It has your name on it. Were you responsible 09:42
11 for this document being issued? 09:42

12 A. Not until like maybe six, eight months ago 09:43
13 maybe. 09:43

14 Q. Yeah, the date on the second page is July, 09:43
15 2020. 09:43

16 A. That's probably correct then. I probably 09:43
17 forgot by a few months. 09:43

18 Q. You were the interim director at the time this 09:43
19 code of conduct was issued, correct? 09:43

20 A. Yes, I was, but the document was already in 09:43
21 place. My name was on it because I became the interim 09:43
22 director in March of 2020 so my name was added to it as 09:43
23 it was added to many DBI documents when I took over this 09:43
24 job. 09:43

25 Q. I know there was a prior code of conduct that 09:43

1	maybe I think was from 2014, is that what you were	09:43
2	saying was already in place?	09:44
3	A. Yes, that's correct.	09:44
4	Q. Okay. But now this updated or newer version	09:44
5	was issued in July of 2020. Can you tell me why that	09:44
6	was?	09:44
7	A. Primarily we reviewed the document that was	09:44
8	already in place and my name was added to it, obviously.	09:44
9	I think it is still being reviewed, as best I recall.	09:44
10	These documents are reviewed on an ongoing basis for	09:44
11	updating purposes. I think the review is still underway	09:44
12	in regards to this particular document.	09:44
13	Q. Okay. Just to be clear, are you saying that	09:44
14	Exhibit 106 that you have in your hands there, that has	09:44
15	not been issued to the department or has it been issued?	09:44
16	A. It has been issued to the department but it's	09:44
17	currently -- the content is being reviewed.	09:44
18	Q. By who?	09:44
19	A. It's being reviewed by our assistant director,	09:44
20	by myself, obviously, and I believe that the edits are	09:45
21	being reviewed by the city attorney's office.	09:45
22	Q. Who is your assistant director?	09:45
23	A. Christine Gasparac.	09:45
24	Q. Can you spell her last name for the record,	09:45
25	please?	09:45

1	A. G-A-S-P-A-R-A-C.	09:45
2	Q. Who was involved in drafting the language in	09:45
3	Exhibit 106, the document in your hands?	09:45
4	A. Originally I don't recall, I don't know who was	09:45
5	originally involved in drafting this document.	09:45
6	Q. Were you involved?	09:45
7	A. No, I was not.	09:45
8	Q. So the second page of Exhibit 106 appears to be	09:45
9	essentially a cover letter, an introduction, with your	09:45
10	name on it. Were you involved in drafting any of that	09:45
11	page?	09:46
12	A. I had meetings with Christine Gasparac about	09:46
13	this document and we reviewed this document together.	09:46
14	Some minor edits were made to the document and they were	09:46
15	-- the document, itself, I believe was forwarded to our	09:46
16	city attorney for review. Yes, I had conversations with	09:46
17	Christine in regards to the edits and this page.	09:46
18	Q. Okay. As far as Exhibit 106, other than you	09:46
19	and Christine, do you know who else was involved in	09:46
20	preparing that -- Exhibit 106?	09:46
21	A. To my knowledge it was just Christine and I	09:46
22	working on it. I was not involved with anybody else	09:46
23	other than Christine Gasparac in reviewing this	09:46
24	document.	09:47
25	Q. What is your understanding of why in 2020 this	09:47

1 document was reviewed and edited and issued to the 09:47
2 department? 09:47

3 A. Well, as with all documents here at DBI, they 09:47
4 are reviewed every few years. The discussion kind of 09:47
5 went like, especially since I was new in the job, we 09:47
6 should review it because it was something that was going 09:47
7 to be out there for staff with my name on it. But what 09:47
8 we had at the time needed to have my name on it anyway 09:47
9 because the name that was on it was no longer in this 09:47
10 position. 09:47

11 Q. You are talking about Mr. Hui? 09:47

12 A. Correct. 09:47

13 Q. Was the -- I am trying to think of another way 09:47
14 of saying scandal. Were the circumstances around Mr. 09:48
15 Hui's leaving the department, was that part of the 09:48
16 reason this document was reissued in July of 2020? 09:48

17 A. No, I think it was reviewed by Christine and I 09:48
18 and reissued for the purposes of just updating it based 09:48
19 on what we thought it should look like. 09:48

20 Q. Was the Mayor's office involved in urging you 09:48
21 to reissue this document? 09:48

22 A. No. 09:48

23 Q. Okay. If you could look at page two, please, 09:48
24 you see in the second paragraph you state there about 09:48
25 five lines down, it is vitally important that we 09:49

1 discharge our duties in the most efficient and fair 09:49
2 manner possible. Is that a principle that you espouse? 09:49

3 A. Absolutely, yes. 09:49

4 Q. Have you ever been aware of DBI employees who 09:49
5 did not live up to that principle? 09:49

6 MR. STEVENS: Objection, vague. 09:49

7 MR. EMBLIDGE: Q.: You can answer the 09:49
8 question. Your lawyer is entitled to make objections 09:49
9 for the record but if you understand my question, you 09:49
10 can answer it. 09:49

11 A. Yes. Over the years we spot check inspectors' 09:49
12 work and if there are missteps, we definitely work with 09:49
13 the inspectors, seeing the inspectors, work with them, 09:49
14 we facilitate training if something was done 09:50
15 incorrectly. We have discussions with them. And yes, 09:50
16 we do follow up on anything that would be improper or 09:50
17 untoward in regards to their duties. 09:50

18 Q. Okay. But in following up on that, has it come 09:50
19 to your attention that any DBI employees have not been 09:50
20 discharging their duties in the most fair manner 09:50
21 possible? 09:50

22 A. Yes, it has come to my attention and we take 09:50
23 action when we find out that there is something improper 09:50
24 about discharging their duties. 09:50

25 Q. Could you be specific with me, please. Which 09:50

1 employees has this come to your attention and you have 09:50
2 taken action? 09:50

3 A. In particular, I mean, we all read the news 09:51
4 media and we all have access to what's stated in the 09:51
5 news media. Senior inspector Bernie Curran has been -- 09:51
6 he is the inspector that we know that was conducting 09:51
7 inspections improperly. He is no longer in the 09:51
8 employment of the City and County of San Francisco. So 09:51
9 that's what that is. 09:51

10 Q. When you say he was not conducting inspections 09:51
11 properly -- I am sorry, I think you said it the other 09:51
12 way. When you say he was conducting inspections 09:51
13 improperly, what do you mean? 09:51

14 A. Well, for example, on one project 2867 09:51
15 San Bruno Avenue we found out by virtue of a complaint 09:52
16 that was filed with us, I want to say like at the end of 09:52
17 2018, that there were issues with the property and we 09:52
18 wrote notices of violation. We were in communication 09:52
19 with our city attorney code enforcement team and we had 09:52
20 been following up on Mr. Curran's inspections activity 09:52
21 relating to that project as soon as we found out. As I 09:52
22 previously stated, he is no longer in the employment of 09:52
23 the City and County of San Francisco. 09:52

24 Q. I appreciate that but my question was what was 09:52
25 improper about what Mr. Curran was doing as far as what 09:52

1	you found?	09:53
2	A. What we found is that we didn't have -- we	09:53
3	didn't have an account of the inspections that he was	09:53
4	performing that we knew he should have been performing	09:53
5	on the project.	09:53
6	Q. So the concern was that he was -- are you	09:53
7	saying that he did not inspect the project when he	09:53
8	should have?	09:53
9	A. What I am saying is he didn't document the fact	09:53
10	that he had performed the inspections. What that meant	09:53
11	to me and to the department was that we don't -- we	09:53
12	didn't know for sure if he actually did the inspections.	09:53
13	Q. Was there anything else that you found to be	09:53
14	improper in the way Mr. Curran conducted himself	09:53
15	regarding inspections?	09:53
16	A. What we know is he did inspections for	09:54
17	contractors and for projects and I had discussions with	09:54
18	him about making sure that he stays within his district	09:54
19	and does inspections only in his district. It should be	09:54
20	only for good reason that he would be going outside his	09:54
21	district, like coverage for inspectors when they are not	09:54
22	available to do those inspections. I think that, you	09:54
23	know, this was an ongoing discussion we were having with	09:54
24	the investigation into San Bruno Avenue and we were also	09:54
25	looking at some other instances of, you know, where he	09:54

1 was doing inspections outside of his area of influence, 09:54
2 let's say. 09:55

3 Q. Am I correct that in general an inspector like 09:55
4 Mr. Curran has a district to which he is assigned, 09:55
5 correct? 09:55

6 A. That's not exactly correct. As a senior 09:55
7 inspector he supervises a group of inspectors that had 09:55
8 districts assigned to them. The city is broken up into 09:55
9 eighteen inspection districts, an inspector is assigned 09:55
10 to each district. There are four senior building 09:55
11 inspectors who supervise those district inspectors and 09:55
12 generally speaking the senior building inspectors have 09:55
13 the ability to provide support for those inspectors who 09:56
14 are doing -- who are assigned to the districts insofar 09:56
15 as if they are unavailable to do the inspections, the 09:56
16 senior inspector will assign the inspection to somebody 09:56
17 else or maybe do the inspections himself if somebody 09:56
18 else is not available. 09:56

19 Q. Okay. And the concern with Mr. Curran is that 09:56
20 he was inspecting projects outside of the districts of 09:56
21 the inspectors that he supervised, is that correct? 09:56

22 A. Yes. 09:56

23 Q. And sometimes that would be potentially proper 09:56
24 if there was no coverage in those other districts, 09:56
25 right? 09:56

1	A. That's right.	09:56
2	Q. But did you come to believe that there were	09:56
3	times where he was inspecting projects outside of his	09:56
4	districts even though there was not a reason like lack	09:56
5	of coverage?	09:57
6	MR. STEVENS: I am instructing him only to	09:57
7	answer to the extent he knows things outside of	09:57
8	confidential communications with the city attorney's	09:57
9	office.	09:57
10	MR. EMBLIDGE: Q.: Let's try the question	09:57
11	again. You said you were engaged in ongoing discussions	09:57
12	with Mr. Curran about this issue, right?	09:57
13	A. We had discussions about this issue, yes.	09:57
14	Q. And the issue was him inspecting projects	09:57
15	outside of his districts even though there was no	09:57
16	apparent reason for that like lack of coverage, correct?	09:57
17	A. Yes.	09:57
18	Q. Was the concern also that when he would be	09:57
19	inspecting projects outside of his districts, they were	09:57
20	projects relating to particular project sponsors or	09:57
21	contractors?	09:58
22	A. Not specifically insofar as that I was trying	09:58
23	to make sure that he just wasn't going outside of his	09:58
24	districts, period.	09:58
25	Q. Why would that be a bad thing if he wasn't	09:58

1	doing it for an unfair reason?	09:58
2	A. If he was doing it for a reasonable purpose, it	09:58
3	would be fine. He was performing a lot of inspections.	09:58
4	Honestly, he liked to be out in the field doing	09:58
5	inspections, that was more of his thing than, you know,	09:58
6	having to deal with paperwork in the office. He liked	09:58
7	to do that so he was very willing to just be out there	09:58
8	doing inspections every day.	09:58
9	Q. Great, but were you not concerned that he was	09:58
10	going outside of his district to inspect projects that	09:58
11	were related to either a particular project sponsor or a	09:59
12	particular engineer or developer?	09:59
13	A. Yes, I was concerned about all those things. I	09:59
14	was primarily focused on making sure -- trying to make	09:59
15	sure that he was, A, operating within his districts, and	09:59
16	if he wasn't, that he was doing it for good reason.	09:59
17	Q. The conversations you had with Mr. Curran over	09:59
18	time, can you give me an estimate of the time frame,	09:59
19	from X date to Y date? What I am getting at, Mr.	09:59
20	O'Riordan, was this something that went back ten years,	09:59
21	five years, or two years or something like that?	09:59
22	A. Probably five years I want to say, yeah.	09:59
23	Q. About how many conversations do you think you	09:59
24	had with him about this subject?	09:59
25	A. I probably had four or five conversations.	09:59

1 Q. So my question that lead to all of this is are 10:00
2 you aware of any DBI employees who may not have been 10:00
3 discharging their duties in the most fair manner 10:00
4 possible? We talked about Mr. Curran. Have you been 10:00
5 aware of any circumstances involving other DBI employees 10:00
6 besides Mr. Curran? 10:00

7 A. No, I have not been for sure aware of any other 10:00
8 inspectors that were, you know, acting inappropriately. 10:00

9 Q. Okay, I appreciate that. Apart from being for 10:00
10 sure aware, did information come to your attention that 10:00
11 made you concerned that other DBI employees were not 10:00
12 discharging their duties in the most fair manner 10:00
13 possible? 10:01

14 A. No. We hear these things from customers, 10:01
15 neighbors, contractors, engineers, architects, all of 10:01
16 the time that these inspectors are not doing the right 10:01
17 thing. What we do is we investigate each and every, 10:01
18 single of those instances. What we find is that there 10:01
19 is issues always like that exist between neighbors and 10:01
20 if we find something that needs, like I said before, 10:01
21 that requires additional training or an inspector might 10:01
22 misstep, we will do that. We have a spot check 10:01
23 inspection program like I also mentioned that we survey, 10:01
24 randomly survey the operations on an ongoing basis. 10:01

25 Q. I understand all that. In my job I got calls 10:01

1	all the time from members of the public who are	10:02
2	complaining that the Building Department is corrupt or	10:02
3	the Planning Department is corrupt and I get it that	10:02
4	sometimes it's just how it goes. What I try to get at	10:02
5	with my questions though are, are there specific	10:02
6	employees or specific circumstances that have come to	10:02
7	your attention that have caused you concern that a DBI	10:02
8	employee wasn't discharging his or her duties in the	10:02
9	most fair manner possible besides Mr. Curran?	10:02
10	A. I don't want to sound evasive but that comes to	10:02
11	my attention all the time and we do look into those	10:02
12	things and we do what's necessary in regards to having	10:02
13	discussions with inspectors or providing training. For	10:02
14	the most part it's innocent stuff, an inspector	10:02
15	missteps, just makes a mistake. As I am sure you know,	10:03
16	we do a lot of inspections and these guys are running	10:03
17	every day, they conduct about -- at the time they were	10:03
18	conducting about five and a half thousand inspections a	10:03
19	month so they are literally on the run all day long. So	10:03
20	if they make a mistake and if we hear about it, we	10:03
21	always look into it and figure out what it is we need to	10:03
22	do.	10:03
23	Q. You have told me that now several times and I	10:03
24	get it but I'm not talking about -- you said for the	10:03
25	most part. I am talking about the specific cases that	10:03

1 have come to your attention where you think somebody did 10:03
2 need training or retraining because you believe that 10:03
3 they weren't discharging their duties in the most fair 10:03
4 manner possible. Can you site to me any employees for 10:03
5 which you have reached that conclusion? 10:03

6 A. For example, one employee, one inspector maybe 10:03
7 six months ago literally went to the wrong address when 10:04
8 he was inspecting a complaint and the address he should 10:04
9 have been at was something that had a serious problem 10:04
10 with it. It ended up being a demolition. We had to 10:04
11 have a discussion with that inspector about making sure 10:04
12 that he was handling complaints correctly and going to 10:04
13 the right address and explained to that inspector that 10:04
14 this is a serious issue here because had he been at the 10:04
15 correct address several days before, the demolition 10:04
16 might not have occurred. 10:04

17 Q. I am trying to focus though on the language you 10:04
18 used in Exhibit 106 about discharging duties in the most 10:04
19 fair manner possible. 10:04

20 MR. STEVENS: The question isn't about mistakes 10:05
21 being made by inspectors, it's intentional unfair 10:05
22 conduct. Is that the question you are trying to ask 10:05
23 him? 10:05

24 MR. EMBLIDGE: I think that's a great 10:05
25 clarification. 10:05

1	THE WITNESS: I am not aware of intentional	10:05
2	unfair operations with inspectors with the exception of	10:05
3	the one inspector we mentioned which is currently a	10:05
4	matter of investigation by our city attorney.	10:05
5	MR. EMBLIDGE: Q.: Is it fair to say in your	10:05
6	career at DBI you have not come to believe that any DBI	10:05
7	inspector other than Bernie Curran has engaged in	10:06
8	favoritism toward any particular project sponsor?	10:06
9	A. I mean, I can only speak to when I was	10:06
10	supervising a group of inspectors as a senior inspector,	10:06
11	that was when I was managing a team as a chief	10:06
12	inspector. In the role I am in right now and when	10:06
13	anything comes to my attention I act upon it right away.	10:06
14	And I think your question is has it come to my	10:06
15	attention? A lot of these things that come to my	10:06
16	attention I follow up on and act upon those things.	10:06
17	Q. Okay. Have you acted upon any allegations of	10:06
18	favoritism by inspectors?	10:06
19	A. Apart from the one inspector we are discussing	10:07
20	right now, no, I have not.	10:07
21	Q. Has it ever come to your attention that Ed	10:07
22	Sweeney was accused of having favoritism toward any	10:07
23	project sponsor, engineer or architect?	10:07
24	A. Yes, that has come to my attention. I was not	10:07
25	Ed Sweeney's supervisor.	10:07

1 Q. So it came to your attention. Did you do 10:07
2 anything to look into it? 10:07

3 A. Can I take a break right now? 10:07

4 Q. The way the rules work is I am entitled to an 10:07
5 answer to a pending question so if you could answer my 10:07
6 question, then you can take a break. I don't want you 10:07
7 to -- let me be clear about one thing, I don't want you 10:07
8 to reveal to me any communications from your attorneys, 10:07
9 I am just talking about what you as a DBI supervisor and 10:08
10 director have heard. 10:08

11 A. I think I would have to reveal communications 10:08
12 that are attorney-client in that case. 10:08

13 Q. Let's put attorney-client to one side. Apart 10:08
14 from anything that you may have heard from your 10:08
15 attorneys, has it ever come to your attention that Ed 10:08
16 Sweeney has been accused of showing favoritism toward 10:08
17 particular project sponsors, engineers, developers? 10:08

18 A. I heard rumors over the years, yes. I don't 10:08
19 have any precise information to what you are stating. 10:08

20 Q. Okay. As to the rumors that you have heard, 10:08
21 did you do anything to investigate those rumors? 10:08

22 A. That gets back into the attorney-client 10:08
23 conversation. 10:08

24 Q. I am not asking what your attorneys have told 10:09
25 you that somebody else may have done to investigate, I 10:09

1	am asking whether you did anything to follow up on any	10:09
2	of the rumors?	10:09
3	A. I reached out to our city attorney and that's	10:09
4	our attorney-client communication.	10:09
5	Q. Great, thank you for clearing that up.	10:09
6	Approximately when was that?	10:09
7	A. It was probably about 2017, 2018.	10:09
8	Q. What were the rumors that you heard?	10:09
9	A. It was from different inspectors that were	10:09
10	discussing this, primarily Inspector Schroeder was an	10:09
11	example, Chris Schroeder was an example of people that	10:10
12	would be stating that. Beyond what was being stated by	10:10
13	Inspector Schroeder, there was water cooler office	10:10
14	conversations in regard to what you are describing.	10:10
15	Q. What did Mr. Schroeder communicate to you in	10:10
16	terms of favoritism by Ed Sweeney?	10:10
17	A. He indicated to not just me but I overheard	10:10
18	conversations that he was stating that Ed Sweeney was	10:10
19	favoring people over others.	10:11
20	Q. What people was he favoring allegedly?	10:11
21	A. Allegedly John Pollard's name was mentioned.	10:11
22	Q. Was anyone else's name mentioned that you	10:11
23	heard?	10:11
24	A. I don't recall other names.	10:11
25	Q. Who were the other inspectors that communicated	10:11

1 concerns about favoritism by Mr. Sweeney? 10:11

2 A. I don't recall who all were. There were 10:11

3 conversations and I do remember Chris Schroeder being in 10:11

4 those conversations but there were other inspectors and 10:11

5 at this point I don't recall who they were. 10:11

6 Q. You don't recall any of them? 10:11

7 A. Generally speaking there were inspectors who 10:11

8 were worked for 1660 Mission Street. It would be like 10:12

9 any and all of those inspectors that could have been in 10:12

10 those conversations. 10:12

11 Q. I get that but I am asking you for what you can 10:12

12 recall. Was Robert Chun, C-H-U-N, one of the inspectors 10:12

13 that you heard expressing concerns about Mr. Sweeney? 10:12

14 A. No, he wasn't an inspector, he was -- he worked 10:12

15 on the plan check floor, he worked on the second floor. 10:12

16 Q. Okay. 10:12

17 A. But he was not an inspector. 10:12

18 Q. Are you saying in general all of the inspectors 10:12

19 on the third floor were expressing concerns about Mr. 10:12

20 Sweeney's favoritism or just some? 10:12

21 A. Just some. 10:12

22 Q. Can you recall any of them by name other than 10:12

23 Mr. Schroeder? 10:12

24 A. One I remember Fergal Clancy and Robert Power, 10:12

25 they are two that come to mind. 10:13

1	Q. Did you say Robert Power, like powerful?	10:13
2	A. Yes.	10:13
3	Q. Do you recall anything specifically that you	10:13
4	heard them say about Mr. Sweeney?	10:13
5	A. Not specifically, no.	10:13
6	Q. Apart from what Mr. Schroeder told you and what	10:13
7	you heard in these water cooler conversations, have you	10:13
8	heard -- I am going to try that question again.	10:13
9	Apart from what Mr. Schroeder told you or what	10:13
10	you heard in these water cooler conversations, has any	10:13
11	information come to your attention that made you	10:13
12	concerned that Mr. Sweeney might be engaging in	10:14
13	favoritism toward particular contractors or project	10:14
14	sponsors apart from information from your attorneys?	10:14
15	A. No.	10:14
16	Q. Have you ever heard rumors or obtained	10:14
17	information that gave you a concern that Mauricio	10:14
18	Hernandez engaged in favoritism toward particular	10:14
19	project sponsors or contractors or engineers?	10:14
20	A. No, absolutely not.	10:14
21	Q. Why do you say absolutely not, why so	10:14
22	definitively?	10:14
23	A. Mauricio I have always known him to be an	10:14
24	upstanding and a good man, honest, and I supervised him	10:14
25	for years and he is a good individual, he is a good	10:14

1	person.	10:14
2	Q. Did you have the same opinion of Ed Sweeney?	10:14
3	A. No, I did not. Mauricio Hernandez is one of	10:15
4	those people that he stands out above like others around	10:15
5	him. He is very righteous.	10:15
6	Q. Very righteous, can you describe what you mean	10:15
7	by that?	10:15
8	A. He wants to do the right thing and he is not	10:15
9	inclined to deviate from what he is supposed to be doing	10:15
10	and simply -- that's been my experience with Mauricio.	10:15
11	Q. Why do you not have the same opinion of Mr.	10:15
12	Sweeney?	10:15
13	A. I don't have the same opinion about a lot of	10:15
14	people. He is just a good man. You know, ninety	10:15
15	percent of other people in the world I wouldn't put him	10:15
16	in the same basket as I would Mauricio, that's what I am	10:15
17	saying.	10:15
18	Q. It's high praise.	10:15
19	A. It is. He is a good man.	10:16
20	Q. Going back to that same paragraph in	10:16
21	Exhibit 106, it says, While the department has been	10:16
22	criticized in the past, we have taken many specific	10:16
23	action steps to improve our process and our transparency	10:16
24	and we are continuing to do so.	10:16
25	What are you referring to there?	10:16

1	A. I am referring to our spot check of	10:16
2	inspections. I am referring to our diligence to conduct	10:16
3	inspections and have the results show on our website in	10:16
4	realtime. I am referring to a reforms package that the	10:16
5	department is working on to have greater oversight over	10:17
6	every, single division in this department so we can	10:17
7	create accountability, efficiency and transparency.	10:17
8	Q. This reforms package, is it in writing?	10:17
9	A. I have to say it is in writing but it is a	10:17
10	framework. It's not quite matured to a point where we	10:17
11	can go live with it yet but we have announced it at the	10:17
12	Building Inspection Commission and we are working with	10:17
13	various other city departments and agencies to have it	10:17
14	ready.	10:17
15	Q. If you look at the bottom of page two you talk	10:17
16	about two of the most important roles in running this	10:17
17	department, you say fairness and equal treatment for all	10:17
18	clients and client representatives. Do you see that?	10:18
19	A. Yes.	10:18
20	Q. When you refer to clients, what do you mean?	10:18
21	A. The customers of our department which would be	10:18
22	anything from homeowners to architects to engineers to	10:18
23	-- literally anyone that walks in the front door of this	10:18
24	department is who I would consider a client.	10:18
25	Q. Client representatives, is that -- who is that	10:18

1	referring to?	10:18
2	A. It could be a consultant, for example, that	10:18
3	could be representing a client. It could even be a	10:18
4	design professional who would be representing somebody	10:18
5	who would be working with this department in regards to	10:18
6	their property.	10:19
7	Q. I am sorry, did you still want to take a break?	10:19
8	A. I am looking at my doughnut here and I would	10:19
9	like to get into it.	10:19
10	Q. You are looking at your what?	10:19
11	A. My doughnut.	10:19
12	Q. Sure, let's take five minutes.	10:19
13	THE VIDEOGRAPHER: We are now off the record	10:19
14	10:19 a.m.	10:19
15	(Brief recess.)	10:19
16	THE VIDEOGRAPHER: We are now on the record	10:34
17	10:34 a.m.	10:34
18	MR. EMBLIDGE: Q.: Mr. O'Riordan, we talked a	10:34
19	little bit about this issue regarding Mr. Curran of	10:34
20	doing inspections outside of the districts he	10:34
21	supervised, do you remember that?	10:34
22	A. Yes.	10:34
23	Q. Have you had to counsel other inspectors about	10:34
24	that issue, doing inspections outside of districts?	10:34
25	A. I don't recall but it is likely that I did. As	10:34

1 a matter of fact, yeah, there was one instance where I 10:34
2 do recall, at least one instance I recall where I had to 10:34
3 talk to an inspector about doing inspections outside of 10:34
4 their assigned districts. 10:35

5 Q. Tell me about that incident or that inspector? 10:35

6 A. It was a long time ago, it was back in 2013, I 10:35
7 believe. The inspector was Matt Green and it related to 10:35
8 a project that I think we all know about, 125 Crown 10:35
9 Terrace. Matt Green had been doing inspections outside 10:35
10 of his district and I did talk to him about that. 10:35

11 Q. Was Matt Green involved in doing inspections at 10:35
12 Crown Terrace? 10:35

13 A. Yes. 10:35

14 Q. And that was outside of his district? 10:35

15 A. Yes, correct. 10:35

16 Q. What was your understanding of why he was doing 10:35
17 those inspections in Crown Terrace? 10:35

18 A. I don't recall the specifics at the time. I 10:35
19 know that he was -- he shouldn't have been there and I 10:36
20 had a discussion with him about, you know, staying in 10:36
21 his own district. I think what I remembered at the time 10:36
22 is that he had a full slate of inspections himself and 10:36
23 there was no reason that he should be the one going 10:36
24 doing these inspections outside of his district. 10:36

25 Q. Did you have any -- did you come to any 10:36

1 understanding of why he would be doing inspections 10:36
2 outside of his district when he had a full slate of 10:36
3 inspections? 10:36

4 A. I don't recall the details. I don't recall why 10:36
5 that was but I know that he shouldn't have been outside 10:36
6 of his district. 10:36

7 Q. Were you concerned that he had some kind of 10:36
8 relationship with the contract sponsor or the 10:36
9 development team? 10:37

10 A. I am always concerned about that so I probably 10:37
11 was at the time, yes. 10:37

12 Q. Did you do any followup to see if there was any 10:37
13 such relationship? 10:37

14 A. Again, I think there was a fairly substantial 10:37
15 investigation into that by the city attorney and others 10:37
16 so that was something that was handled in their office 10:37
17 and they followed up on all of those things. 10:37

18 Q. Crown Terrace is the Mel Murphy house that fell 10:37
19 down the hill, is that correct? 10:37

20 A. Yes. 10:37

21 Q. Apart from what you understand the city 10:37
22 attorney might have done, did you do anything to look 10:37
23 into whether there was some relationship between Matthew 10:37
24 Green and the project team at Crown Terrace? 10:37

25 A. That wasn't my job at the time, the city 10:37

1 attorney was working on it. 10:37

2 Q. So did you do anything to look into it? 10:37

3 A. I provided them with the information I had and 10:37

4 I talked to Matt Green and beyond that it ended up being 10:38

5 part of the investigation that they were doing. 10:38

6 Q. And did Matt Green give you any explanation as 10:38

7 to why he was out there? 10:38

8 A. I don't remember now after all these years. I 10:38

9 think he was asked to go out there by somebody else, as 10:38

10 best I remember. 10:38

11 Q. Who was the somebody else? 10:38

12 A. I think it was Dan Lowery who was the deputy 10:38

13 director at the time. 10:38

14 Q. Did you follow up with Mr. Lowery as to why he 10:38

15 would have asked -- if he did ask Matt Green to go out 10:38

16 and inspect Crown Terrace? 10:38

17 A. Mr. Lowery was my supervisor at the time and I 10:38

18 did have a discussion with him about why Matt Green was 10:38

19 going out there and honestly I don't remember exactly 10:38

20 how that conversation went now but I do know that Matt 10:38

21 was asked to go out there by Mr. Lowery. 10:38

22 Q. What's your best recollection as to what Mr. 10:38

23 Lowery said was the reason for Mr. Green going out 10:38

24 there? 10:39

25 A. I would be guessing. I don't want to guess 10:39

1	what the conversation was.	10:39
2	Q. You have no recollection specific or general	10:39
3	about what Mr. Lowery said?	10:39
4	A. Mr. Lowery told me that he asked Matt to go out	10:39
5	there.	10:39
6	Q. And do you have any recollection as to what Mr.	10:39
7	Lowery said about the reason for asking Matt Green to go	10:39
8	out there?	10:39
9	A. -- Mel Murphy needed an inspection and Dan	10:39
10	Lowery asked Matt to go out and do the inspection.	10:39
11	Q. Did Mr. Lowery explain why he would ask Matt to	10:39
12	go out and do the inspection rather than the district	10:39
13	inspector?	10:39
14	A. I don't recall how he spoke to that.	10:39
15	Q. Did he indicate that Mr. Murphy request that	10:39
16	Matt Green be assigned?	10:40
17	A. He may have, I don't recall. But what he did	10:40
18	say was that he asked Matt to go out there and do an	10:40
19	inspection.	10:40
20	Q. At that time was Mr. Murphy on the Building	10:40
21	Inspection Commission?	10:40
22	A. I think he was on the Code Commission at that	10:40
23	time, I think he had moved on from there to BIC.	10:40
24	Q. That's BIC, Renee, capital B, capital I,	10:40
25	capital C.	10:40

1	A. That is correct, yes.	10:40
2	Q. Let's go back to Exhibit 106 and now let's look	10:40
3	at page five, please. You had in the middle of that	10:40
4	page a definition of fairness, do you see that?	10:40
5	A. Yes.	10:40
6	Q. I am going to ask you a question similar as I	10:40
7	asked you before. Apart from Bernie Curran, have you	10:40
8	had any concerns that DBI employees did not act in	10:41
9	accordance with this definition of fairness?	10:41
10	A. I always have concerns. Like I said to you,	10:41
11	and again I am not trying to be evasive, but we monitor,	10:41
12	we follow up, we have senior inspectors, we assign	10:41
13	inspections and as noted I believe in the code of	10:41
14	conduct -- in this code of conduct and in the ethics	10:41
15	training, if they have any conflict of interest, they	10:41
16	are required to let us know that that conflict exists	10:41
17	and we can assign a different inspector.	10:41
18	Q. Okay. So you and I are going to have a long	10:41
19	day because you want to give me the process answer and I	10:41
20	want to get the specific facts. So right now I am not	10:41
21	asking about the process that you go through to try to	10:41
22	make sure that people are being fair, I am trying to get	10:42
23	at the issue of has it come to your attention that other	10:42
24	DBI employees may not have acted in accordance with this	10:42
25	definition of fairness?	10:42

1	A. Yes, it has. The first example I gave you was	10:42
2	Matt Green. We looked at other inspectors and a few	10:42
3	inspectors over the years we have looked at where they	10:42
4	are going, we do it all the time, and we -- you know, we	10:42
5	have to look and see why it is they are going outside of	10:42
6	their districts or they are going to do inspections for	10:42
7	these different projects and obviously when we see that	10:42
8	we take action and we talk to these folks and ask them	10:42
9	the questions why are you going out of your district,	10:42
10	why are you doing inspections for these contractors.	10:42
11	That's the way we operate here. I am probably talking	10:43
12	process again here but that's what we do.	10:43
13	Q. Great. Mr. O'Riordan, let me just state for	10:43
14	the record you are not here because anybody is accusing	10:43
15	you of doing anything wrong. In fact, the opposite,	10:43
16	everybody I have ever talked to has just said great	10:43
17	things about you, including Dennis Richards. I am	10:43
18	trying to get at what might have been going on in the	10:43
19	department in terms of other individuals. It sounds	10:43
20	like you can recall having looked into the conduct of	10:43
21	other building inspectors who were inspecting projects	10:43
22	for contractors outside of their districts, is that	10:43
23	accurate?	10:43
24	A. That is accurate, yes.	10:43
25	Q. Can you give me examples of such DBI employees?	10:43

1	A. One of them would be William Walsh, Bill Walsh.	10:43
2	Q. Anyone else?	10:44
3	A. Michael Chan might have been one.	10:44
4	Q. I am sorry, can you spell Michael's last name,	10:44
5	please?	10:44
6	A. C-H-A-N.	10:44
7	Q. Thank you. Anyone else that you can recall?	10:44
8	A. At this time I know there were maybe a couple	10:44
9	of others but I can't, you know, tally projects up in	10:44
10	regard to what they were -- I just know names in my head	10:44
11	that these are people that we were surveying of where	10:44
12	they were doing inspections.	10:44
13	Q. Do you recall particular contractors or project	10:45
14	sponsors for whom Mr. Walsh was doing inspections	10:45
15	outside of his district?	10:45
16	A. I recall an address on McAllister Street where	10:45
17	Bill Walsh did inspections for Pollard.	10:45
18	Q. For John Pollard?	10:45
19	A. Yes, correct.	10:45
20	Q. Can you recall any project sponsors or	10:45
21	contractors for whom Michael Chan was doing inspections	10:45
22	outside of his district?	10:45
23	A. I just know him by his nickname, pardon me. He	10:45
24	was known as Little Louie. I don't know what his real	10:45
25	name is but I know him to see him. I know him as Little	10:45

1 Louie, and I am fairly sure that Michael Chan was doing 10:45
2 inspections for him. 10:46

3 Q. Little Louie was a developer, he is a 10:46
4 developer? 10:46

5 A. No, I think he was more of a permit consultant 10:46
6 slash contractor kind of situation. 10:46

7 Q. Is Little Louie white, Asian? 10:46

8 A. He is Asian. 10:46

9 Q. Okay. You referred to Mr. Schroeder earlier, 10:46
10 Chris Schroeder. Did you ever supervise Mr. Schroeder? 10:46

11 A. I don't recall for sure. I may have. I mean, 10:46
12 I supervised a lot of these guys over the years so -- I 10:46
13 was definitely his manager at one time when I was chief 10:46
14 but I wasn't -- I don't recall if I was his direct 10:46
15 supervisor prior to that. 10:47

16 Q. Did you ever have any problems with Mr. 10:47
17 Schroeder's performance as an inspector? 10:47

18 A. I did in the sense that his customer 10:47
19 interaction was -- needed improvement. He was abrupt 10:47
20 with contractors and he wasn't always good at like if 10:47
21 somebody wasn't available at the job site, he wasn't 10:47
22 always good about waiting to go back and do the 10:47
23 inspection later like others would to do. So customer 10:47
24 service was a problem with me with Mr. Schroeder. 10:47

25 Q. What about fairness or even -- did you have any 10:47

1 concerns that Mr. Schroeder was showing favoritism or 10:47
2 being less than fair? 10:48

3 A. I think Mr. Schroeder is honest. A character 10:48
4 trait of Mr. Schroeder would be that he wouldn't be -- 10:48
5 he wouldn't have the necessary patience and he would 10:48
6 kind of act inappropriately sometimes. I don't know how 10:48
7 else I can put that. 10:48

8 Q. I understand the customer service aspect you 10:48
9 mentioned and being abrupt but did you ever have 10:48
10 concerns that he was -- that he showed favoritism to 10:48
11 some contractors or project sponsors over others? 10:48

12 A. I don't think he ever showed favoritism to 10:48
13 anyone above anyone else, I think he was -- he was even 10:48
14 handed but it was -- what I am referring to more is a 10:48
15 temperament thing. 10:49

16 Q. You are talking about him in the past tense. 10:49
17 Does he no longer work at DBI or does he still work 10:49
18 there? 10:49

19 A. He does but he doesn't work as an inspector so 10:49
20 forgive me for using the past tense. 10:49

21 Q. Okay. What about Raymond Barrios, did you ever 10:49
22 supervise him? 10:49

23 A. Again, I was the chief and he was an inspector 10:49
24 and I honestly don't remember if I was his direct 10:49
25 supervisor at any time. I think not. 10:49

1 Q. Did you ever have any problem with his job 10:49
2 performance? 10:49

3 A. There were some issues with inspections. I 10:49
4 recall one particular project was on Ocean Avenue and 10:49
5 forgive me but I don't have all the details at hand 10:49
6 right now but there was some interaction between him and 10:50
7 the developer, the contractor. I remember it caused 10:50
8 some work for me, at least. 10:50

9 Q. Was that another customer service issue or was 10:50
10 it a fairness issue? 10:50

11 A. I think it was more customer service and it 10:50
12 related to code specific items relating to the 10:50
13 inspections or what was on the plans. I am just sketchy 10:50
14 on the details because I don't recall exactly what it 10:50
15 all involved. 10:50

16 Q. Did you ever have concerns that Mr. Barrios 10:50
17 performed his work in an unfair or biased manner? 10:50

18 A. I have to say that I did hear rumors that he 10:50
19 was potentially, you know, helping some others, that's 10:51
20 what I recall. 10:51

21 Q. Who do you recall the rumors saying he was 10:51
22 helping? 10:51

23 A. Honestly I don't know but what I remember 10:51
24 hearing is that something like Mr. Barrios would come 10:51
25 out to the job and -- this is one particular instance 10:51

1 and I don't recall now who this developer or contractor 10:51
2 was -- but it was just before lunch and Mr. Barrios said 10:51
3 something like well, it's getting to be lunchtime, I 10:51
4 guess we should go through the building and look at it 10:51
5 quickly and go to lunch. That's what I remember 10:51
6 hearing. 10:51

7 Q. Anything else you remember hearing about Mr. 10:51
8 Barrios not being fair or honest? 10:52

9 A. No. 10:52

10 Q. So at the bottom of page five of Exhibit 106 10:52
11 there is a section on integrity, do you see that? 10:52

12 A. Yes. 10:52

13 Q. I would just like you to read to yourself those 10:52
14 bullet points. 10:52

15 A. Okay. 10:52

16 Q. You talk about employees not compromising the 10:52
17 integrity of the permitting process by, quote, allowing 10:52
18 extraordinary or unsupervised access to submitted plans 10:52
19 or paperwork by any customer, end quote. What do you 10:52
20 mean by that? 10:52

21 A. What I mean by that is -- the first thing is I 10:53
22 didn't write this, this was in the previous document. I 10:53
23 believe what's meant by that is that nobody should have 10:53
24 any access to materials that everybody wouldn't have 10:53
25 access to. Nobody should have advantage over anybody 10:53

1 else. I think about it as a level playing field. 10:53

2 Q. So if a particular permit expediter had a desk 10:53

3 at the Department of Building Inspection where he kept 10:53

4 materials, that would be improper, correct? 10:53

5 A. Well, if it was back of house in the employee 10:53

6 areas. 10:54

7 Q. Have you heard of Mr. Santos, Rodrigo Santos, 10:54

8 having such access? 10:54

9 A. No, not in the employee areas, no. 10:54

10 Q. I am correct, am I not, that it is improper for 10:54

11 DBI employees to allow contractors or permit expediters 10:54

12 to make copies of plans without the permission of the 10:54

13 project sponsor or the person whose stamp is on the 10:54

14 plans, is that correct? 10:54

15 A. That's correct, yes. 10:54

16 Q. Could you look, please, at Exhibit 107. 10:54

17 (Whereupon, Plaintiff's Exhibit 107 was marked 10:54

18 for identification.) 10:54

19 MR. EMBLIDGE: Q.: That is a deposition 10:54

20 transcript relating to the questions I asked Mr. 10:54

21 Sweeney. I want to have you take a moment and read the 10:54

22 testimony at pages 42 through 45. 10:54

23 A. Okay. 10:54

24 Q. Does Mr. Sweeney's testimony of his 10:56

25 interactions with Mr. Santos cause you any concern? 10:56

1	A. Yes.	10:56
2	Q. Why?	10:56
3	A. Because Mr. Santos didn't, to my knowledge,	10:56
4	have anything to do with that particular project and if	10:56
5	there was any documents that were provided to somebody	10:56
6	other than the owner or the design professional, that	10:57
7	would be an issue, that would be improper.	10:57
8	Q. Did Mr. Sweeney ever tell you that he had	10:57
9	allowed Rodrigo Santos to copy the plans relating to the	10:57
10	Six Dogs project?	10:57
11	A. No, he did not.	10:57
12	Q. Did he ever tell you that Rodrigo Santos was	10:57
13	involved in making complaints about the Six Dogs	10:57
14	project?	10:57
15	A. No, he did not.	10:57
16	Q. Didn't he come to you and tell you that he had	10:57
17	been contacted by Rodrigo Santos about issues relating	10:57
18	to a project involving Dennis Richards?	10:57
19	A. No, he didn't. You know, I wasn't even in the	10:57
20	country when this happened so he couldn't have come to	10:57
21	me because I was -- when the complaint came in I was	10:58
22	actually in Barcelona.	10:58
23	Q. Oh boy, that's where I want to go.	10:58
24	A. It's very good, you should.	10:58
25	Q. I think Joe Duffy went there, too.	10:58

1 A. Yeah. We didn't go together, he went there 10:58
2 before me. 10:58

3 Q. We will come back to that because I will 10:58
4 represent to you that Mr. Sweeney testified that he 10:58
5 approached you about Mr. Santos' complaint regarding a 10:58
6 project involving Dennis Richards before you went on 10:58
7 vacation. Do you not recall that? 10:58

8 A. Well, I don't recall it and I was on vacation 10:58
9 on September -- I want to say it was like the middle of 10:58
10 September, like September 17. What I do know about this 10:58
11 complaint is it came in I believe September 25 so I 10:58
12 wasn't here so I don't know, you know, how that could 10:59
13 have happened. 10:59

14 Q. Let's stick here with the extraordinary access 10:59
15 to submitted plans. Would you agree that if Mr. Sweeney 10:59
16 gave Mr. Santos permission to copy these plans, that he 10:59
17 would -- Mr. Sweeney would be acting contrary to your 10:59
18 department's code of conduct? 10:59

19 A. Yes. 10:59

20 Q. Did you see the testimony about Mr. Sweeney 10:59
21 wanting Mr. Santos to review the engineering aspects 10:59
22 because he was concerned that your own department's 10:59
23 engineers wouldn't do an adequate job? 10:59

24 A. Where is that in the document, could you tell 10:59
25 me roughly? 11:00

1	Q. It starts at the bottom of page 44 and	11:00
2	continues on to 45.	11:00
3	A. I see that.	11:00
4	Q. Does that cause you concern?	11:00
5	A. Yeah, of course, because we are the authority	11:00
6	having jurisdiction so we are the ones that need to be	11:00
7	-- that review the plans. If I am concerned with the	11:00
8	plans, it would raise to the level of the supervisor of	11:00
9	a plan checker to look at those plans to make a	11:00
10	determination with regards to their correctness or	11:00
11	accuracy.	11:00
12	Q. Have you ever bypassed your own department's	11:01
13	engineers to reach out to an outside engineer?	11:01
14	A. I have not. Just so you know, there are	11:01
15	instances where we do conduct peer review of projects	11:01
16	but they are typically larger projects, so I just want	11:01
17	to qualify my statement there.	11:01
18	Q. Right, like getting Frank Rolo or his folks	11:01
19	involved in looking at foundations or something like	11:01
20	that?	11:01
21	A. Yeah, that's correct.	11:01
22	Q. Have you ever been concerned that any DBI	11:01
23	employee has accepted gifts or special favors or	11:01
24	benefits from contractors or project sponsors?	11:01
25	MR. STEVENS: Objection, vague. You can	11:01

1	answer.	11:02
2	THE WITNESS: I am always concerned about that.	11:02
3	I just know of the one instance that I recently read	11:02
4	about in the newspaper.	11:02
5	MR. EMBLIDGE: Q.: That one instance being Mr.	11:02
6	Curran receiving a loan from Sia Consulting?	11:02
7	A. Yes, allegedly so, yes.	11:02
8	Q. Have there been any other instances that have	11:02
9	come to your attention where you believe a DBI employee	11:02
10	has accepted a gift or special favor or privilege from	11:02
11	persons doing business or regulated by the department?	11:02
12	A. I don't have information to that effect.	11:02
13	Q. What about receiving gift cards?	11:02
14	A. You know, I know at the holidays sometimes	11:02
15	inspectors will get a Starbucks gift card, for example,	11:03
16	but beyond that I am not aware of anything.	11:03
17	Q. On page six of Exhibit 106 you have some	11:03
18	discussions there of consistency and professionalism, do	11:03
19	you see that?	11:03
20	A. Yes.	11:03
21	Q. You agree that DBI employees should enforce the	11:03
22	building code in a consistent manner, right?	11:03
23	A. Absolutely, yes.	11:03
24	Q. Do you agree that DBI employees should not take	11:03
25	actions based on what they perceive to be the bad	11:03

1	attitude of a client or a client representative?	11:03
2	A. Yes, I agree with that, yes.	11:03
3	Q. If you would go to page seventeen of that	11:03
4	document. Are these suggestions by the department about	11:04
5	how DBI employees should deal with a client or a client	11:04
6	representative that perhaps has a bad attitude or is	11:04
7	angry?	11:04
8	A. Yes. These are good suggestions. It actually	11:04
9	comes from a book called Inspector Skills which is	11:04
10	published by the International Code Council. As we all	11:04
11	know, it applies to life in general, not just building	11:04
12	inspectors.	11:04
13	Q. I could use those skills sometimes. If you	11:04
14	look at page nine, page nine is entitled, Client/	11:04
15	Expediter Code of Professional Conduct. What is your	11:04
16	definition of an expediter?	11:05
17	A. That's a good question. My definition of an	11:05
18	expediter is somebody who knows how the routing of a	11:05
19	permit works and who can facilitate the permit moving to	11:05
20	the permitting departments in the most efficient way	11:05
21	possible.	11:05
22	Q. Would Rodrigo Santos be an example of an	11:05
23	expediter?	11:05
24	A. Yes.	11:05
25	Q. What about Mr. Pollard, John Pollard?	11:05

1	A. John Pollard is -- the answer probably is yes	11:05
2	but wears different hats, also, he is also a contractor.	11:06
3	He does work above and beyond what other expeditors or	11:06
4	permit consultants would normally do.	11:06
5	Q. So he does expediting but he also does hands-on	11:06
6	work, is that what you are saying?	11:06
7	A. Well, obviously he has employees probably that	11:06
8	do the work. Maybe it's that he has subcontractors to	11:06
9	do the work on his behalf. It is more than what the	11:06
10	typical expeditor does insofar as he has involvement in	11:06
11	the specific projects, himself, let's put it that way.	11:06
12	Q. Could you please go to page twelve of	11:06
13	Exhibit 106. Do you agree that employees who believe	11:07
14	they have seen a DBI employee giving someone favorable	11:07
15	treatment, they should report that conduct?	11:07
16	A. Yes.	11:07
17	Q. At the bottom of page twelve there is a	11:07
18	discussion about a customer marking plans in such a way	11:07
19	as to differentiate them from other plans in order to	11:07
20	gain preferential treatment. Can you tell me what	11:07
21	that's all about?	11:07
22	A. I know that plans are marked and they are	11:07
23	marked for different reasons. For example, priority of	11:07
24	affordable housing projects, the marking -- plans are	11:07
25	marked for specific reasons and one of those reasons is	11:08

1 to identify things like affordable housing projects that 11:08
2 are to be prioritized. Other than that, I don't know 11:08
3 about marking of plans. It's a little bit outside of my 11:08
4 wheelhouse because I never worked in the plan review 11:08
5 services side of our business but I do know that plans 11:08
6 are marked up to show, indicate that projects are 11:08
7 priority and that's one of the examples of being marked 11:08
8 up. 11:08

9 Q. That's a good thing, right? That would be 11:08
10 marking plans in accordance with city policy, right? 11:08

11 A. Yes, correct. 11:08

12 Q. But this seems to be saying there is some sort 11:09
13 of marking of plans in order to obtain preferential 11:09
14 treatment. Do you have any idea what that's referring 11:09
15 to? 11:09

16 A. I have no idea what that's referring to. 11:09

17 Q. On page fourteen there is a discussion about 11:09
18 whether or not employees should go to company parties, 11:09
19 like a contractor's party or an engineering firm's 11:09
20 party, and I frankly read it and I don't know what the 11:09
21 answer is. Is there a policy that you are aware of at 11:09
22 DBI that says DBI employees should not go to the parties 11:09
23 of businesses that come before DBI regularly? 11:10

24 A. What I know is the Building Inspectors 11:10
25 Association are a group that have been in existence for 11:10

1 probably fifty years and I haven't been here that long, 11:10
2 2021, I have only been here for twenty-one years. These 11:10
3 parties, these holiday parties are something that we 11:10
4 have all attended. They are really nothing more than 11:10
5 holiday parties put on by an association where we can 11:10
6 just have a holiday gathering. This association is a 11:10
7 good thing, it has been in existence, like I say, for 11:10
8 fifty years. I regard it as just a holiday party and no 11:10
9 more than that. 11:11

10 Q. I want to come back to that because I wasn't 11:11
11 asking you about the Building Inspectors Association, I 11:11
12 was asking about, say, Sia Consulting was having a 11:11
13 holiday party or John Pollard's SF Garage was having a 11:11
14 holiday party. Is there a policy that you are aware of 11:11
15 at DBI about whether or not it's appropriate for DBI 11:11
16 employees to attend those types of parties? 11:11

17 A. I don't know if we have a policy in particular 11:11
18 regarding that. I would err on the side of not going, 11:11
19 myself, if the situation presented itself to me. 11:11

20 Q. Why? 11:11

21 A. Because I think for me it would present a 11:11
22 conflict of interest and it would maybe put me in a 11:11
23 position where I might be expected to show bias or 11:12
24 favoritism towards whomever party I had attended. 11:12
25 That's just my core values. 11:12

1 Q. Okay. So you talked about a holiday party for 11:12
2 the Building Inspectors Association. Is there also a 11:12
3 holiday party for the Department of Building Inspection? 11:12

4 A. Yes, with the exception of last year for 11:12
5 obvious reasons, we typically have a party that takes 11:12
6 place usually at a nearby restaurant. We had it at Don 11:12
7 Ramon's, a restaurant on Howard Street, for many years. 11:12
8 That's something that's typically funded by the director 11:12
9 and the executive team and management staff at the 11:12
10 department for all of the employees. 11:13

11 Q. Are outsiders invited to that party or is it 11:13
12 just a party for DBI staff? 11:13

13 A. Just DBI staff. 11:13

14 Q. You guessed one of the things I was going to 11:13
15 ask which is about funding. Is it funded by 11:13
16 contributions from outsiders like contractors and 11:13
17 engineers or developers? 11:13

18 A. It's funded by people like me. 11:13

19 Q. You don't accept contributions from outsiders 11:13
20 to fund the DBI holiday party, correct? 11:13

21 A. To my knowledge, it was funded by executive 11:13
22 team and management staff. 11:13

23 Q. The Building Inspectors Association, that was 11:13
24 in existence when you joined the department, correct? 11:13

25 A. Yeah, for many years. 11:13

1 Q. What do you understand its purpose to be? 11:13

2 A. I think the purpose is -- I don't know what 11:13

3 their mission statement is like or says but the intent 11:14

4 is to create an organization for inspectors. It's not 11:14

5 even within the department, it's citywide. We have 11:14

6 inspectors that belong to that organization that work 11:14

7 for the Port of San Francisco, the airport, DPW. It 11:14

8 relates to building inspectors in general, they have an 11:14

9 organization. I think a lot of it is to work together 11:14

10 on things like negotiations for pay increases and they 11:14

11 talk about the Christmas party and how they are going to 11:14

12 organize the party and such things. A lot of it is -- 11:14

13 there is an element of camaraderie there, too, I am 11:14

14 sure. 11:15

15 Q. Are they a bargaining unit? 11:15

16 A. Good question. They may have been at one time 11:15

17 but Local 22 was what they were affiliated with which is 11:15

18 the carpenter's union and I think 22 did the bargaining. 11:15

19 They are now affiliated with Teamsters and I think they 11:15

20 work with the folks from Teamsters in regards to the 11:15

21 bargaining. But I would say they are not a bargaining 11:15

22 unit. I am not an expert on these things but that's as 11:15

23 much as I know. 11:15

24 Q. Do you have an understanding who the current 11:15

25 managers or directors are of the Building Inspectors 11:15

1	Association?	11:15
2	A. I know Edward Donnelly (phonetic) is the	11:15
3	president.	11:15
4	Q. Is he -- who is he?	11:15
5	A. He is a senior building inspector.	11:16
6	Q. With DBI?	11:16
7	A. Yes.	11:16
8	Q. The holiday party put on by the Building	11:16
9	Inspectors Association, have you attended that?	11:16
10	A. Yes.	11:16
11	Q. And how is it funded?	11:16
12	A. Honestly, I think that it changed over the	11:16
13	years and maybe it changed back again. When I first	11:16
14	joined the department back in 2000, I remember large	11:16
15	parties and how they were funded, you know, I didn't	11:16
16	even know at the time, I was brand-new. But what I came	11:16
17	to understand over the years is that contractors and	11:16
18	developers would purchase a table or buy a place at the	11:16
19	table for the dinner or the Christmas party, holiday	11:16
20	party, I should say, and I think at one point it just	11:17
21	reverted back just being the inspectors, themselves, and	11:17
22	their families because the thought was that it is better	11:17
23	that we like have a more intimate party rather than	11:17
24	having all these -- all the folks that most people	11:17
25	didn't even know. I think it went back to contractors	11:17

1 being included for the last few years, as I understand 11:17
2 it. 11:17

3 Q. Have you been to the party in the last few 11:17
4 years? 11:17

5 A. There wasn't one last year. The year before I 11:17
6 think I was. Maybe not the year before that. I have 11:17
7 been to most of them but not all of them, let's put it 11:18
8 that way. 11:18

9 Q. The contractors and developers who sponsor the 11:18
10 project, are they recognized at the party? Are there 11:18
11 signs or are there thank yous or anything like that? 11:18

12 A. No, I don't think so, I don't recall seeing 11:18
13 that. 11:18

14 Q. Okay, I want to ask you about Dennis Richards. 11:18
15 Have you ever met him? 11:18

16 A. Yes, I have. 11:18

17 Q. Outside of Planning Commission meetings? 11:18

18 A. No, I don't think so. 11:18

19 Q. So you have never met him one-on-one or in your 11:18
20 office, something like that, outside of a commission 11:18
21 setting? 11:18

22 A. I don't think so. I mean, I have met a lot of 11:18
23 people and a lot of people used to come in my office but 11:18
24 I don't recall Dennis being in my office. I might stand 11:19
25 to be corrected on that but I don't recall him as being 11:19

1 in the office, our only interaction was at Planning 11:19
2 Commission meetings. 11:19

3 Q. Have you ever talked with him on the phone? 11:19

4 A. I don't recall that either. It may have 11:19
5 happened, I just don't recall. 11:19

6 Q. You are aware, aren't you, that while he was on 11:19
7 the Planning Commission Mr. Richards was at times 11:19
8 critical of the Building Department? 11:19

9 A. Yes, I am aware of that. 11:19

10 Q. What criticisms are you aware of that he had in 11:19
11 terms of the Building Department? 11:19

12 A. I think his concerns related to fairness and 11:19
13 equity. He had concerns about demolitions, as we all 11:19
14 did, and that was probably one of the reasons I ended up 11:20
15 going to so many of those Planning Commission meetings 11:20
16 was discussions that we were engaged in in regard to 11:20
17 exceeding the scope of demolitions. 11:20

18 Q. Did you share Mr. Richards' values regarding 11:20
19 fairness and equity? 11:20

20 A. Yes, I do. 11:20

21 Q. Tell me a little bit more about the concerns 11:20
22 regarding demolitions. Not so much Mr. Richards' 11:20
23 concerns but you said there were concerns that we all 11:20
24 had. What were the concerns that you had? 11:20

25 A. The concerns that I had and I think others had 11:20

1 was that some of these projects that had permits issued 11:20
2 and showed a specific scope of demolition, that scope of 11:20
3 demolition was in some cases exceeded which created a 11:21
4 controversial issue with planning in regards to their 11:21
5 review that would be necessitated by the over 11:21
6 demolition. So it just kind of became a tough and 11:21
7 thorny subject for several years. I think we have 11:21
8 better controls over it now. 11:21

9 Q. Did you say better control over it? 11:21

10 A. Yes. 11:21

11 Q. Okay, great. How have you achieved better 11:21
12 control over the demolition concern? 11:21

13 A. Obviously we are working with our colleagues in 11:21
14 the Planning Department. We have made a determination 11:21
15 that most of these projects related to expansion of 11:21
16 existing buildings. The most likely candidates were 11:21
17 vertical and horizontal additions to buildings, mostly 11:22
18 vertical. So what we have done? What we have done is 11:22
19 we have asked our MIS team, our information technology 11:22
20 folks, to provide us with a weekly list of these permits 11:22
21 that get issued that meet that specific criteria and we 11:22
22 are reaching out to the contractors and developers and 11:22
23 requiring a stack of work inspection before they 11:22
24 commence the project so we can identify where the 11:22
25 potential pitfalls might be in regards to exceeding the 11:22

1 scope of these demolitions. 11:22

2 Q. You are aware, aren't you, of a series of 11:22
3 projects that came before the Planning Commission while 11:22
4 Mr. Richards was there where a project sponsor would 11:23
5 submit plans showing, for example, an existing basement 11:23
6 and then, in fact, there was no existing basement and 11:23
7 the project sponsor went ahead and excavated to create 11:23
8 that basement? 11:23

9 A. Yes. 11:23

10 Q. How is it possible that a building inspector 11:23
11 wouldn't catch that? 11:23

12 MR. STEVENS: Calls for speculation. You can 11:23
13 answer. 11:23

14 THE WITNESS: A building inspector wouldn't 11:23
15 know what was there before when the building inspector 11:23
16 would go out and see work underway. 11:23

17 MR. EMBLIDGE: Q.: But you would see an 11:23
18 excavator there, you would see trucks hauling away yards 11:23
19 and yards of dirt. It boggles my mind, how is it that 11:23
20 an inspector doesn't catch the fact that there is 11:24
21 excavation going on that is beyond what's shown on any 11:24
22 of the plans? 11:24

23 MR. STEVENS: Same objection, lacks foundation, 11:24
24 calls for speculation. You can answer. 11:24

25 THE WITNESS: The inspector is not there while 11:24

1 all these, as you described, truckloads of material are 11:24
2 being removed. A lot of these, whether they be existing 11:24
3 garages or, you know, as you described whether there is 11:24
4 some nefarious intent or misrepresentation, typically 11:24
5 there is excavation involved anyway. So if a building 11:24
6 inspector sees excavation and they are doing their like 11:24
7 fifteen minute inspection, they are not going to know 11:24
8 how much material has already been removed at the time 11:24
9 they are there, if that makes sense. 11:24

10 MR. EMBLIDGE: Q.: It sounds like one of the 11:24
11 reforms you are instituting is a pre-construction 11:25
12 inspection so that the building inspector can look at 11:25
13 what's there and look at the plans and see if they match 11:25
14 up, is that right? 11:25

15 A. Correct, for specific projects. Initially for 11:25
16 the ones that caused us these concerns. 11:25

17 Q. Do you give Mr. Richards any credit for that 11:25
18 reform? 11:25

19 A. Absolutely I do. I think we have all been 11:25
20 hoping to get to a better place with this. Yes, I do, I 11:25
21 think Dennis was very instrumental in getting us further 11:25
22 down the road with that, absolutely. 11:25

23 Q. Do you believe that any DBI inspectors have 11:25
24 ignored violations by contractors or project sponsors or 11:25
25 engineers with whom they have relationships? 11:25

1 conduct pre-issuance inspections relating to Mr. Santos' 11:28
2 projects so we could see if the existing conditions were 11:28
3 being represented accurately. 11:28

4 Q. Is there anything else you instituted to deal 11:28
5 with Mr. Santos? 11:28

6 A. We are also looking at his affiliates insofar 11:28
7 as that if Albert Urrutia were to submit drawings, they 11:28
8 would be treated similarly as is the case with Alex 11:28
9 Santos and I think RS Engineering is another permit 11:28
10 applicant, you know, that we see on these applications. 11:29

11 Q. Are there other contractors, engineers or 11:29
12 project sponsors that are on this list of folks that 11:29
13 need extra scrutiny? 11:29

14 A. There is kind of two paths here, there is two 11:29
15 conversations. The Rodrigo conversation is based on 11:29
16 litigation which I can't go into for obvious reasons. 11:29
17 There has been recently enacted legislation an ordinance 11:29
18 that is referred to as the expanded compliance 11:29
19 something. What that means is that for want of a better 11:29
20 word, we think we have an egregious notice of violation 11:29
21 for some project, somebody gets put on a watch list, an 11:29
22 internal list. And if they have two more of those 11:30
23 serious notices of violation relating to a project, then 11:30
24 they get put on what is our formal expanded compliance 11:30
25 control list. There are a lot of checks and balances 11:30

1 insofar as that people have obviously due process, as 11:30
2 you know as an attorney, and they have rights to appeal 11:30
3 and we have a stepped process for putting people on that 11:30
4 list which includes layers of oversight. That is a 11:30
5 recent legislation that we will -- we will have folks on 11:30
6 that list. 11:30

7 Q. Are there any folks on that list now? 11:30

8 A. No, not yet, but there is a couple of people 11:30
9 that are on the internal watch list. 11:30

10 Q. Who are they? 11:31

11 A. Inco Design I think is one. 11:31

12 Q. In code? 11:31

13 A. I might be wrong with the spelling, I think 11:31
14 it's I-N-C-O Design. Interestingly enough, I think Mr. 11:31
15 Buscovich made it on the list a few weeks ago. We have 11:31
16 two that I am aware of. 11:31

17 Q. How did Mr. Buscovich get on the list? 11:31

18 A. Because a complaint came in regarding a project 11:31
19 that was underway. A permit was issued without plans 11:31
20 and when we went out to investigate the complaint, a 11:31
21 significant amount of excavation had occurred and it 11:31
22 would have been something that would have required plans 11:31
23 so we wrote up the notice of violation. Again, it 11:32
24 raises to the level of being something that would be 11:32
25 like categorized as concerning or egregious so that puts 11:32

1	somebody on the watch list.	11:32
2	Q. One incident of egregiousness gets you on the	11:32
3	watch list?	11:32
4	A. The watch list doesn't mean anything really,	11:32
5	it's just so we can determine when people get three	11:32
6	strikes.	11:32
7	Q. Do you recall the address of this Buscovich	11:32
8	project?	11:32
9	A. I don't. I don't recall the address, I am	11:32
10	sorry.	11:32
11	Q. Do you recall who at DBI looked into the issues	11:32
12	out there?	11:32
13	A. I think Joe Duffy did. Joe Duffy was the one	11:32
14	that told me about it.	11:32
15	Q. In your dealings with Mr. Richards, have you	11:32
16	ever found him to be less than honest?	11:32
17	A. No, I have always found him to be honest.	11:33
18	Q. Have you believed Mr. Richards' concerns about	11:33
19	projects have been off base or mistaken?	11:33
20	A. You know, I think he is coming from a good	11:33
21	place insofar as that he is looking for, you know,	11:33
22	better processes and ways to avoid having these things	11:33
23	happen in the first place.	11:33
24	Q. Is there a but there at the end of that	11:33
25	sentence?	11:33

1	A. If it was, it was a slip of the tongue.	11:33
2	Q. Let's talk about the Six Dogs project. When	11:33
3	did you first become aware of it?	11:33
4	A. When I came back from vacation. I want to say	11:33
5	it was like October 2 or 3, 2019.	11:34
6	Q. Your best recollection is that you were out of	11:34
7	the country from approximately September 17 to October 2	11:34
8	or 3?	11:34
9	A. Yeah, whatever the Friday was, the first Friday	11:34
10	in October was when I came back because I do recall that	11:34
11	I was due to come back to work on a Friday. Who does	11:34
12	that? It was the first Friday of October so I had flown	11:34
13	in the day before.	11:34
14	Q. How do you know when you left, have you looked	11:34
15	at your calendar to know it was around September 17?	11:34
16	A. I was gone for probably about two weeks, I was	11:34
17	just doing the math in my head. It was about that time.	11:34
18	Q. So what is it you recall being told the first	11:34
19	time you were told about the Six Dogs project?	11:35
20	A. I guess when I came into work that Friday, I	11:35
21	think Joe Duffy was the one that mentioned it to me. He	11:35
22	kind of said that Mauricio is handling the complaint and	11:35
23	that Ed had a meeting, I guess, with Pat Buscovich and I	11:35
24	don't know who else was in the meeting but they were	11:35
25	dealing with it. Given what it was I kind of said okay,	11:35

1 Ed Sweeney is my boss and Mauricio is another chief and 11:35
2 he is the code enforcement person and he would be 11:35
3 handling the complaint. I really didn't have any part 11:35
4 of it at that point. This is something that happened 11:36
5 when I wasn't even there so I didn't feel like I was 11:36
6 going to come back and inject myself into the middle of 11:36
7 this thing. I didn't have any part in how it got to 11:36
8 there. 11:36

9 Q. So you had this conversation with Joe Duffy at 11:36
10 the end of the first week of October. What was your 11:36
11 next involvement in anything relating to the Six Dogs 11:36
12 project? 11:36

13 A. I don't think I had involvement, to be honest. 11:36
14 I don't remember like being involved in that at all. 11:36
15 Joe went to the Board of Appeal and I think, like I said 11:36
16 earlier, I think that he mentioned to me, as he always 11:36
17 does, what happened at the board and, you know, what the 11:36
18 cases were and probably more specifically this one, you 11:37
19 know, because it was fairly contentious, I guess. I 11:37
20 wasn't there but he told me about it. 11:37

21 Q. So did you have any role in preparing DBI's 11:37
22 presentation for the Board of Appeal relating to the Six 11:37
23 Dogs project? 11:37

24 A. I don't recall being involved in that. There 11:37
25 may have been conversations going back and forth but I 11:37

1 don't recall specifics relating to that. 11:37

2 Q. Okay. Could you back to Exhibit 107, the 11:37

3 Sweeney deposition transcript? 11:37

4 A. Uh-huh. 11:37

5 Q. If you could look at page twenty-four. I am 11:37

6 trying to make this efficient for you. If you look at 11:38

7 page twenty-two, you will see that Mr. Sweeney says that 11:38

8 a complaint came in by telephone on September 25. Then 11:38

9 if you go to page twenty-four I asked him before that 11:38

10 telephone complaint came in did you discuss what Rodrigo 11:38

11 Santos had told you about the Six Dogs property with 11:38

12 anybody else and you will see he says he talked about it 11:38

13 at a senior staff meeting that involves Mauricio, Joe 11:38

14 Duffy, Bernie Curran, you and possibly two other people. 11:38

15 Is it fair to say that you don't recall such a 11:38

16 discussion at a senior staff meeting? 11:38

17 A. No, I don't recall that. 11:39

18 Q. When did you first learn that Rodrigo Santos 11:39

19 had something to do with the complaints relating to the 11:39

20 Six Dogs project? 11:39

21 A. You know, I am not sure when I first heard 11:39

22 that. I heard it from someone or somewhere along the 11:39

23 line and I thought it was something to do with Albert 11:39

24 Urrutia's daughter or sister or something, I don't 11:39

25 recall exactly what it was. That's my recollection that 11:39

1 it was related more to Albert than to Rodrigo. Maybe I 11:39
2 have that wrong. 11:39

3 Q. From whom did you hear that? 11:39

4 A. I don't know, I was just -- I don't know, I 11:39
5 don't recall who I heard it from, but that conversation 11:39
6 was being had by someone and it's embedded in my mind 11:40
7 from back when I first heard it. 11:40

8 Q. Do you place that conversation within a time 11:40
9 frame that was before or after the Board of Appeal 11:40
10 hearing? 11:40

11 A. I don't recall what the time frame was. 11:40

12 Q. Before today have you ever heard that it was 11:40
13 Rodrigo Santos that made the initial anonymous complaint 11:40
14 regarding the Six Dogs project? 11:40

15 A. You know, I may have heard that but I don't, 11:40
16 again, I don't know who said that or when it was said. 11:40
17 I don't know that he was a complainant. I think I 11:41
18 remember seeing that at least the neighbor on the 11:41
19 complaint was anonymous. I don't know that it was him. 11:41

20 Q. I am sure you don't know but did you hear in, 11:41
21 say, 2019 that Rodrigo Santos or his firm was behind the 11:41
22 complaints? 11:41

23 A. I don't remember hearing it like you are 11:41
24 putting it now, I don't remember hearing it exactly like 11:41
25 that. I mean, there may have been a conversation about 11:41

1 who do you think the complainant was, was this Rodrigo 11:41
2 or, you know -- it was kind of that conversation. I 11:41
3 don't know who the complainant was. I have heard, and I 11:41
4 don't know where I heard it, but I heard that maybe 11:42
5 Rodrigo was the one that filed the complaint and 11:42
6 Albert's wife I think was the one who requested the 11:42
7 records. Something along those lines. 11:42

8 Q. That was my mistake, that was in the Board of 11:42
9 Appeal brief. I said it was Albert's wife, it turned 11:42
10 out to be his daughter. 11:42

11 A. So you sent me down the wrong path there. 11:42

12 Q. Yeah, I went down the wrong path, myself. I 11:42
13 don't want to beat a dead horse but can you look at the 11:42
14 deposition transcript starting on page twenty-five, at 11:42
15 line thirteen. I am asking about the day the phone 11:42
16 complaint came in and Mr. Sweeney talks about a meeting 11:42
17 in your office involving you and Mauricio Hernandez and 11:42
18 you saying I am not going to look into this because I am 11:42
19 going to Ireland, and then Mauricio volunteering to look 11:42
20 into it. Do you remember that? 11:42

21 A. No. I mean, the plane had already left. I had 11:43
22 left for Ireland probably on the 17th is my best 11:43
23 recollection and the complaint didn't come in until the 11:43
24 25th. I did look that up, September 25 is when the 11:43
25 complaint came in so I don't know how I could have been 11:43

1 in the meeting. I am not in the habit of joining 11:43
2 meetings from vacation, at least I wasn't then, I am 11:43
3 more likely to do it now. I don't recall such a 11:43
4 meeting. That's a long-winded answer. 11:43

5 Q. We talked about rumors. I have heard a rumor 11:43
6 and one of those rumors is that you had the unfortunate 11:44
7 role of trying to clean up issues relating to Rodrigo 11:44
8 Santos and you used to have like a wall in your office 11:44
9 that was covered with all the different stuff you had to 11:44
10 do to clean up his messes. Is there any accuracy to 11:44
11 that rumor? 11:44

12 A. Yeah, I mean, I have been cleaning up messes 11:44
13 here for a long time and Rodrigo was always one that 11:44
14 made his fair share of messes. So I had a board in my 11:44
15 office and I referred to it as my radar and I just put 11:44
16 projects on that board that were significant and that 11:44
17 needed to be watched more carefully than others. So 11:44
18 yes, I mean for sure, I would pay attention to Rodrigo's 11:44
19 projects because there was always a concern that 11:45
20 something was going to, you know, go sideways. 11:45

21 Q. Was there anybody else that you had sort of on 11:45
22 that informal watch list? 11:45

23 A. Yeah, I am sure there were multiple projects on 11:45
24 that and it was always like a rotating list. It wasn't 11:45
25 all Rodrigo, it wasn't all Pollard, there was like a 11:45

1 mixture of projects on that list. 11:45

2 Q. What is your understanding of Ed Sweeney's 11:45
3 relationship with Mr. Santos? 11:45

4 A. I don't know that they were close. They knew 11:45
5 each other. Rodrigo was coming into DBI all the time, 11:45
6 probably daily. I don't know that they had any kind of 11:45
7 close relationship at least that I am aware of. 11:45

8 Q. What is your understanding of Bernie Curran's 11:46
9 relationship with Mr. Santos? 11:46

10 A. Probably the same. I don't know what their 11:46
11 relationship would have been but, you know, again, 11:46
12 Rodrigo was coming into the counter all the time and we 11:46
13 would see him at the counter and Bernie would be at the 11:46
14 counter and we would all spend a lot of time at the 11:46
15 third floor counter at DBI and we would be having to 11:46
16 deal with him every day and that was pretty much what I 11:46
17 remember. Relationship? I don't know what kind of 11:46
18 relationships there was there. I did see them having 11:46
19 conversation at the counter and I had conversations with 11:46
20 Mr. Santos at the counter myself. What we were all 11:46
21 trying to do down there was to help people fix stuff and 11:46
22 just get them going in the right direction. 11:47

23 Q. What's your understanding of Mauricio 11:47
24 Hernandez's relationship with Mr. Santos? 11:47

25 A. I don't know that there was a relationship 11:47

1 there. I am not aware that there was. 11:47

2 Q. What is your understanding of the reasons the 11:47

3 Six Dogs project's permits were revoked? 11:47

4 A. I mean, I wasn't here so I wasn't witness to 11:47

5 how -- what all transpired there. I mean, we all have 11:47

6 our different ways of dealing with these situations. I 11:47

7 am more of a person that would bring somebody into my 11:47

8 office and sit them down and try to figure something 11:47

9 out. Again, the building code does allow for revocation 11:47

10 or suspension of permits but, you know, that's kind of 11:48

11 -- we are all different and some people will take the 11:48

12 more aggressive path and some of us, including me, will 11:48

13 try to reason things out and have a conversation and 11:48

14 figure out what we need to do to fix something. 11:48

15 Q. Where would you place Mr. Hernandez on that 11:48

16 scale as far as being aggressive on one end to trying to 11:48

17 figure something out on the other end? 11:48

18 A. Well, like I said earlier, I think a lot of Mr. 11:48

19 Hernandez, I think he is a good man and I think he would 11:48

20 be more of one that would kind of be, you know, the 11:48

21 person that would be trying to work something out. But 11:48

22 he would definitely do his job and he would do what was 11:48

23 necessary or what he thought was necessary. I always 11:48

24 had a relationship with him that if I thought he was -- 11:49

25 like if something needed to be discussed, let's say, we 11:49

1 could sit down and have a discussion and figure it out 11:49
2 and he was always willing to compromise and come to an 11:49
3 agreed upon solution. 11:49

4 Q. Where would you place Mr. Sweeney on that scale 11:49
5 of being more aggressive versus being one to try to work 11:49
6 things out? 11:49

7 A. I would put him more on the scale of like being 11:49
8 unpredictable. You wouldn't know like how he might 11:49
9 react to something. For me he was kind of a tough read. 11:49
10 I mean, I reported to him, we worked together. We 11:49
11 didn't spend the holidays together, we weren't friends 11:49
12 or anything, but we had a professional relationship and 11:49
13 we -- for the purposes of the office environment we 11:49
14 worked together and did our jobs. 11:50

15 Q. So I go back to the question I asked originally 11:50
16 which I am not sure you answered which is what is your 11:50
17 understanding as to why these permits were revoked for 11:50
18 the Six Dogs project? 11:50

19 A. You know, what I heard was that -- and I think 11:50
20 I might have heard this from Joe -- is that they weren't 11:50
21 seeing cooperation from Mr. Buscovich and the 11:50
22 alternative was to revoke the permits. 11:50

23 Q. You heard from Mr. Duffy that because Mr. 11:51
24 Buscovich wasn't cooperating, the only alternative was 11:51
25 to revoke the permits? 11:51

1 A. That's the decision that was made. That's what 11:51
2 I heard, that they would revoke the permits based on 11:51
3 however a meeting was. I guess there was some meeting 11:51
4 that was held in Ed Sweeney's office and I think it was 11:51
5 that -- again, I wasn't even here but, again, that was 11:51
6 the day I think that the notices of violation were 11:52
7 issued, later that day. 11:52

8 Q. Okay. Have you ever revoked permits for a 11:52
9 project sponsor because the project sponsor's 11:52
10 representative was not cooperative with you? 11:52

11 A. No, I don't recall having done that but I may 11:52
12 have. I have revoked permits over the years and I can't 11:52
13 think of all the different situations and why it is we 11:52
14 had to revoke permits or why it is we might have 11:52
15 suspended permits and not revoked permits. I may have, 11:52
16 I just don't recall every instance. 11:52

17 Q. Let me ask you it differently. Do you believe 11:52
18 it's proper to revoke permits because a project 11:52
19 sponsor's representative is being uncooperative? 11:53

20 A. Again, we are all different. What I would have 11:53
21 done probably is I would have asked Mr. Richards and Mr. 11:53
22 Buscovich to come sit in my office and we would have 11:53
23 probably figured out what we needed to do, that's how I 11:53
24 would have dealt with it. But I am more inclined to, 11:53
25 you know, get people together so we can talk things 11:53

1 through and figure out what's the least rocky road to 11:53
2 get where they need to go. 11:53

3 Q. Understood. What I am asking is in your view, 11:53
4 is it proper to issue notices of violation and then 11:53
5 revoke permits on the same day because a project 11:53
6 sponsor's representative was perceived as uncooperative? 11:53

7 A. My answer would be the code allows for that but 11:53
8 I wouldn't do it. 11:54

9 Q. Could you look at -- I want you to see how Mr. 11:54
10 Sweeney explained what happened. You could start on 11:54
11 page thirty, line sixteen, and read to page thirty-one, 11:54
12 line twenty-five. 11:54

13 A. I am ready. 11:55

14 Q. Lines thirty-three -- I am sorry, page 11:55
15 thirty-three, lines fourteen through nineteen. And the 11:55
16 last one is page forty, lines three through eleven. I 11:56
17 understand you are saying the building code gives Mr. 11:56
18 Sweeney the power to revoke permits, right, but do you 11:56
19 think he was justified in exercising that power because 11:56
20 of what he described as the poor attitude of Mr. 11:56
21 Buscovich? 11:56

22 MR. STEVENS: Objection, vague. You can 11:56
23 answer. 11:56

24 THE WITNESS: I mean, all I can say is that I 11:57
25 wouldn't have done that, that's not my style. We 11:57

1 wouldn't be having this conversation if I were the one 11:57
2 that was in that meeting. 11:57

3 MR. EMBLIDGE: Q.: You heard about the Six 11:57
4 Dogs project again from Mr. Duffy after the Board of 11:57
5 Appeal meeting. When is the next time after that you 11:57
6 heard about the Six Dogs project? 11:57

7 A. I think I was in a meeting with Joe and you are 11:57
8 going to have to tell me who the folks that were helping 11:57
9 Dennis Richards with getting a permit because they were 11:57
10 in that meeting, too. That was the next time we really 11:57
11 were dealing with it, we were trying to get everything 11:58
12 back on track insofar as we were working with all 11:58
13 involved to get a proper permit filed so the permit 11:58
14 could be reviewed and issued as expeditiously as 11:58
15 possible so we could put all this behind us. 11:58

16 Q. Do you remember someone named Debra Holley? 11:58

17 A. Yeah, that's the name. 11:58

18 Q. Elliot or Stephen Sutro, Stephen with a P-H, do 11:58
19 you recall them? 11:58

20 A. Yes, I recall. The meeting was held in the 11:58
21 Planning Department. I was in the meeting, Joe was in 11:58
22 the meeting. I don't recall the planners. We had a DBI 11:58
23 engineer Matt Ralls was in the meeting, Stephen Sutro I 11:59
24 believe was in the meeting, and I think Debra Holley was 11:59
25 in the meeting, also. 11:59

1	Q. And did you feel that Ms. Holley and Mr. Sutro	11:59
2	were being cooperative in trying to address the issues?	11:59
3	A. Probably, yes. Absolutely.	11:59
4	Q. As to Mr. Buscovich, in your dealings with Mr.	11:59
5	Buscovich have you ever had a situation similar to what	11:59
6	Mr. Sweeney described where Mr. Buscovich said I refuse	11:59
7	to accept what you are saying?	11:59
8	A. No, I have not.	11:59
9	Q. Did you ever talk with Tom Hui about the Six	11:59
10	Dogs project?	11:59
11	A. Not that I recall, no.	11:59
12	Q. Forgive me if I already asked you this but did	11:59
13	you ever have direct discussions with Mr. Sweeney about	11:59
14	the Six Dogs project?	12:00
15	A. He may have mentioned it to me a few times but	12:00
16	I don't remember having any meaningful conversations	12:00
17	with him about it.	12:00
18	Q. Did he have any discussions with you about --	12:00
19	again, I am sorry if I asked this -- did you and Mr.	12:00
20	Sweeney have any discussions about the Six Dogs project	12:00
21	in which Mr. Sweeney talked about Mr. Santos' role in	12:00
22	the complaints?	12:00
23	A. No, I don't recall any conversations like that.	12:00
24	Q. Did you ever have any discussions with Mauricio	12:00
25	Hernandez about the Six Dogs project?	12:00

1 A. We may have had a conversation, I don't recall 12:00
2 exactly what it would have been. It's possible. There 12:00
3 were a lot of conversations happening about this 12:00
4 probably at the time, I would say. 12:00

5 Q. Okay, understood, but do you recall any 12:01
6 conversations with Mr. Hernandez about the Six Dogs 12:01
7 project? 12:01

8 A. Not a specific conversation. I am sure we 12:01
9 probably had a conversation at some point, superficially 12:01
10 at least, about the project. 12:01

11 Q. Did you ever have any discussions with Bernie 12:01
12 Curran about the Six Dogs project? 12:01

13 A. I don't recall any conversations with Bernie. 12:01

14 Q. Other than Joe Duffy reporting back to you 12:01
15 after the Board of Appeal meeting, did you ever have any 12:01
16 discussions with Joe Duffy about the Six Dogs project? 12:01

17 A. I am sure we talked about it because we were 12:01
18 preparing for the meeting with Debra Holley and Stephen 12:01
19 Sutro and generally our conversation was how do we turn 12:01
20 this around and get them squared away with permits and 12:02
21 get it moving in the right direction. That was the 12:02
22 intention and those would have been the conversations 12:02
23 with Joe Duffy because we are kind of in the same school 12:02
24 of thought in regards to these things. 12:02

25 Q. Did you ever have any discussions with Angus 12:02

1	McCarthy about the Six Dogs project?	12:02
2	A. I don't recall conversations with Angus about	12:02
3	that project.	12:02
4	Q. Do you recall ever having discussions with Sean	12:02
5	Keighran about the Six Dogs project?	12:02
6	A. No, I do not.	12:02
7	Q. Do you recall having any discussions with	12:02
8	anyone on the BIC, B-I-C, about the Six Dogs project?	12:02
9	A. No, I do not.	12:02
10	Q. Do you recall ever having any discussions with	12:02
11	Dennis Richards about the Six Dogs project?	12:02
12	A. No, I do not.	12:02
13	Q. Do you recall ever having any discussions with	12:02
14	Pat Buscovich about the Six Dogs project?	12:02
15	A. I recall conversations with Pat Buscovich	12:03
16	because he had come to the counter and -- I mean, he was	12:03
17	somebody who was at the DBI counter almost daily. I am	12:03
18	sure and I know we had conversations about this. I	12:03
19	don't recall exactly what the conversations were but the	12:03
20	conversations generally from where I was sitting were	12:03
21	about, you know, just getting permits and getting these	12:03
22	permits issued and moving on.	12:03
23	Q. Did Mr. Buscovich ever complain to you about	12:03
24	the actions that Mr. Sweeney took?	12:03
25	A. I believe he did, yeah. I think he might have	12:03

1 complained that he thought that it was too severe an 12:03
2 action on Ed Sweeney's part for the revoking of the 12:03
3 permits, that's what I recall. 12:04

4 Q. Did you do anything to address Mr. Buscovich's 12:04
5 concerns about the harshness of Mr. Sweeney's actions? 12:04

6 A. Mr. Sweeney was my supervisor and I advised Mr. 12:04
7 Buscovich -- this is going from memory -- to try to work 12:04
8 with him and with Mauricio in regards to filing the 12:04
9 necessary permits and getting this moving in a good 12:04
10 direction. 12:04

11 Q. Okay, I suggest we take a lunch break. How 12:04
12 long would people like? 12:04

13 A. I am okay with whatever allows us to get 12:04
14 through this today, Scott. What does that mean for you 12:04
15 if I want to get through this today? 12:05

16 Q. The main person that needs a break is Renee 12:05
17 because she is typing all this down. Is thirty minutes 12:05
18 enough? 12:05

19 THE VIDEOGRAPHER: Off the record 12:05 p.m. 12:05
20 (Brief recess.) 12:51

21 THE VIDEOGRAPHER: We are on the record 12:52 12:51
22 p.m. 12:52

23 MR. EMBLIDGE: Q.: Mr. O'Riordan, did Mauricio 12:52
24 Hernandez ever complain to you about the way that Mr. 12:52
25 Sweeney handled the Six Dogs permit revocation? 12:52

1 A. No. 12:52

2 Q. Did you ever discuss with Mr. Hernandez the 12:52
3 reasons for revoking the Six Dogs permits? 12:52

4 A. I don't recall having those conversations with 12:52
5 Mr. Hernandez. 12:52

6 Q. We talked earlier a little bit about the 12:52
7 concerns Mr. Richards expressed while on the Planning 12:52
8 Commission about DBI. Did you hear people at DBI 12:52
9 complain about what Mr. Richards was saying concerning 12:52
10 DBI? 12:53

11 A. I don't recall hearing any specifics relating 12:53
12 to that. 12:53

13 Q. There is no backlash at DBI about who is this 12:53
14 guy criticizing us? 12:53

15 A. Certainly not from me. I think a lot of folks 12:53
16 would be probably concerned about coming to me with that 12:53
17 because I was the one that was going to the Planning 12:53
18 Commission to all these meetings at the time and I 12:53
19 wouldn't be the first person they would come to with 12:53
20 that kind of a conversation. 12:53

21 Q. I want to go through a few background things 12:53
22 very quickly. Can you tell me your educational 12:53
23 background, please? 12:53

24 A. Graduated high school sometime in the last 12:53
25 century, when was that, 1980. Started working in the 12:53

1	trades. Spent a little bit of time overseas in	12:54
2	Australia. Worked as a general contractor between 1992	12:54
3	and 2000. Joined DBI in 2000. Educationally, at DBI I	12:54
4	have attended the different certifications that are	12:54
5	necessary for this job and certifications beyond what's	12:54
6	involved in this job. Also, continuing education is a	12:54
7	requirement for maintaining certification so I do that	12:54
8	every year. Went from building inspector to senior	12:54
9	inspector to chief inspector and am currently in the	12:54
10	role of interim director in March of 2020. That's	12:54
11	pretty much the timeline of events.	12:55
12	Q. Thank you for that. Do you still have a	12:55
13	contractor's license?	12:55
14	A. I believe it's expired, it's no longer valid.	12:55
15	Q. Between what years were you the city's chief	12:55
16	building inspector?	12:55
17	A. I was a chief building inspector between April	12:55
18	of I believe it was 2013 and March of 2020.	12:55
19	Q. You should have in Exhibit 42, which is a	12:55
20	document we have marked in the past, it's an	12:55
21	organizational chart.	12:55
22	MR. STEVENS: If you give me a second --	12:56
23	MR. EMBLIDGE: I can do a screen share, if	12:56
24	that's easier.	12:56
25	MR. STEVENS: I think that would be. I don't	12:56

1	think I have all of the transcripts yet so I just took	12:56
2	the exhibits from the link.	12:56
3	MR. EMBLIDGE: Q.: Can you see this, Mr.	12:56
4	O'Riordan?	12:56
5	A. Yes.	12:56
6	Q. So this is an organization chart as of	12:56
7	December 21, 2020. Have there been any changes in the	12:56
8	management sector of DBI, I guess aside from Mr. Curran	12:56
9	leaving, since this organizational chart that you are	12:56
10	aware of.	12:56
11	A. Since this?	12:57
12	Q. Yes.	12:57
13	A. Sam Shahrouri, S-H-A-H-R-O-U-R-I, is no longer	12:57
14	with the department. The permit services, that position	12:57
15	is still vacant. We have an acting person serving that	12:57
16	function.	12:57
17	Q. Who is that?	12:57
18	A. That is Gary Ho. He is about to retire next	12:57
19	week so we are going to be finding somebody else to	12:57
20	cover for that, until we interview for the position,	12:57
21	which the interviews are scheduled to take place on	12:58
22	July 14, I believe,	12:58
23	THE VIDEOGRAPHER: Off the record 12:58 p.m.	12:58
24	(Discussion off the record.)	12:58
25	THE VIDEOGRAPHER: We are now on the record	12:59

1	1:00 p.m.	12:59
2	MR. EMBLIDGE: Q.: Mr. O'Riordan, you were	12:59
3	explaining that you are in the process of filling the	13:00
4	permit services deputy director. Is Mr. Duffy still	13:00
5	both the acting deputy director of inspection services	13:00
6	and the chief building inspector?	13:00
7	A. Yes, that's correct.	13:00
8	Q. And is Ms. or Mr. Madison, Taras, T-A-R-A-S,	13:00
9	Madison still the deputy director of administrative	13:00
10	services?	13:00
11	A. Yes, that's correct.	13:00
12	Q. You testified earlier that at some period you	13:00
13	reported to Ed Sweeney. Can you tell me approximately	13:00
14	the time frame when you were reporting to Ed Sweeney?	13:00
15	A. I know I reported to Ed Sweeney up to when I	13:00
16	became interim director, which was March 16, 2020. I am	13:01
17	not exactly sure when he became the deputy director of	13:01
18	inspection services. My best guess would be to say that	13:01
19	it was about three and a half or four years in length of	13:01
20	time.	13:01
21	Q. Did he ever report to you?	13:01
22	A. No.	13:01
23	Q. And did Mr. Hernandez ever report to you?	13:01
24	A. Yes.	13:01
25	Q. During approximately what period of time?	13:01

1	A. Probably from when I became chief in 2013 to	13:01
2	approximately when he was promoted to chief himself, and	13:01
3	I am sorry, I don't have the exact dates but it was	13:02
4	probably some time around 2017 or 2018, I would say.	13:02
5	Q. Okay. You are familiar, I assume, with the	13:02
6	Residential Builders Association?	13:02
7	A. Yes.	13:02
8	Q. Have you ever been a member of the RBA?	13:02
9	A. No.	13:02
10	Q. To your knowledge, has anybody employed by DBI	13:02
11	been a member of the RBA?	13:02
12	A. Not to my knowledge.	13:02
13	Q. Have you ever been approached by any member of	13:02
14	the RBA about a hiring decision at DBI?	13:02
15	A. No.	13:02
16	Q. Have you ever heard that any member of the RBA	13:02
17	has had any input into DBI hiring decisions?	13:02
18	A. No, I have not.	13:02
19	Q. Do you attend RBA events?	13:03
20	A. I have been to a couple of golf tournaments	13:03
21	that they put on, yes.	13:03
22	Q. Who do you understand to be the current leaders	13:03
23	of the RBA?	13:03
24	A. Sean Keighran is the current leader of the RBA.	13:03
25	Q. To the best of your understanding, what is	13:03

1	Angus McCarthy's relationship to the RBA?	13:03
2	A. I don't know what his position is in the RBA	13:03
3	but he is a member and he is also, as you know, he is	13:03
4	the president of the Building Inspection Commission.	13:03
5	Q. Do you socialize with Mr. Keying ran?	13:03
6	A. No.	13:03
7	Q. Do you socialize with Mr. McCarthy?	13:03
8	A. No.	13:03
9	Q. To your knowledge, have any members of the RBA	13:03
10	been involved in the formation of DBI policies or	13:03
11	procedures?	13:03
12	A. To my knowledge, they were part of a working	13:04
13	group that developed a business process engineering plan	13:04
14	like back in I want to say 2007 when Issam Hasenin,	13:04
15	I-S-S-A-M, H-A-S-E-N-I-N, that's subject to spell check,	13:04
16	when he was director.	13:04
17	Q. You said it was business processes that were	13:04
18	being worked out?	13:04
19	A. It is called the business process reengineering	13:04
20	plan. There was an acronym which I am not remembering	13:04
21	now. They were involved in that working group. I think	13:05
22	they may also have been involved in a discussion we had	13:05
23	at one time about night noise complaints and our policy	13:05
24	and how we handle night noise complaints.	13:05
25	Q. What's a night noise complaint? I guess it is	13:05

1 just what it sounds like? 13:05

2 A. Exactly. People complain about construction 13:05
3 going on at night and we have processes in place about 13:05
4 how we approve the issuance of permit work done at night 13:05
5 and how we handle complaints that pertain to what is 13:05
6 conducted during the nighttime hours. 13:05

7 Q. Who from the RBA was involved in the policy 13:05
8 discussions about night noise complaints? 13:05

9 A. I think Angus might have been because he was on 13:05
10 the commission and it was an ongoing exercise about the 13:05
11 policies and how we handle these complaints and issue 13:06
12 permits and so forth. 13:06

13 Q. When were those policy discussions going on 13:06
14 approximately? 13:06

15 A. I am saying approximately, I would say around 13:06
16 2014, maybe 2015. 13:06

17 Q. Has anybody from the RBA contacted you 13:06
18 regarding violations on any particular project? 13:06

19 A. Contacted me? No. 13:06

20 Q. Okay, let's talk about complaints regarding 13:06
21 projects. If someone calls a DBI employee and has a 13:06
22 complaint about a building project that is currently 13:07
23 ongoing, how is that information supposed to be 13:07
24 officially taken in? 13:07

25 A. Well, when we get the complaint we generate a 13:07

1 complaint data document that is assigned a number. It's 13:07
2 input in our database. An inspector is scheduled to 13:07
3 respond to the complaint and they investigate and take 13:07
4 actions which would either result in a notice of 13:07
5 violation being issued, further evaluation might be 13:07
6 needed, or the case might be closed because there was -- 13:07
7 a violation couldn't be found. 13:08

8 Q. I am actually asking a more mundane question. 13:08
9 Let's say somebody calls you, Patrick O'Riordan, and 13:08
10 says somebody gave me your number, I have a complaint 13:08
11 about a property at 123 Tenth Avenue. Do you then refer 13:08
12 them to some other division of DBI or do you take the 13:08
13 complaint? How does it work? 13:08

14 A. Generally I would write down the details of the 13:08
15 complaint and pass it around to our administrative staff 13:08
16 who would input it in the system. 13:08

17 Q. I want you to try to solve a mystery for me 13:08
18 that I haven't been able to solve. I am going to share 13:08
19 my screen and show you Exhibit 64. This is an e-mail 13:09
20 between Mr. Sweeney and some other folks in which he 13:09
21 refers to getting information from something called 13:09
22 hummingbird. Do you know what hummingbird is? 13:09

23 A. No idea. 13:09

24 Q. I am striking out, okay. What is the 13:09
25 difference between a notice of violation and a notice of 13:09

1 correction and when do you issue one versus the other? 13:09

2 A. It depends on the severity of the violation. A 13:09

3 notice of correction, which we just refer to as a 13:09

4 correction notice here, that's our term, is generally if 13:09

5 the infraction is relatively minor and if it's something 13:09

6 like, you know, they need to add additional framing 13:09

7 members, we might issue a correction notice to document 13:10

8 that. It's mostly to give direction to the contractor 13:10

9 in regards to what is required. A notice of violation 13:10

10 is issued when we have something that is a little bit 13:10

11 more meaningful in regards to a violation. When we see 13:10

12 a need for a permit that would involve greater review, 13:10

13 maybe planning review, and it might also involve a life 13:10

14 safety condition in relation to the building. So it's 13:10

15 really a matter of the correction notice is for the 13:10

16 small stuff and the notice of violation is for the more 13:10

17 egregious matters. 13:10

18 Q. So if an inspector goes out to look at some 13:10

19 work and believes that the plans need to be updated to 13:10

20 show a condition that the inspector observed, is that a 13:11

21 correction notice? 13:11

22 A. It depends on how much the plans need to be 13:11

23 updated. In other words, if work has been done that is 13:11

24 substantially beyond the scope of the permit that's in 13:11

25 place, that will probably be a notice of violation. If 13:11

1 the work that was done was minor and fairly 13:11
2 insignificant, and I know you are probably going to be 13:11
3 looking for a definition on that, that would be most 13:11
4 likely a correction notice. 13:11

5 Q. I am going to share my screen again and show 13:11
6 you what has previously been marked as Exhibit 10. This 13:11
7 is entitled, Office Policy and Procedures for Issuing 13:12
8 Notices of Violation, it is dated November 1, 2013. Are 13:12
9 you aware of it being changed or updated since 2013? 13:12

10 A. I think we did work on updating that. I don't 13:12
11 think it has my name on it but I think it was updated. 13:12

12 Q. Recently? 13:12

13 A. No, not recently. I guess I would say it was 13:12
14 probably four years ago, maybe five years ago that it 13:12
15 was updated. 13:12

16 Q. Have you ever heard of the phrase an as-built 13:12
17 permit? 13:12

18 A. Yes, I have heard of the phrase, yes. 13:13

19 Q. What do you understand it to mean? 13:13

20 A. It's a definition to how it was actually 13:13
21 constructed at the project site in relation to the 13:13
22 changes that were made to the original permit, what was 13:13
23 done above and beyond what was noted on the original 13:13
24 permit. 13:13

25 Q. What about revision permit, what's a revision 13:13

1 permit? 13:13

2 A. A revision permit is an actual building permit. 13:13

3 A revision permit is issued as a revision to a specific 13:13

4 permit to document changes. It could be for more or 13:13

5 less. It essentially means that there has been a change 13:13

6 to the original permit. 13:13

7 Q. Okay. So earlier when we were talking about 13:13

8 the Six Dogs project and Mr. Sweeney's testimony about 13:13

9 his reasons for revoking the permits, you said words to 13:14

10 the effect of you wouldn't have done that in your 13:14

11 position. What would you have done? Would you have 13:14

12 addressed the violations through revision permits? 13:14

13 A. The first thing I would have done is I would 13:14

14 have scheduled a meeting, as I said before, with the 13:14

15 parties. I believe if a revision permit was adequate, 13:14

16 which I don't think it was in this case because there 13:14

17 was planning review necessary and 311 notification, 13:14

18 et cetera, that's more of a permit in its own right. A 13:14

19 permit such as that wouldn't be classified as a revision 13:14

20 permit. Like I said before, revision permit is to 13:14

21 document changes, whether they be less or more, to an 13:14

22 original permit and a 311 notification usually ends up 13:15

23 being a separate permit or on a separate permit, if that 13:15

24 makes sense. 13:15

25 Q. Let me try to break that down a little bit. I 13:15

1 understand there were Planning Department and planning 13:15
2 code related issues, right? 13:15

3 A. Yes. 13:15

4 Q. Putting those to one side, would you have 13:15
5 called a meeting, sat down with folks on the building 13:15
6 permit side of it? What is the mechanism available to 13:15
7 you to work things out rather than issuing a revocation 13:15
8 notice? 13:15

9 A. What I typically do in situations such as you 13:15
10 are describing is I obviously schedule a meeting, we 13:15
11 talked about that. I would -- we have our stop work 13:15
12 notice on the notice of violation so work cannot 13:15
13 continue at the project site. So the next step would be 13:16
14 to work with all parties that filed for and get approval 13:16
15 and have the necessary permits issued. When the 13:16
16 necessary permits or permit is issued, then we could 13:16
17 cancel the original permits so that everything was 13:16
18 captured on the group permit, the last permit that we 13:16
19 would seek to have issued. 13:16

20 Q. In your experience, how long would a process 13:16
21 like that typically take? 13:16

22 A. I can only speak for the DBI process. It 13:16
23 should be probably within a couple of months from the 13:16
24 DBI perspective but planning, I mean, that's a whole 13:16
25 different conversation there, you know, with the notice 13:16

1 of violation and so forth. 13:17

2 Q. I don't want to ask you about the planning 13:17

3 process. Revocation of permits, who has the authority 13:17

4 at DBI to revoke permits? 13:17

5 A. Well, a chief inspector obviously has the 13:17

6 authority. A senior inspector can revoke a permit but 13:17

7 when that happens it's typically with making sure that 13:17

8 they are communicating that to a chief because -- I 13:17

9 mean, we want to have everybody in lock step as much as 13:17

10 we can with taking these actions. 13:17

11 Q. Okay. I will represent to you that I have now 13:17

12 looked at lots and lots of revocation notices that came 13:18

13 out of DBI in the last ten years and it appears to me 13:18

14 that you are the person that signs almost all of them. 13:18

15 Is that consistent with your experience? 13:18

16 A. I would say that's correct, yes. 13:18

17 Q. So why did they almost -- why do they typically 13:18

18 go out under the signature of the chief building 13:18

19 inspector? 13:18

20 A. The chief inspector signs most of these 13:18

21 documents that relate to suspension, revocations or 13:18

22 meaningful building permit related documents. That's 13:18

23 how that works. 13:18

24 Q. Are you aware of any time other than the Six 13:18

25 Dogs project that Mr. Hernandez was the signatory on a 13:18

1	letter revoking permits?	13:18
2	A. I am not aware of that.	13:18
3	Q. Just a second, please. Ryan, do you have	13:19
4	Exhibit 47 previously introduced available or should I	13:19
5	screen share that?	13:19
6	MR. STEVENS: I have 108 through 133 printed.	13:19
7	I do not have 48 in front of me so if you could screen	13:19
8	share it, that would be helpful.	13:20
9	MR. EMBLIDGE: Q.: It's Exhibit 47 and it is a	13:20
10	long e-mail string between you and somebody named	13:20
11	Marivic, M-A-R-I-V-I-C, Cuevas, C-U-E-V-A-S, about a	13:20
12	project at 421-427 Oak Street. As you sit here today do	13:20
13	you remember anything about this project?	13:20
14	A. I think this had to do with some undermining or	13:20
15	some breezeway that was impacted, it may have been that	13:20
16	property. But I do recall something that was going on	13:20
17	at that specific address, yes.	13:20
18	Q. I want you to focus on one specific statement	13:20
19	you made in your e-mail to Ms. Cuevas of May 31, 2016.	13:20
20	She had requested that permits be revoked and you wrote	13:21
21	to her and said, We are he happy to discuss your request	13:21
22	to revoke permits and to reopen closed notices of	13:21
23	violation, though such actions are rarely taken and	13:21
24	would require approval by the deputy director for	13:21
25	inspections.	13:21

1	The first question is there -- deputy director	13:21
2	for inspections, that's a different phraseology that I	13:21
3	am used to. Who are you referring to there?	13:21
4	A. What's the date on the e-mail?	13:21
5	Q. 2016.	13:21
6	A. Who was on it, let me just take a look here.	13:21
7	It looks like Dan Lowery was the deputy director for	13:21
8	inspections so this was at the time because I see he is	13:21
9	copied on the e-mail. So that was, as I described, that	13:21
10	was about the time that Ed Sweeney and Dan switched from	13:22
11	permit services to inspection services as deputies. It	13:22
12	looks like Dan was the deputy at the time.	13:22
13	Q. And you would have been reporting then to Dan?	13:22
14	A. Right.	13:22
15	Q. And you say such actions relating to revoking	13:22
16	permits are rarely taken. Why do you say that?	13:22
17	A. Because it is rare that we revoke permits,	13:22
18	relatively speaking.	13:22
19	Q. Why is it rare?	13:22
20	A. Because, as I said, I am more likely to find	13:22
21	another way to handle these situations and avoid having	13:22
22	to go through this revocation process and that's a	13:22
23	personal approach by me. There may be a chief in that	13:23
24	seat -- there might be a chief in that seat, too, who	13:23
25	will decide to revoke a lot more than I used to revoke.	13:23

1 The option is there in the code but personally I always 13:23
2 seem to find a better way to handle these things, an 13:23
3 easier road to the end game. 13:23

4 Q. Sometimes, am I correct, you would revoke 13:23
5 permits at the request of the Planning Department? 13:23

6 A. That's correct, yes. 13:23

7 (Whereupon, Plaintiff's Exhibit 108 was marked
8 for identification.) 13:23

9 MR. EMBLIDGE: Q.: Could you look at 13:23
10 Exhibit 108, which you should have a copy of, and tell 13:23
11 me if that's an example of you revoking a permit at 13:24
12 planning's request? 13:24

13 A. That's correct, yes, it's at the request of the 13:24
14 Department of City Planning. 13:24

15 Q. Sometimes you revoke permits at the request of 13:24
16 the Board of Appeal, right? 13:24

17 A. Yes, I believe so. I can't think of one right 13:24
18 now but I am sure that's correct. 13:24

19 (Whereupon, Plaintiff's Exhibit 109 was marked
20 for identification.) 13:24

21 MR. EMBLIDGE: Q.: Well, look at Exhibit 109,
22 please.

23 A. Correct, yes, it says it right there. 13:24

24 Q. Q.: Sometimes you revoke permits because 13:24
25 somebody has done work far outside the scope of permits, 13:24

1	correct?	13:24
2	A. Yes.	13:24
3	(Whereupon, Plaintiff's Exhibit 110 was marked	
4	for identification.)	13:24
5	MR. EMBLIDGE: Q.: Would you look at	13:24
6	Exhibit 110, please, and tell me if that's an example of	13:24
7	you revoking permits for work down outside the scope?	13:24
8	A. Yes.	13:25
9	Q. Do you remember this project?	13:25
10	A. I do insofar as that -- what comes to mind is	13:25
11	that they had done a lot of demolition out there and	13:25
12	they had removed, you know, portions, especially at the	13:25
13	rear of the building. That was primarily that was the	13:25
14	reason, because of the demolition.	13:25
15	Q. For the record, we are talking about a project	13:25
16	that was at 1641 to 1645 Grove Street, correct?	13:25
17	A. That is correct, yes.	13:25
18	Q. You don't always revoke permits when somebody	13:25
19	has done work outside the scope of issued permits,	13:25
20	correct?	13:25
21	A. Yes, that's correct.	13:25
22	Q. So how do you decide whether revocation is	13:25
23	appropriate for work done outside the scope of issued	13:26
24	permits?	13:26
25	A. For me it's a matter of the severity of the	13:26

1	violation and the intent of the permit holder, property	13:26
2	owner, to achieve compliance.	13:26
3	Q. When, if at all, do you revoke permits because	13:26
4	you believe there are inaccuracies in the plans that	13:26
5	were submitted?	13:26
6	A. Personally, I don't do that.	13:26
7	Q. Have you seen others do that at DBI?	13:26
8	A. I haven't seen others do it but this particular	13:27
9	project seems to like be one where he exceeded the scope	13:27
10	of the permit. As I said to you earlier, I probably	13:27
11	would have found another way rather than revoking	13:27
12	permits.	13:27
13	Q. Are you talking now about Grove Street or Six	13:27
14	Dogs?	13:27
15	A. Six Dogs.	13:27
16	Q. Okay. The other way would be to have plans	13:27
17	submitted to address the inaccuracies, correct?	13:27
18	A. Yes.	13:27
19	Q. In terms of the factors that you as the chief	13:27
20	building inspector were supposed to consider in deciding	13:27
21	whether to revoke permits, is there anything written	13:27
22	down about those factors or how you are supposed to make	13:27
23	those judgment calls?	13:28
24	A. Other than the building code, it's left to	13:28
25	discretion because there are so many variables with the	13:28

1	projects and different scenarios. It's a discretionary	13:28
2	based on the code decision.	13:28
3	Q. Based on the what decision?	13:28
4	A. The building code.	13:28
5	Q. But the building code, you are talking about	13:28
6	the one -- there is just one sentence in the building	13:28
7	code about this, right?	13:28
8	A. You are right, yes.	13:28
9	Q. Have you ever seen the notice of violation	13:28
10	relating to the Six Dogs project?	13:28
11	A. I probably have at some point, I don't remember	13:28
12	right now. I probably saw it when we were engaged in	13:28
13	the meetings with -- that we had at planning.	13:29
14	Q. On your screen now is what was marked yesterday	13:29
15	as Exhibit 104 and it's the four page notice of	13:29
16	violation relating to the Six Dogs project. It says in	13:29
17	the first page that you need to stop all work and file a	13:29
18	building permit application within thirty days, do you	13:29
19	see that?	13:29
20	A. Yes.	13:29
21	Q. That's standard language for an NOV, right?	13:29
22	A. Boilerplate, yes.	13:29
23	Q. Why do you provide somebody with thirty days to	13:29
24	file a building permit application?	13:30
25	A. Is that a question to me, Scott?	13:30

1	Q. Yes.	13:30
2	A. The answer is that they need a certain amount	13:30
3	of time to generate the drawings and to, you know, have	13:30
4	the drawings in such a point where they are ready to	13:30
5	submit it.	13:30
6	Q. Do you ever give somebody less than thirty days	13:30
7	to --	13:30
8	A. Yes.	13:30
9	Q. Yes?	13:30
10	A. Yes, I have.	13:30
11	Q. Under what circumstances?	13:30
12	A. Usually it's more of when you have an emergency	13:30
13	situation where you would need to provide maybe shoring	13:30
14	or things of that nature.	13:30
15	Q. Other than a life safety situation, can you	13:30
16	think of a time where you have given somebody less than	13:30
17	thirty days to file a building permit in response --	13:30
18	excuse me, filing a building permit application in	13:30
19	response to a notice of violation?	13:31
20	A. I might have done it in situations where the	13:31
21	work was minimal and I knew that, you know, they could	13:31
22	resolve the violation pretty quickly. For instance, if	13:31
23	it was like a kitchen remodel, for example, and we	13:31
24	wanted to insure that the electrical and plumbing work	13:31
25	was up to the code and we had concerns that there was	13:31

1 faulty wiring and we needed to get eyes on it pretty 13:31
2 quickly and it was a relatively easy permit to obtain, 13:31
3 we might narrow that window down considerably. 13:31

4 Q. But again, that's because of the safety issues 13:31
5 out of the wiring, right? 13:31

6 A. Everything is safety, really, because you don't 13:31
7 always know what's been done because what gets covered 13:31
8 and there may be compromised framing in the walls, you 13:31
9 just don't know. For the most part, if something can be 13:31
10 done more quickly, it's always more desirable to insure 13:32
11 that it can be done more quickly. 13:32

12 Q. Can you recall any time where you approved 13:32
13 revoking permits on the same day that you issued -- the 13:32
14 department issued notices of violation at a project? 13:32

15 A. No, I don't recall ever doing that. 13:32

16 Q. Do you recall anyone else at DBI ever doing 13:32
17 that? 13:32

18 A. Apparently it happened in the case of Six Dogs 13:32
19 but I don't recall any other instances of that. 13:32

20 Q. Okay. Could you look at Exhibit 111, please. 13:32
21 (Whereupon, Plaintiff's Exhibit 111 was marked 13:32
22 for identification.) 13:32

23 MR. EMBLIDGE: Q.: Exhibit 111 is an e-mail 13:32
24 string, the first page is Bates stamped CCSF-Richards_ 13:32
25 0233929. My question is do you recall being part of 13:33

1 this e-mail string relating to the frequency with which 13:33
2 permits are revoked? 13:33

3 A. I don't remember being part of the e-mail 13:33
4 thread but I do see that I am on it so obviously there 13:33
5 was a discussion about this, about the frequency of 13:33
6 revoking permits. 13:33

7 Q. Do you see in this e-mail string that way 13:33
8 toward the bottom Mr. Sweeney estimates that permits are 13:33
9 revoked about once a month and then on the first page 13:33
10 Mr. Strawn is reporting to Angus McCarthy that Mr. 13:33
11 Sweeney was pretty close because it looks like they 13:33
12 revoked permits about thirteen times a year? 13:33

13 A. I see that. 13:33

14 Q. Is that consistent with your understanding of 13:34
15 the frequency with which building permits are revoked? 13:34

16 A. That sounds about right. I don't remember 13:34
17 signing a lot of these things but I probably did sign 13:34
18 twelve of them a year, that sounds realistic. 13:34

19 Q. Of the revocation letters that you signed, can 13:34
20 you estimate for me approximately how many of them or 13:34
21 what percentage of them came through a request by the 13:34
22 Planning Department? 13:34

23 A. I would estimate that it would be more than 13:34
24 fifty percent. 13:34

25 Q. And how about the percentage that came via the 13:34

1	Board of Appeal requesting it?	13:34
2	A. Much smaller. I don't remember very many.	13:34
3	Maybe ten percent.	13:35
4	Q. Okay. Now I want to ask you about some	13:35
5	specific projects. I want to start with Exhibit 112	13:35
6	which relates to a project at 655 Alvarado Street.	13:35
7	(Whereupon, Plaintiff's Exhibit 112 was marked	13:35
8	for identification.)	13:35
9	MR. EMBLIDGE: Q.: Do you recall anything	13:35
10	about this project at Alvarado Street?	13:35
11	A. Yes, I do. This was one of the egregious	13:35
12	demolition cases that we dealt with and I believe I was	13:35
13	at the Planning Commission reporting to the Planning	13:35
14	Commission on this specific project. What I remember is	13:36
15	they went way beyond the scope of the demolition and	13:36
16	very little of the building remained. I don't have a	13:36
17	lot of details that come to mind beyond that but I know	13:36
18	I went to the Planning Commission and I was working with	13:36
19	neighbors, et cetera.	13:36
20	Q. Was this a Rodrigo Santos project?	13:36
21	A. No, I don't recall that. I don't think it was,	13:36
22	to be honest.	13:36
23	Q. At the top of the first page of Exhibit 112 you	13:36
24	are forwarding information about this project to Ed	13:36
25	Sweeney, do you see that?	13:36

1	A. Yes.	13:36
2	Q. Do you know why?	13:36
3	A. Because he was my supervisor at the time and I	13:36
4	wanted to let him know -- just bring him into the thread	13:36
5	of e-mails that were going back and forth.	13:37
6	Q. So if this was an egregious project, why	13:37
7	weren't the permits for this project revoked?	13:37
8	A. I believe that there was -- this project in	13:37
9	particular was going to the Planning Commission and I	13:37
10	don't have exactly the timelines on this right now but	13:37
11	it was indicated that the developer, their intention was	13:37
12	to comply with the notices of violation and file the	13:37
13	appropriate permits at the time,	13:37
14	Q. Okay. So even though what they had done was	13:37
15	egregious, the fact that they were indicating a	13:37
16	willingness to try to resolve the projects through	13:37
17	revisions and other means, that caused you not to revoke	13:38
18	the permits, is that fair?	13:38
19	A. Yeah, that's fair, I think that's reasonable.	13:38
20	Q. The next project I want to ask you about, look	13:38
21	at Exhibit 113, please. Exhibit 113 relates to a	13:38
22	project at 457 Roosevelt Way.	13:38
23	(Whereupon, Plaintiff's Exhibit 113 was marked	13:38
24	for identification.)	13:38
25	MR. EMBLIDGE: Q.: Do you see Exhibit 113?	13:38

1	A. Yes.	13:38
2	Q. What do you recall about this project?	13:38
3	A. This was one of the four projects that the city	13:38
4	attorney litigated in regards to Rodrigo's projects. I	13:38
5	mean, I am going to take direction from Ryan here in	13:38
6	regards to how much I can talk about this but I do know	13:39
7	this was one of the projects, it was a Rodrigo project,	13:39
8	they went beyond the scope of the permit. I didn't	13:39
9	really have much -- I think Joe handled this one pretty	13:39
10	much from start to almost finish, I think they were	13:39
11	almost done.	13:39
12	Q. If you look at page three, I have highlighted	13:39
13	some of what Mr. Duffy communicated to Mr. Santos. Is	13:39
14	it fair to say that it is your understanding that not	13:39
15	only was there work done far outside the scope of the	13:39
16	permits, but even after there were stop work orders	13:39
17	going work continued at the site?	13:39
18	MR. STEVENS: I am going to give the same	13:39
19	instruction I did before, you can answer to the extent	13:39
20	your answer does not contain information that you know	13:40
21	only because of what you were told by attorneys at the	13:40
22	city attorney's office.	13:40
23	THE WITNESS: My answer is not because of	13:40
24	anything I learned from the city attorney but I believe	13:40
25	it to be correct that work continued even though a	13:40

1 notice of violation had been issued. 13:40

2 MR. EMBLIDGE: Q.: Okay. So why weren't 13:40

3 permits revoked at 457 Roosevelt if not only were there 13:40

4 egregious violations but there was work continuing after 13:40

5 a stop work order? 13:40

6 A. Well, one of the reasons why that happened is 13:40

7 there were some serious safety concerns because this was 13:40

8 on a steep hillside and work needed to be done to make 13:40

9 the site safe as well as the adjacent properties safe. 13:40

10 So that was one of the reasons why work needed to 13:41

11 continue relating to that specific project. 13:41

12 Q. Okay, but couldn't you revoke the permits but 13:41

13 then require them to immediately get a new permit to 13:41

14 deal with the emergency issues? 13:41

15 A. Well, you know, as I said before, the desire 13:41

16 was that the proper permits would be issued. Permits 13:41

17 that were already in place didn't have very much 13:41

18 meaning. I believe one of them related to a kitchen or 13:41

19 bathroom remodel. Whether or not that permit was 13:41

20 revoked was not very important in regards to safety at 13:41

21 the site and having the appropriate permits issued. 13:41

22 Whatever permits were there that could have been revoked 13:41

23 could be canceled with the issuance of the meaningful 13:42

24 and the proper permit down the road. We had a stop work 13:42

25 at least at the project that that work couldn't take 13:42

1 place. Without reading through this e-mail, I believe 13:42
2 there was an allowance for the mitigation work to make 13:42
3 sure that the site was safe. I mean, there was some 13:42
4 allowance there for that but again -- and I have said it 13:42
5 before -- if the permit needed to be revoked, we would 13:42
6 revoke it. But in some of these cases, as long as we 13:42
7 had a notice of violation on the property, people 13:42
8 couldn't work and it didn't really necessitate revoking 13:42
9 a permit, in my opinion. 13:42

10 Q. I am hearing from you -- and tell me if this is 13:43
11 a fair characterization -- that revoking permits is sort 13:43
12 of a move of last resort if you aren't able to solve the 13:43
13 problems in another way, is that fair? 13:43

14 A. I was always able to find other ways typically, 13:43
15 I could speak for myself. To me it would be kind of a 13:43
16 -- it was a nuclear button, as such, and I didn't always 13:43
17 find that I needed to go there. 13:43

18 Q. 13:43

19 (Whereupon, Plaintiff's Exhibit 114 was marked 13:43
20 for identification.) 13:43

21 MR. EMBLIDGE: Q.: Could you look at 13:43
22 Exhibit 114. Exhibit 114 is an e-mail string relating
23 to 1 McCormick Street. The first page has a Bates stamp 13:43
24 of 2019000197. What do you recall about this project, 13:43
25 Mr. O'Riordan? 13:43

1	A. It is somewhere over in Telegraph Hill, I	13:44
2	believe. Again, it involved excavation and looks like	13:44
3	it was SF Garage and this guy Harty, H-A-R-T-Y, as it	13:44
4	shows on the e-mail. I think the neighbors were a	13:44
5	little bit concerned about what was going on there. It	13:44
6	was one of those narrow cul-de-sac streets in Telegraph	13:44
7	Hill and excavation -- it looks like there was a	13:44
8	suspension request that pertained to this. All of the	13:44
9	details I don't remember but I do remember, you know,	13:45
10	roughly what it was.	13:45
11	Q. You see at the top of page two it talks about	13:45
12	removal of a brick foundation?	13:45
13	A. Yes.	13:45
14	Q. And that wasn't shown on the drawings and the	13:45
15	department issued a correction notice. Why not revoke	13:45
16	permits on this project where the drawings didn't show	13:45
17	this foundation and then they actually removed it?	13:45
18	A. The revocation could have occurred but, again,	13:45
19	that wasn't the way that I operated. A notice of	13:45
20	violation or a correction notice, I would have said that	13:46
21	a notice of violation would have been better here if	13:46
22	they removed the brick foundation. I can see the	13:46
23	correction notice was issued for whatever reason, I	13:46
24	don't know what that was. My trajectory here would have	13:46
25	been issue a notice of violation.	13:46

1 Q. You mentioned SF Garage, that is a company 13:46
2 owned by John Pollard as far as you know, correct? 13:46

3 A. As far as I know, yes. 13:46

4 Q. And this Mr. Harty, whose first name is spelled 13:46
5 C-A-I-R-A-N, how do you know him? 13:46

6 A. I just know him from coming into DBI. 13:46

7 Q. Is he part of Mr. Pollard's businesses or do 13:46
8 you know him as someone separate from Mr. Pollard? 13:46

9 A. I know him separate from Mr. Pollard. I recall 13:46
10 that I think there was some kind of partnership here 13:46
11 with Pollard and Harty. I don't know them to be 13:46
12 partners other than what I heard about this. 13:47

13 (Whereupon, Plaintiff's Exhibits 115-116 were 13:47
14 marked for identification.) 13:47

15 MR. EMBLIDGE: Q.: Okay. Could you look at
16 Exhibits 115 and 116. They both relate to a project at
17 214 States Street?

18 A. Yes. 13:47

19 Q. Exhibit 115 is apparently a meeting notice 13:47
20 relating a meeting about this project in Ed's office, 13:47
21 which I assume is Ed Sweeney's office, and Exhibit 116 13:47
22 is a discussion of this project in a Planning Department 13:47
23 memo relating to a hearing set for February 23, 2017. 13:47
24 What do you recall about this project? 13:48

25 A. This was a Rodrigo project. This is a project 13:48

1 where he misrepresented the existing conditions. At 13:48
2 least he provided the architect with information that 13:48
3 was misrepresentative of the existing conditions. We 13:48
4 received a complaint. We investigated. And I believe 13:48
5 Joe Duffy was the one that wrote the notice of violation 13:48
6 and this was probably back in 2013 I want to say. This 13:48
7 goes back -- it's either 2013 or 2014, that's roughly 13:48
8 what I remember. 13:48

9 Q. I bet you can guess what my next question is 13:49
10 which is why weren't the permits revoked on this 13:49
11 project? 13:49

12 A. I am surprised to see you say that, sir. 13:49
13 Again, I was chief at the time and he had stopped the 13:49
14 work, they couldn't proceed. We kind of had what we 13:49
15 wanted so we didn't need to. Again, it's easy to cancel 13:49
16 the permits after the correct permit has been issued for 13:49
17 the work and they go away in that way. 13:49

18 Q. Didn't the department stop the work at the Six 13:49
19 Dogs project through the NOV's and therefore had what it 13:49
20 needed without revoking the permits? 13:49

21 A. I remember looking at the NOV you just shared 13:49
22 on the screen and I think the box that denotes stop all 13:50
23 work was checked. If that is the case then I think that 13:50
24 the project was stopped and no work could be performed. 13:50

25 (Whereupon, Plaintiff's Exhibits 117-118 were

1	marked for identification.)	13:50
2	MR. EMBLIDGE: Q.: If you look at Exhibit 117	13:50
3	and 118, those are about a project at 49 Hopkins. I am	13:50
4	going to try to make this a little quicker for you. You	13:50
5	recall 48 to 49 Hopkins?	13:50
6	A. Right.	13:50
7	Q. And the allegation was that this was a historic	13:50
8	building that was essentially demolished without	13:50
9	permits?	13:50
10	A. Yes.	13:50
11	Q. Why didn't you revoke the permits at 49	13:50
12	Hopkins?	13:50
13	A. As I stated before with regard to the other	13:50
14	projects, I believe we had a stop work in place and the	13:50
15	notice of violation required them to obtain the	13:51
16	necessary permits to mitigate the condition that we	13:51
17	would have deem as necessary. Once we had that we	13:51
18	didn't need to revoke the permit.	13:51
19	Q. Now let's talk about 18th Street, which I know	13:51
20	you made a presentation to the Planning Commission	13:51
21	about. Could you just look at Exhibits 119 through 125.	13:51
22	(Whereupon, Plaintiff's Exhibits 119-125 were	13:51
23	marked for identification.)	13:51
24	MR. EMBLIDGE: Let me describe those for the	13:51
25	record.	13:51

1	MR. STEVENS: 119 to 125?	13:51
2	MR. EMBLIDGE: Correct. 119 is a notice of	13:51
3	violation dated May 3, 2018, regarding a project at 3847	13:51
4	18th Street.	13:51
5	120 is an e-mail string dated February 27,	13:51
6	2019.	13:52
7	Exhibit 121 is an e-mail about the same project	13:52
8	dated May 7, 2019, string.	13:52
9	Exhibit 122 is an e-mail from Mr. O'Riordan to	13:52
10	Jeff Horn dated May 8, 2019, about the same project.	13:52
11	Exhibit 123 are some e-mails involving Bernie	13:52
12	Curran and Mr. O'Riordan about this project dated July	13:52
13	8, 2019.	13:52
14	Exhibit 124 is an e-mail from Mr. O'Riordan	13:52
15	about this project on September 10, 2019.	13:52
16	And Exhibit 125 is an e-mail string dated	13:53
17	September 11, 2019, first page is Bates stamped	13:53
18	2019000050.	13:53
19	Q. Okay. In general, Mr. O'Riordan, what do you	13:53
20	recall about this project?	13:53
21	A. I think the first I heard of this project was	13:53
22	when we got -- when I saw the notification from the	13:53
23	Planning Department and it was a fairly expansive	13:53
24	document. I seem to remember that there was a DR	13:53
25	somewhere along the lines in this. This caused me some	13:54

1	concern in regards to the amount of things that were --	13:54
2	seemed to be in violation of either the plans or what	13:54
3	the general requirements were for code compliance. I	13:54
4	remember the discussion that was had about over	13:54
5	excavation, I think that was identified by the Planning	13:54
6	Department, potentially the removing of much greater	13:54
7	amounts of soil than -- fifty yards, fifty cubic yards,	13:54
8	which is a trigger for additional review, mostly	13:54
9	planning review. The other thing I remember from the	13:54
10	planning enforcement case was that there was some	13:55
11	evidence of combining multiple skylights at the ridge	13:55
12	line of the building. I do believe that was one of the	13:55
13	ones that I went to the Planning Commission and	13:55
14	presented on. I don't remember exactly, I think it	13:55
15	might have been maybe March or April time frame of --	13:55
16	what was the year -- possibly -- probably 2019, I guess.	13:55
17	I am not sure on the year, these things kind of blend	13:55
18	into one another after a while. But I did present and	13:55
19	it was continued, I believe, and the continued case was	13:55
20	Bernie Curran attended the Planning Commission simply	13:56
21	because it was July 18, which was my birthday, and I	13:56
22	didn't plan on going to the Planning Commission let	13:56
23	alone being at work that day. That's how I remember the	13:56
24	-- when Bernie attended. These are the highlights. It	13:56
25	has been a few years so that's what I remember.	13:56

1	Q. I knew we had a lot in common because my	13:56
2	birthday is July 8, also.	13:56
3	A. Mine is July 18, one eight.	13:56
4	Q. Oh, because one of these e-mails is dated July	13:56
5	8. Did you watch the tape --	13:56
6	MR. STEVENS: I will issue a Notice of	13:56
7	Deposition for July 8.	13:56
8	MR. EMBLIDGE: I am sure, two days after	13:56
9	discovery cutoff.	13:56
10	Q. Did you watch the tape of Mr. Curran's	13:56
11	presentation to the Planning Commission?	13:56
12	A. Yes, I did.	13:57
13	Q. How did that go?	13:57
14	MR. STEVENS: Vague.	13:57
15	THE WITNESS: What I saw was maybe -- I would	13:57
16	have done it a little differently. I probably wouldn't	13:57
17	have worn my Hawaiian shirt, that would be the first	13:57
18	thing maybe.	13:57
19	MR. EMBLIDGE: Good call.	13:57
20	Q. Was Mr. Pollard involved in this project, as	13:57
21	you recall?	13:57
22	A. As I recall, he was involved, at least in the	13:57
23	-- at least in the foundation work relating to the	13:57
24	building.	13:57
25	Q. How about Mr. Santos, do you recall whether he	13:57

1 was involved in this project? 13:57

2 A. I don't believe so. 13:57

3 Q. So if you look at Exhibit 121, why are you 13:57

4 forwarding the Planning Department case report about 13:58

5 this project to Mr. McCarthy? 13:58

6 A. Because he was the president of the commission 13:58

7 at the time and he had asked that I keep him updated on 13:58

8 anything that was potentially going to be for the BIC. 13:58

9 It looked like something that he should know about so 13:58

10 that's why I did that. I was the president of the 13:58

11 Planning Commission, he was the president of the BIC, so 13:58

12 that's why I did that. 13:58

13 Q. Do you remember having any discussions with Mr. 13:58

14 Richards about the 18th Street project other than 13:58

15 discussions that would be on the record at the Planning 13:58

16 Department -- Planning Commission? 13:58

17 A. No, I do not. 13:58

18 THE VIDEOGRAPHER: Going off the record 1:59 13:59

19 p.m. 13:59

20 (Brief recess.) 13:59

21 THE VIDEOGRAPHER: Are we are on the record 14:12

22 2:12 p.m. 14:12

23 MR. EMBLIDGE: Q.: Mr. O'Riordan, we are 14:12

24 talking still talking about 3847 18th Street. If you 14:12

25 would look at Exhibit 122 which is an e-mail from you to 14:12

1 Jeff Horn on May 8, 2019. My question to you is about 14:12
2 the last sentence of that e-mail that says, I have 14:12
3 opened up another DBI complaint which will be scheduled 14:12
4 for investigation next week. What were you referring to 14:12
5 there, if you recall? 14:12

6 A. As best I recall, I was referring to opening up 14:13
7 a DBI complaint so that we could follow up on the 14:13
8 planning enforcement case. 14:13

9 Q. And if you could look at Exhibit 124. 124 is 14:13
10 another e-mail string about this case and it includes 14:13
11 somebody named John Murray. Who is John Murray? 14:13

12 A. John Murray, I don't know what his title was 14:13
13 then but he is our legislative affairs manager. So he 14:13
14 would have been working with Bill Strawn potentially on 14:13
15 -- in relation to communications. 14:14

16 Q. Communications to the world outside of DBI 14:14
17 about this project? 14:14

18 A. Potentially if we needed to have communications 14:14
19 with outside, then Bill Strawn or John Murray may have 14:14
20 been involved. 14:14

21 Q. If you could look at Exhibit 125, that's an 14:14
22 e-mail string involving Mr. Strawn, S-T-R-A-W-N, and 14:14
23 others. On the first page of that there is an e-mail 14:14
24 from Mr. Strawn to Mr. McCarthy where Mr. Strawn refers 14:14
25 to suggested, quote, DBI improvement steps, end quote. 14:14

1 Do you have an understanding as to what he is referring 14:14
2 to? 14:14

3 A. I have an understanding relating to process 14:14
4 improvement, how we handle, you know, cases or any 14:15
5 cases, for that matter. I am just guessing that that's 14:15
6 probably what he was suggesting. 14:15

7 Q. Okay, I don't want you to guess. You don't 14:15
8 have a -- 14:15

9 A. I don't know is the answer. 14:15

10 Q. Okay. On the next page of Exhibit 125, the 14:15
11 second page, you will see there is an e-mail string from 14:15
12 Mr. Strawn to several people, one of whom appears to be 14:15
13 Sean Keighran. Do you know why DBI would be 14:15
14 communicating with Sean Keighran about the 18th Street 14:15
15 project? 14:15

16 A. I have no idea. I don't know. 14:15

17 (Whereupon, Plaintiff's Exhibits 126-127 were
18 marked for identification.) 14:16

19 MR. EMBLIDGE: Q.: If you could look at 14:16
20 Exhibits 126 and 127, please, those both relate to a 14:16
21 project on 17th Avenue. Do you recall this project? 14:16

22 A. Yes, I do. 14:16

23 Q. I think it actually just recently had another 14:16
24 hearing at the Board of Appeal, are you aware of that? 14:16

25 A. Yeah, I think it was like two weeks ago, 14:16

1 something like that. 14:16

2 Q. What do you recall about this project? 14:16

3 A. It was a Rodrigo project. It was across the 14:16
4 Street from Jerry Dratler and he brought the complaint 14:16
5 to us. It was a situation where a three story bay had 14:16
6 been removed plus a deck from the side of this property 14:17
7 at 25 17th Avenue. I think why they did that was the 14:17
8 intention was to split the lot into two lots and create 14:17
9 a vacant lot for the construction of another building. 14:17
10 It has just been going on for a long time, many years. 14:17
11 I haven't looked at all the documents here but it has 14:17
12 been many years. I think they are getting closer to 14:17
13 having a permit to do the work and beyond that I would 14:17
14 have to start looking at documents to figure out what 14:17
15 other things related to the project. 14:18

16 Q. Who is Jerry Dratler? 14:18

17 A. He is a neighbor who -- I believe he lives 14:18
18 across the Street from this project on 17th Avenue. 14:18

19 Q. How do you know him? 14:18

20 A. I know him because he filed multiple complaints 14:18
21 about this project. I had the pleasure of entertaining 14:18
22 both he and Rodrigo Santos in my office for a meeting 14:18
23 early in the days of when this became an issue. I mean, 14:18
24 we have been dealing a lot with complaints from Jerry 14:18
25 and dealing a lot with Rodrigo and the project team's 14:18

1 efforts to, you know, make things right and proper. It 14:18
2 has been many years and it continues. 14:19

3 Q. Did you find Mr. Dratler's complaints about 14:19
4 this project to be warranted? 14:19

5 A. Yes. 14:19

6 Q. Approximately when did this meeting occur among 14:19
7 you, Mr. Santos and Mr. Dratler? 14:19

8 A. It's when the first complaints were filed. I 14:19
9 don't have that information in front of me but I would 14:19
10 be guessing at like maybe 2017, sometime during 14:19
11 2017-ish. 14:19

12 Q. Okay. Let me just ask the question, why didn't 14:19
13 you revoke permits for the project on 17th Avenue? 14:19

14 A. Because, again, like I said, we had a stop work 14:19
15 on the project. In this case I think they needed to do 14:20
16 some shoring and the permits that we would have 14:20
17 considered to revoke, it would have a stop work on it. 14:20
18 It's the same difference, revoking or stop work gets you 14:20
19 to the same place. I didn't feel nor do I feel with 14:20
20 these projects that revoking is a particularly useful 14:20
21 tool in those cases. 14:20

22 (Whereupon, Plaintiff's Exhibit 128 was marked 14:20
23 for identification.) 14:20

24 MR. EMBLIDGE: Q.: Could you look at 14:20
25 Exhibit 128, please, it's a two page e-mail string, the 14:20

1	first page is Bates stamped CCSF-Richards_0232104.	14:20
2	A. Yes.	14:20
3	Q. So this involves a list of complaints or	14:20
4	criticisms by Mr. Dratler concerning projects involving	14:21
5	Mr. Santos. What, if anything, did you do to look into	14:21
6	the issues that Mr. Dratler was raising in this e-mail?	14:21
7	A. I don't recall exactly what I did but we would	14:21
8	have surveyed, audited the work we did on this project.	14:21
9	That would have been the typical way of going about	14:21
10	this. What work we did do exactly, I don't recall.	14:21
11	Q. Did you ever talk to Mr. Strawn about Dennis	14:22
12	Richards?	14:22
13	A. I don't recall having conversations with Mr.	14:22
14	Strawn about Dennis Richards.	14:22
15	Q. Do you ever recall talking to Mr. Strawn about	14:22
16	the Six Dogs project?	14:22
17	A. I don't recall.	14:22
18	(Whereupon, Plaintiff's Exhibit 129 was marked	
19	for identification.)	14:22
20	MR. EMBLIDGE: Q.: Could you please look at	14:22
21	Exhibit 129. That exhibit is an e-mail from Mr.	14:22
22	Hernandez to a long list dated October 18, 2019. This	14:22
23	e-mail relates to a public records request that I	14:22
24	believe I submitted regarding the Six Dogs project. Do	14:22
25	you recall anything you did to look for records to	14:23

1 respond to the public records request? 14:23

2 A. I don't remember this request. Obviously there 14:23
3 was a request but I don't remember providing documents 14:23
4 relating to the request. 14:23

5 Q. If you look at the first page of Exhibit 129 14:23
6 where it says to, it has a number of people in DBI and 14:23
7 what follows their name is, quote, Exchange 14:23
8 Administrative Group, end quote. Do you see that? 14:23

9 A. On which page? 14:23

10 Q. The first page. 14:23

11 A. Yeah. I don't know what that is. 14:23

12 Q. Have you ever seen it before? 14:23

13 A. I may have but I don't remember seeing it. 14:23

14 Q. Are you aware of an e-mail group within DBI 14:24
15 that is for administrative personnel that contains the 14:24
16 individuals listed here? 14:24

17 A. No, I am not aware of that. 14:24

18 Q. Okay. If you could look at Exhibit 130, 14:24
19 please. 14:24

20 (Whereupon, Plaintiff's Exhibit 130 was marked 14:24
21 for identification.) 14:24

22 MR. EMBLIDGE: Q.: Exhibit 130 is Bates 14:24
23 stamped CCSF-Richards_083081. Is Exhibit 130 relating 14:24
24 to these meetings you talked about where you and Mr. 14:24
25 Duffy and Ms. Holley and Mr. Sutro addressed this 14:24

1	project, the Six Dogs project?	14:25
2	A. That's what it looks like, yeah. Yes.	14:25
3	(Whereupon, Plaintiff's Exhibits 131-133 were	
4	marked for identification.)	14:25
5	MR. EMBLIDGE: Exhibit 131 is an e-mail from	14:25
6	Mr. Strawn to Angus McCarthy dated December 5, 2019.	14:25
7	Exhibit 132 is an e-mail from Mr. Strawn to Mr.	14:25
8	O'Riordan and others dated December 5, 2019.	14:25
9	Exhibit 133 is an e-mail from Mr. Strawn to Mr.	14:25
10	O'Riordan and others dated December 23, 2019.	14:25
11	Q. These three e-mail strings seem to involve	14:25
12	distribution of newspaper articles relating to Mr.	14:26
13	Richards, do you see that?	14:26
14	A. Yes.	14:26
15	Q. Were you following these issues in the press?	14:26
16	A. Not really. I don't think I would have even	14:26
17	read the Eskaenazi articles at that time. Much more	14:26
18	likely to do so now.	14:26
19	Q. Why?	14:26
20	A. Because of my position.	14:26
21	Q. Did you ever discuss Mr. Richards or the Six	14:26
22	Dogs project with any members of the press?	14:26
23	A. No, I did not.	14:26
24	Q. I may have already asked you this but did you	14:26
25	ever discuss Mr. Richards or the Six Dogs project with	14:27

1	Angus McCarthy?	14:27
2	A. I don't recall having discussions with him	14:27
3	about it.	14:27
4	Q. Do you know Randy Shaw?	14:27
5	A. Yes.	14:27
6	Q. Did you ever discuss Mr. Richards or the Six	14:27
7	Dogs project with Randy Shaw?	14:27
8	A. No, I don't recall having any discussions with	14:27
9	him, either.	14:27
10	Q. Do you have an estimate of the number of active	14:27
11	projects Mr. Santos has going on at DBI?	14:27
12	A. I don't have an estimate. Do you mean at this	14:27
13	time?	14:27
14	Q. Correct.	14:27
15	A. This juncture it probably would be more than	14:27
16	fifty, maybe even more than one hundred. I don't have a	14:27
17	number it.	14:28
18	Q. Do you have an estimate as to the number of	14:28
19	projects involving John Pollard or his companies that	14:28
20	are currently ongoing at DBI?	14:28
21	A. I don't have data or a number on that. It	14:28
22	probably would be less than Mr. Santos.	14:28
23	Q. We talked about these lists, these sort of	14:28
24	expanded compliance lists. Is Mr. Pollard on any of	14:28
25	those lists?	14:28

1	A. Not yet.	14:28
2	Q. Is something imminent that you know of?	14:28
3	A. No, but he could end up being somebody that	14:28
4	would be on that list.	14:29
5	Q. Given the problems you have seen with some of	14:29
6	Mr. Pollard's projects in the past like 18th Street, why	14:29
7	wouldn't he be on a list that generates extra scrutiny?	14:29
8	A. Because it's new legislation and we can only	14:29
9	operate based on the effective date of the legislation	14:29
10	for moving back onto that list.	14:29
11	Q. But couldn't you without any legislation just	14:29
12	decide you need to double check Pollard projects like	14:29
13	you double check Santos projects?	14:29
14	A. Respectfully, we have limited resources here so	14:29
15	generally we are spread fairly thin with inspectors so	14:29
16	if we try to check all of these jobs before issuance of	14:29
17	permits, we simply won't have enough permits left to do	14:29
18	the other inspections. It's a resource thing for the	14:29
19	most part. Any and all of these folks who are bad	14:30
20	actors are likely to be subject to additional	14:30
21	enforcement of whatever means we decide to use.	14:30
22	Q. Do you consider Mr. Buscovich to be a bad	14:30
23	actor?	14:30
24	A. No. I mean, I have known Buscovich for many,	14:30
25	many years and I have had many conversations with him.	14:30

1	Does he make mistakes? Yeah, he makes lots of them and	14:30
2	I make lots of mistakes but I don't think he does -- he	14:30
3	is not intentional in any malicious or any nefarious	14:30
4	kind of way in how he approaches these projects. He	14:30
5	could be more careful with how he puts together drawings	14:30
6	and how he communicates and all of those things but	14:30
7	those are not necessarily bad things, they are just	14:30
8	things that he could and maybe should do better.	14:31
9	Q. Have you socialized with John Pollard?	14:31
10	A. No, I have not.	14:31
11	Q. What about Pat Buscovich?	14:31
12	A. No.	14:31
13	Q. Apart from what you have already told me about	14:31
14	Mr. Sweeney and what you heard people say, have you	14:31
15	heard of anyone else at DBI giving Mr. Pollard	14:31
16	potentially favorable treatment?	14:31
17	A. I think that there have been conversations	14:31
18	about Bernie Curran helping with Pollard inspections.	14:31
19	Again, that goes back to comments that were made by	14:32
20	Chris Schroeder and some of the other inspectors that I	14:32
21	already mentioned like Fergal Clancy and Robert Power.	14:32
22	Whether that's based on fact or fiction, I don't know.	14:32
23	You asked what I had heard, so that's what I heard.	14:32
24	Q. Have you ever socialized with Mr. Santos	14:32
25	outside of work?	14:32

1	A. No.	14:32
2	Q. Have you ever socialized with individuals	14:32
3	associated with Sia, S-I-A, Consulting outside of work?	14:32
4	A. No, I have not.	14:33
5	Q. We have talked about allegations or rumors	14:33
6	regarding favorable treatment toward Mr. Pollard within	14:33
7	DBI. Have you heard allegations about favorable	14:33
8	treatment toward Mr. Santos within DBI?	14:33
9	A. Yes, in the sense that it's been noted that he	14:33
10	has favored plan checkers that he likes to go to or he	14:33
11	did like to go to in the past. I also heard that Bernie	14:33
12	Curran was somebody that did inspections for him.	14:34
13	Q. When you say did inspections for him, you mean	14:34
14	sometimes Mr. Curran would do inspections on Mr. Santos'	14:34
15	projects even though the projects were outside of the	14:34
16	districts Mr. Curran supervised?	14:34
17	A. In some cases, yes.	14:34
18	Q. And the same was true of Mr. Pollard's projects	14:34
19	in some cases?	14:34
20	A. Yes, in some cases.	14:34
21	Q. Have you taken any steps to address what you	14:34
22	have heard about Mr. Santos having favored plan	14:34
23	checkers?	14:34
24	A. Yes. We have an additional layer of oversight	14:34
25	insofar as that even if the favored plan checker looks	14:34

1 at the plans, there is still a supervisor who reviews 14:34
2 those plans before a permit could be issued. Along with 14:34
3 that now we have the pre-issuance inspection. So there 14:34
4 are two additional levels of oversight there in regards 14:35
5 to Mr. Santos. 14:35

6 Q. What is your understanding of -- who do you 14:35
7 understand to be the plan checkers Mr. Santos favored? 14:35

8 A. David Pang is a name that shows up a lot like 14:35
9 it did in the past in relation to Mr. Santos' projects. 14:35

10 Q. Last name P-A-N-G? 14:35

11 A. Correct. 14:35

12 Q. What about Cyril Yu? 14:35

13 A. Yes, I have seen his name show up, too, on some 14:35
14 of the permits that related to Mr. Santos. I can't 14:35
15 remember addresses but I know I have seen those 14:35
16 connections. 14:35

17 Q. Does DBI, to your knowledge, ever report bad 14:35
18 behavior by contractors or engineers to their licensing 14:36
19 boards? 14:36

20 A. Yes, we have done that in the past. We have an 14:36
21 administrative bulletin, it's Administrative Bulletin 14:36
22 40, and it allows for DBI to report licensed 14:36
23 professionals to the state licensing authority. It 14:36
24 usually travels through the city attorney for that 14:37
25 referral. 14:37

1	Q. If you can answer that without revealing	14:37
2	communications with the city attorney's office, can you	14:37
3	identify for me professionals that DBI has recommended	14:37
4	to be reported to the state licensing boards?	14:37
5	A. One of the individuals was from many years ago,	14:37
6	probably ten years ago, he was a gentleman by the name	14:37
7	of Dean Alek (phonetic). He was referred to the state	14:37
8	-- Contractor State Licensing Board, I believe. The	14:37
9	more recent one was referred from years ago and that's	14:37
10	not something that I can reveal if it's something	14:38
11	that's --	14:38
12	MR. STEVENS: Let's take a break.	14:38
13	THE WITNESS: Can we take a break on that,	14:38
14	Scott, and we will be right back to you.	14:38
15	MR. EMBLIDGE: Absolutely.	14:38
16	THE VIDEOGRAPHER: We are now off the record	14:38
17	2:38 p.m.	14:38
18	(Brief recess.)	14:38
19	THE VIDEOGRAPHER: We are now on the record	14:39
20	2:39 p.m.	14:39
21	MR. EMBLIDGE: Q.: Are you able to answer that	14:39
22	question, Mr. O'Riordan?	14:39
23	A. I am unable to answer that question because it	14:39
24	would be in breach of client attorney -- attorney-	14:39
25	client, I should say.	14:39

1	Q. Do you know Tim Brown?	14:39
2	A. I know the name, I don't know Tim Brown.	14:39
3	Q. Are you aware of, for example, Mr. Brown's	14:39
4	involvement in the project across the Street from Mr.	14:39
5	Dratler?	14:39
6	A. Yes.	14:39
7	Q. Have you ever met Mr. Brown?	14:39
8	A. No, I have not.	14:39
9	Q. Do you know John Kantor, K-A-N-T-O-R?	14:39
10	A. Yes.	14:40
11	Q. How do you know him?	14:40
12	A. I am not sure what his role in the project is.	14:40
13	I think he is a project manager for at least that	14:40
14	project. He is somebody that used to come into DBI and	14:40
15	come to me and maybe to Joe or maybe Bernie at the time,	14:40
16	I don't recall who all he came to. But he certainly	14:40
17	came to me for direction in regards to how he was going	14:40
18	to work on curing the violations that related to the	14:40
19	17th Avenue project.	14:40
20	Q. Like the removal without permits of the bay	14:40
21	window?	14:40
22	A. Yes.	14:40
23	Q. Have you ever socialized with him outside of	14:40
24	work?	14:40
25	A. No.	14:40


1	Q. One of the plaintiffs in this lawsuit is a	14:41
2	woman named Rachel Swann, do you know her at all?	14:41
3	A. No, I do not.	14:41
4	Q. Do you know Darryl Honda?	14:41
5	A. Yes, I do.	14:41
6	Q. How do you know him?	14:41
7	A. He was -- I think he still is on the Board of	14:41
8	Appeal and I went to the Board of Appeal a number of	14:41
9	times. I believe he is also involved in real estate so	14:41
10	he would ask me questions about permitting and so forth.	14:41
11	Really beyond that I don't know him beyond that.	14:41
12	Q. When you say he would ask you questions about	14:41
13	permitting, do you mean he would call you up or how	14:41
14	would that happen?	14:41
15	A. He might call me up or e-mail or something and	14:42
16	ask how do I go about getting a permit for whatever,	14:42
17	legalizing a condition, or just general type questions	14:42
18	that we would get from -- the real estate kind of	14:42
19	questions that we would get mostly.	14:42
20	Q. Did you ever socialize with him outside of	14:42
21	work?	14:42
22	A. No, I haven't been to -- no, I have not.	14:42
23	Q. Have you ever talked with Darryl Honda about	14:42
24	Mr. Richards or the Six Dogs project?	14:42
25	A. No, I have not.	14:42

1	Q. Have you ever heard rumors or allegations to	14:42
2	the effect that being a member of the RBA gets one more	14:43
3	favorable treatment at DBI?	14:43
4	A. No.	14:43
5	Q. Are you aware of DBI employees soliciting	14:43
6	contractors or developers or engineers or permit	14:43
7	expeditors for contributions to the building inspectors	14:43
8	holiday party?	14:43
9	A. I am not aware of that happening. I was never	14:43
10	involved in organizing the holiday party so I am not	14:43
11	really sure how all that would work.	14:43
12	Q. Okay, I think I am done but let me please take	14:43
13	a five minute break and try to wrap this up.	14:44
14	THE VIDEOGRAPHER: Going off the record 12:44	14:44
15	p.m.	14:44
16	(Brief recess.)	14:50
17	THE VIDEOGRAPHER: Going on the record 2:56	14:55
18	p.m.	14:55
19	MR. EMBLIDGE: Q.: Mr. O'Riordan, do you know	14:55
20	Frank Fung, F-U-N-G?	14:55
21	A. Yes, he is a planning commissioner. He was on	14:55
22	the Board of Appeal at one time.	14:55
23	Q. Do you know him at all outside of work?	14:56
24	A. No, not really, no.	14:56
25	Q. Has Mr. Fung or Mr. Honda ever reached out to	14:56

1	you to try to help expedite any permits or projects?	14:56
2	A. No, not that I can remember.	14:56
3	Q. Have you had any city commissioners reach out	14:56
4	to you to try to move a project along?	14:56
5	A. No.	14:56
6	Q. Have you heard of that happening with others at	14:56
7	DBI, meaning have you heard that city commissioners have	14:56
8	reached out to inspectors or others at DBI to try to	14:56
9	expedite particular projects?	14:56
10	A. No, I have not.	14:56
11	Q. Are you aware of any -- you are familiar with	14:57
12	the permit tracking system, correct?	14:57
13	A. Um-hum.	14:57
14	Q. Are you aware of any reason a notice of	14:57
15	violation relating to a property might be there one week	14:57
16	but there will be no record of it a week later?	14:57
17	A. That shouldn't happen because the records	14:57
18	should stay intact, and if corrections need to be made	14:57
19	to the record, then they would be made as an additional	14:57
20	line item.	14:57
21	Q. Has anyone brought to your attention a problem	14:57
22	with notices of violation somehow disappearing off the	14:57
23	permit tracking system?	14:57
24	A. No.	14:57
25	Q. For a building permit application is there any	14:57

1	agency or officer within the City and County of San	14:58
2	Francisco that has the authority to approve a building	14:58
3	permit application other than employees of the	14:58
4	Department of Building Inspection?	14:58
5	A. You are referring to a building permit, is that	14:58
6	correct?	14:58
7	Q. Correct.	14:58
8	A. DBI is the accepting and issuance agency for a	14:58
9	building permit.	14:58
10	Q. I am sorry, I missed that.	14:58
11	A. DBI is responsible for intake -- both intake	14:58
12	and issuance of a building permit.	14:58
13	Q. So what about the port, does the port have any	14:59
14	independent authority to issue or approve building	14:59
15	permits?	14:59
16	A. Yes, if it's within port jurisdiction.	14:59
17	Q. What about the city surveyor, does the city	14:59
18	surveyor have any authority to issue or approve building	14:59
19	permits?	14:59
20	A. My answer would be no because the city surveyor	14:59
21	is an employee of DPW. The city surveyor wouldn't be on	14:59
22	the routing of a permit as it travels through DBI.	14:59
23	Q. I asked you earlier if you had ever been a	14:59
24	member of the RBA. Were you a member of the RBA back	14:59
25	when you were a contractor?	14:59

1	A. No, because I wasn't a contractor in the city,	15:00
2	I was a contractor on the Peninsula, and most of my work	15:00
3	was in Atherton and Menlo Park and down there so the RBA	15:00
4	didn't have any presence down there.	15:00
5	Q. In the course of looking into the Six Dogs	15:00
6	project, did you ever have occasion to print out and	15:00
7	review the plans for the project?	15:00
8	A. I probably did in preparation for the meetings	15:00
9	that we had in planning, in all likelihood I did. I	15:00
10	don't remember exactly if or when I did that but it's	15:00
11	very likely that Joe Duffy and I sat down with the plans	15:00
12	before we went to the meeting that we had at planning	15:00
13	with Debra and with Stephen Sutro.	15:00
14	Q. I have no further questions. Thank you very	15:00
15	much for your time today.	15:01
16	A. You are welcome, thank you.	15:01
17	THE VIDEOGRAPHER: We are off the record 3:01	15:01
18	p.m.	15:01
19	THE REPORTER: Would you like to order a copy	15:01
20	of the transcript?	15:01
21	MR. STEVENS: Yes.	15:01
22	(Whereupon, at 3:01 p.m. thereof, the	15:01
23	deposition was concluded.)	15:01
24		15:01
25	----- PATRICK O'RIORDAN	15:01

1	STATE OF CALIFORNIA	15:01
2	I do hereby certify that the witness in the	15:01
3	foregoing deposition was by me duly sworn to testify the	15:01
4	truth, the whole truth, and nothing but the truth in the	15:01
5	within- entitled cause; that said deposition was taken	15:01
6	at the time and place therein stated; that the testimony	15:01
7	of the said witness was reported by me, a Certified	15:01
8	Shorthand Reporter and a disinterested person, and was	15:01
9	under my supervision thereafter transcribed into	15:01
10	typewriting; that thereafter, the witness was given an	15:01
11	opportunity to read and correct the deposition	15:01
12	transcript, and to subscribe the same; that if unsigned	15:01
13	by the witness, the signature has been waived in	15:01
14	accordance with stipulation between counsel for the	15:01
15	respective parties.	15:01
16	And I further certify that I am not of counsel or	15:01
17	attorney for either or any of the parties to said	15:01
18	deposition, nor in any way interested in the outcome of	15:01
19	the cause named in said caption.	15:01
20	IN WITNESS WHEREOF, I have hereunto set my hand the	15:01
21	28th day of June, 2021.	15:01
22		15:01
23	 _____	15:01
24		15:01
25	Certified Shorthand Reporter	15:01
	CSR No. 7435	15:01