

Transcript of the Testimony of
Joseph Gimenez

Date:

November 19, 2019

Case:

RENE FFRENCH vs FRIENDSHIP HOMES & HANGARS

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CAUSE NO. 48292

RENE FFRENCH, JOHN RICHARD (IN THE DISTRICT COURT
DIAL and STUART BRUCE ()
SORGEN, each on his own ()
behalf and as a ()
representative of ()
WINDERMERE OAKS WATER ()
SUPPLY CORPORATION, ()
Plaintiffs, ()
VS. () BURNET COUNTY, TEXAS
FRIENDSHIP HOMES & HANGARS,()
LLC, WINDERMERE OAKS WATER ()
SUPPLY CORPORATION and its ()
Directors WILLIAM EARNEST, ()
THOMAS MICHAEL MADDEN, ()
DANA MARTIN, ROBERT MEBANE ()
and PATRICK MULLIGAN, ()
Defendants. () 33RD JUDICIAL DISTRICT

VIDEOTAPED ORAL DEPOSITION OF
JOSEPH J. GIMENEZ
NOVEMBER 19, 2019

VIDEOTAPED ORAL DEPOSITION OF JOSEPH J. GIMENEZ,
produced as a witness at the instance of the
Plaintiffs, and duly sworn, was taken in the
above-styled and numbered cause on the 19th day of
November, 2019, from 10:28 a.m. to 4:29 p.m., before
RENEA SEGGERN, CSR in and for the State of Texas,
reported by machine shorthand at the offices of Lloyd
Gosselink Rochelle & Townsend, P.C., 816 Congress

Page 2

1 Avenue, Suite 1900, Austin, Texas, pursuant to the
 2 Texas Rules of Civil Procedure and the provisions
 3 stated on the record or attached hereto.
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 14 Mr. Bruce Sorgen
 15 Mr. Rene Ffrench
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1 PROCEEDINGS
 2 THE VIDEOGRAPHER: Today's date is
 3 November 19th, 2019 and the time is 10:39 [sic] a.m.
 4 We are on the record for the oral videotaped
 5 deposition of Joe Gimenez.
 6 JOSEPH GIMENEZ,
 7 having been first duly sworn, testified as follows:
 8 EXAMINATION
 9 BY MS. ALLEN:
 10 Q Could you please introduce yourself for the
 11 ladies and gentlemen of the jury and say your name
 12 exactly the way you want me to say it.
 13 A Okay. I'm Joe Gimenez.
 14 Q Okay, and is it accurate that you are
 15 currently the president of the board of directors of
 16 the Windermere Oaks Water Supply Corporation?
 17 A Yes.
 18 Q Are you aware that under the governing
 19 documents the entity is required to operate as a
 20 cooperative? Do you know that?
 21 A No.
 22 Q Okay. Do you know what a cooperative is?
 23 A No.
 24 Q I'm going to call it a cooperative because
 25 that's how it is supposed to operate; so if I talk

Page 7

1 today about the cooperative, you'll understand that
 2 I'm talking about the water supply company, okay?
 3 MR. DE LA FUENTE: Object, form.
 4 Q (BY MS. ALLEN) Will you understand that
 5 that's what I'm talking about?
 6 A Could you repeat the question?
 7 Q Sure, and that happens and that's one of the
 8 reasons why we give that little extra beat so that you
 9 and I don't talk over one another and so that if Mr.
 10 de la Fuente or any of the other lawyers have
 11 something that they need to say on the record they get
 12 an opportunity to do that, all right?
 13 A Okay.
 14 Q All right. So for today's purposes because
 15 the governing documents provide that the water supply
 16 company is to operate as a cooperative, I'm going to
 17 call it a cooperative. Will you understand today that
 18 when I say cooperative, I'm talking about the water
 19 supply company?
 20 MR. DE LA FUENTE: Object to form.
 21 A If I don't know what a cooperative is, if I
 22 don't -- then I don't know why I would have to -- I
 23 don't understand. I mean, I don't know how -- if
 24 you're referring it to -- to it in a way that I don't
 25 know, then --

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1 Q I have to call it something and Frog seems
 2 inappropriate, okay?
 3 A Is there another term?
 4 Q So for today's purposes, I'm going to call it
 5 the cooperative and all I need to know from you is
 6 when you hear that word, will you understand that what
 7 I'm talking about is the Windermere Oaks Water Supply
 8 Company?
 9 MR. DE LA FUENTE: Object to form.
 10 A I don't refer to the corporation as a
 11 cooperative. I mean, it is a water sewer -- I mean
 12 not a water sewer, it is a water supply corporation.
 13 So I have read the Articles of Incorporation, I've
 14 read the Bylaws so my understanding, I don't -- it's a
 15 corporation.
 16 Q (BY MS. ALLEN) When I say the word
 17 cooperative today in this deposition, will you please
 18 understand that that means Windermere Oaks Water
 19 Supply Corporation?
 20 MR. DE LA FUENTE: Object to form.
 21 A Am I being compelled to respect that term?
 22 Q (BY MS. ALLEN) You may refuse if you wish.
 23 I will call it Frog.
 24 A I'm going to refuse.
 25 Q Okay. And you are going to refuse because?

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1 A Because I have not read that word in our
 2 documents.
 3 Q You haven't? Okay. Any other reason why you
 4 are refusing?
 5 A I haven't read that word in those documents.
 6 Q That's the only reason you're refusing?
 7 MR. DE LA FUENTE: Object to form.
 8 A I haven't read those words in our documents.
 9 I mean, I just haven't read them. I know that that's
 10 what the petition claims, but I haven't read those
 11 words in our document.
 12 Q (BY MS. ALLEN) So have you read the petition
 13 that I filed?
 14 A Yes, yes. The one that was filed last week
 15 or --
 16 Q The big long one that talks about
 17 cooperative, that's the one?
 18 A That's the one, yes.
 19 Q You've read that one?
 20 A Yes.
 21 Q When you read that and saw what it alleged
 22 about how this enterprise is supposed to be operated,
 23 did you go back and look at the governing documents?
 24 A No.
 25 Q Has anyone ever advised you that the business

Page 10

1 is to be operated as a cooperative?
 2 MR. DE LA FUENTE: Object to form and to
 3 the extent this inquires into any attorney/client
 4 privileged advice as to the nature of the entity, I
 5 will caution the witness not to reveal privileged
 6 information of the WSC.
 7 A. Are you still calling it a cooperative? I'm
 8 sorry. No, I'm not going --
 9 Q (BY MS. ALLEN) We can read that question
 10 back if that would help.
 11 A Could you read that? Could you do that?
 12 Q Of course.
 13 (Record read by Reporter.)
 14 MR. DE LA FUENTE: Same objection and
 15 cautioning instruction to the witness.
 16 A I'm going to listen to my attorney in this
 17 matter.
 18 Q (BY MS. ALLEN) So just so that I'm clear,
 19 are you telling us that you cannot answer that
 20 question without revealing the substance of
 21 communications between attorney and client?
 22 MR. DE LA FUENTE: I'm going to object to
 23 anything that would indicate the subject matter of
 24 attorney/client communications on behalf of the WSC
 25 and instruct you not to answer.

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1 Q (BY MS. ALLEN) Are you refusing to answer,
 2 sir?
 3 A Yes, under --
 4 Q Why are you refusing to answer?
 5 A Under instruction of counsel.
 6 Q Why are you refusing to answer?
 7 MR. DE LA FUENTE: I'm going to instruct
 8 you not to answer the question to the extent that it
 9 would reveal the subject matter and substance of any
 10 attorney/client information.
 11 A So could you repeat the question?
 12 Q (BY MS. ALLEN) Yes, sir. Let me explain
 13 something first.
 14 A Okay.
 15 Q The court is going to look at this transcript
 16 later and decide whether your refusal to answer the
 17 question was warranted or it wasn't, all right?
 18 A Okay.
 19 Q And so we need to understand exactly why it
 20 is you are refusing to answer.
 21 A Okay.
 22 Q If you refuse to answer because you don't
 23 know, that's not something to be compelled. If you're
 24 refusing to answer for some other reason, that might
 25 be revealable. I'm simply trying to make a record that

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1 the court could look at to determine whether or not
 2 you ought to have answered. Do you understand what
 3 I'm telling you?
 4 A Yes.
 5 Q So I'm asking why it is you are refusing to
 6 answer?
 7 MR. DE LA FUENTE: Object to form and the
 8 same instruction to the witness. Certainly, I think
 9 we are also remote in time to the question referenced,
 10 but I'm going to instruct the witness, again, not to
 11 reveal the substance of any attorney/client privileged
 12 communications regarding the subject matter on behalf
 13 of the WSC.
 14 A I'm going to listen to counsel and take their
 15 advice.
 16 Q (BY MS. ALLEN) Okay.
 17 A If you want to repeat the question one more
 18 time, please.
 19 Q Has anyone ever advised you that the
 20 Windermere Oaks Water Supply Corporation is required
 21 to be run as a cooperative?
 22 MR. DE LA FUENTE: Same objection, same
 23 instruction.
 24 A I will listen to my attorney.
 25 Q (BY MS. ALLEN) So is it fair for us to

Page 13

1 understand that if anyone has ever given that advice,
 2 it was only an attorney?
 3 A So the question is anyone?
 4 Q Yes.
 5 A Okay. Could you repeat the question one more
 6 time?
 7 MR. DE LA FUENTE: Are you asking if
 8 anyone other than legal counsel has ever given him
 9 that advice?
 10 Q (BY MS. ALLEN) I'm really just asking
 11 whether anyone has advised you that the Windermere
 12 Oaks Water Supply Corporation is to be operated as a
 13 cooperative?
 14 MR. DE LA FUENTE: To the extent that
 15 that would encompass advice of counsel to the WSC, I
 16 will instruct the witness not to answer.
 17 Q (BY MS. ALLEN) Can you answer without
 18 revealing the substance of communications between you
 19 and an attorney for the water supply company?
 20 MR. DE LA FUENTE: Object to the
 21 question. There's no way to answer that without
 22 revealing the substance of questions so I instruct the
 23 witness not to answer.
 24 A I'm listening to my counsel.
 25 Q (BY MS. ALLEN) And refusing to answer?

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1 A Yes.

2 Q Okay. Has any accountant ever advised you

3 that the Windermere Oaks Water Supply Corporation is

4 required to be operated as a cooperative?

5 A An accountant, no.

6 Q Do you understand that the Windermere Oaks

7 Water Supply Corporation claims a tax exemption under

8 501(c)(12)?

9 A No.

10 Q You don't know that it's a tax-exempt entity?

11 MR. DE LA FUENTE: Object to form.

12 Q (BY MS. ALLEN) Let me rephrase that because

13 his objection is well taken. Is it correct to say

14 that you don't know that it claims a tax exemption

15 under 501(c)(12)?

16 A I don't know the tax law. I mean, I don't

17 know how it's structured for the tax.

18 Q When the tax reporting documents are filed,

19 is it your name that's on them these days?

20 A It was this year, yes.

21 Q So your name is on a tax reporting document,

22 but you don't know whether the entity for which you

23 are signing is claiming a tax exemption or it is not;

24 is that right?

25 MR. DE LA FUENTE: Object to form.

Page 15

1 A I don't recall that document.

2 Q (BY MS. ALLEN) So you don't know whether the

3 document that you signed is claiming tax exemption for

4 the entity or not; is that correct?

5 MR. DE LA FUENTE: Object to form.

6 THE WITNESS: I mean, do I have to answer

7 that question?

8 MR. DE LA FUENTE: You may answer a

9 question if you can answer it.

10 A I can't answer that question.

11 Q (BY MS. ALLEN) Okay. And you can't answer

12 it because?

13 A Read the question again. What's the

14 question?

15 Q She's going to tell you what it is.

16 (Record read by Reporter.)

17 MR. DE LA FUENTE: Object to form.

18 A I mean, I don't know. I haven't looked at

19 those documents.

20 Q (BY MS. ALLEN) Wouldn't you agree with me

21 that the board of directors has the responsibility for

22 determining whether or not to file a tax information

23 document claiming a tax exemption?

24 MR. DE LA FUENTE: Object to form.

25 A I don't know.

Page 16

1 Q (BY MS. ALLEN) If not the board, who would

2 have that responsibility?

3 A I don't know. I don't know.

4 Q Would you agree with me that the board of

5 directors has a responsibility to make the required

6 filings, tax filings on an annual basis?

7 A Yes.

8 Q Wouldn't you agree with me that the board has

9 responsibility for making sure those filings are true

10 and correct under penalty of perjury?

11 MR. DE LA FUENTE: Object to form.

12 A I don't know.

13 Q (BY MS. ALLEN) If not the board, who would

14 have that responsibility for the Frog?

15 MR. DE LA FUENTE: Object to form.

16 A I don't know. I don't know.

17 Q (BY MS. ALLEN) Are you -- do you not

18 understand what the ramifications might be to the

19 entity if it files a tax reporting document that is

20 not true and correct?

21 MR. DE LA FUENTE: Object to form.

22 A I don't know what that would -- I don't know

23 what that would be.

24 Q (BY MS. ALLEN) Whose responsibility is it if

25 not the board's to make sure that the entity remains

Page 17

1 compliant with applicable law?

2 A With applicable laws for what?

3 Q Everything.

4 A Could you repeat the question, then?

5 Q Whose responsibility is it if not the board's

6 to ensure that the entity remains compliant with

7 applicable law?

8 A I don't know.

9 Q Are you saying that you do not believe it is

10 the board's responsibility; or that you do not know

11 one way or the other; or something else?

12 MR. DE LA FUENTE: Object to form.

13 A There were several questions in there so I

14 can't answer the multiple questions.

15 Q (BY MS. ALLEN) All right. Then we will

16 break them up. Do you believe it is the board of

17 director's responsibility to ensure that the entity

18 remains compliant with applicable law?

19 A Yes.

20 Q What steps, if any, has the board taken to

21 ensure that the entity remains complaint with

22 applicable law regarding its tax-exempt status?

23 MR. DE LA FUENTE: Object to form.

24 A What steps, if any. We follow the advice of

25 counsel.

Page 18

1 Q (BY MS. ALLEN) Who prepares the tax returns
2 for the entity?
3 A I think this year it was Raven Herron, CPA,
4 an organization out of Horseshoe Bay.
5 Q Has Ms. Herron advised the board regarding
6 the tax-exempt status of the entity?
7 A No. No. I mean, she has not advised me.
8 Q And it's your name on the return, right?
9 A Yes.
10 Q And just so we're clear, is it correct to say
11 that you don't know one way or the other whether
12 Windermere Oaks Water Supply Corporation is filing as
13 a tax-exempt entity; is that correct?
14 MR. DE LA FUENTE: Object to form.
15 A Say that again, please.
16 Q (BY MS. ALLEN) Do you know one way or the
17 other whether the Windermere Oaks Water Supply
18 Corporation reported itself on the return that has
19 your name on it as a tax-exempt entity?
20 MR. DE LA FUENTE: Object to form.
21 A I don't know. I don't know. I haven't
22 looked at those documents --
23 Q (BY MS. ALLEN) Okay.
24 A -- in a while, so I don't know.
25 Q We got off on a bit of a tangent. I want to

Page 19

1 back up just for a second and tell you a couple of
2 things about the deposition process. First, have you
3 ever had your deposition taken before?
4 A No.
5 Q You understand that it is a process by which
6 the court reporter is going to take down everything
7 that everyone here says during the course of the
8 deposition. Do you understand that?
9 A Okay.
10 Q And so you understand why it's important that
11 we not be talking at the same time. She can't take
12 down words on top of one another. You understand,
13 right?
14 A Right.
15 Q Okay. And also, as we discussed, if you just
16 give it a beat, it allows any other attorney in the
17 room to make whatever comment they would like to make.
18 Fair enough?
19 A Got it.
20 Q People tell me that I'm very direct, but I
21 find that sometimes in a deposition, my questions are
22 not quite as clear as I would like them to be, but
23 it's very important that you and I are communicating
24 today. If I ask you a question that doesn't make
25 sense to you or you don't understand, will you let me

Page 20

1 know right then instead of trying to struggle through
2 it?
3 A Yes.
4 Q Okay, because I might do that. If it seems
5 to me that you're getting a little off topic from what
6 I asked you, that you are not being too responsive,
7 will you understand that I'm going to follow up on
8 that to make sure that you have understood the
9 question that I have asked?
10 A I understand that.
11 Q You do understand that your most important
12 duty as a witness here today is to tell the truth,
13 right?
14 A Yes.
15 Q And as long as Mr. de la Fuente does not put
16 us on the clock too much, I'm going to let you say
17 anything you want. You just tell me that there is
18 something more that you need to say that I didn't
19 allow and I will give you that opportunity. Will you
20 do that?
21 A Sure.
22 Q You can take a break pretty much any time
23 that you like and I will respect requests that you
24 make. Here is an exception. The exception is if I
25 have asked you a question, I'm going to want you to

Page 21

1 answer it before you go on break. I'm going to want
2 you to finish that thought before we stop and take a
3 break. Does that sound fair to you?
4 A I understand, yes.
5 Q All right. This deposition is a little bit
6 different from the norm because it's focused in scope.
7 Do you know that?
8 A Focused in scope, okay.
9 Q There are some issues that are pending before
10 the court having to do with jurisdiction and whether
11 the court has jurisdiction and really what we are here
12 today to do is focus on facts that have to do with
13 those issues, all right? Do you understand that?
14 A Um-hum.
15 Q The difference that makes is it might seem a
16 little disjointed. We might not go through every
17 single detail of everything that ever happened that
18 has to do with this dispute.
19 A Okay.
20 Q That's why I'm telling you if you feel there
21 is something that you need to add to make your answer
22 complete, all you have to do is let me know. Will you
23 do that?
24 A Okay.
25 Q And it's also why I'm going to try to be as

Page 22

1 focused and direct as I can, but I don't want to
 2 shortcut anything so if you feel like I'm shortcutting
 3 something, rushing you or cutting you off, I want you
 4 to tell me right then, okay?
 5 A Okay.
 6 Q Because I don't mean to do that. My goal
 7 here today is to learn the facts that you know and to
 8 let you tell them pretty much how you want to tell
 9 them, okay?
 10 A Okay.
 11 Q When did you become president of the board?
 12 A March 9th of this year.
 13 Q March 9th, 2019?
 14 A Correct.
 15 Q And I take it that you probably have a real
 16 job, do you not?
 17 A Yes, I do.
 18 Q Was your real job?
 19 A I am a sole proprietor. I perform public
 20 relations and marketing communications for clients.
 21 Q Does your real job include any aspects of
 22 real property valuation?
 23 A No.
 24 Q Does your real job include any aspects of
 25 real property marketing or advertising?

Page 23

1 A No. I will say that I had -- I'm just
 2 thinking. I had a client one time who was a real
 3 estate agent, but I don't think that applies to what
 4 you're asking.
 5 Q In your real job, is it that you're teaching
 6 people how to promote themselves or showing them how
 7 to promote themselves; is that what you do?
 8 A Yeah.
 9 Q So in your real job, you do know that
 10 somebody getting themselves out and promoting
 11 themselves to the applicable market, to the people
 12 they are trying to attract, that's the way to get
 13 business, right?
 14 MR. DE LA FUENTE: Object to form.
 15 A So could you say that question one more time?
 16 Q Sure. Isn't it so that in your real job, the
 17 conventional wisdom is that in order for people to
 18 attract customers, bidders for their services, what
 19 they need to do and should do is to get themselves out
 20 on the market?
 21 MR. DE LA FUENTE: Object to form.
 22 A I have a hard time with many parts of that
 23 question because you're asking about conventional
 24 wisdom. I don't know what conventional wisdom is.
 25 You're asking about people doing things. It was a

Page 24

1 complicated question.
 2 Q (BY MS. ALLEN) Fair enough. You can't
 3 answer it?
 4 A I can't answer it.
 5 Q I'm not going to ask you about conventional
 6 wisdom because you don't know that. Do people come
 7 and pay you money so that you can either teach them
 8 how or do for them to promote them so that they get
 9 exposure across the market that they are trying to
 10 reach?
 11 A Yes.
 12 Q And why do people pay you money to get them
 13 exposure in the market that they want to reach?
 14 MR. DE LA FUENTE: Object to form.
 15 A Repeat the question one more time. Why do?
 16 Q (BY MS. ALLEN) Why is it that people come
 17 and pay you good money to help them get exposure in
 18 the market that they want to reach?
 19 MR. DE LA FUENTE: Object to form.
 20 A I can't speak to their motives.
 21 Q (BY MS. ALLEN) Do you believe that you
 22 provide a valuable service to them, to the people who
 23 come to you to help them get exposure in the market
 24 that they want to reach?
 25 A That's -- there are several parts to that

Page 25

1 question so I don't know. I mean, to the question as
 2 asked, I can't answer that question.
 3 Q What's the problem with the question?
 4 A Well, there were multiple parts to it that,
 5 you know, I don't necessarily understand each part of
 6 it. If you could simplify the question.
 7 MS. ALLEN: Can you read it back?
 8 (Record read by Reporter.)
 9 A Yes, I provide a valuable service.
 10 Q (BY MS. ALLEN) The election this year was
 11 not the first time that you ran for the board of
 12 directors out at Windermere, is it?
 13 A Correct.
 14 Q Have you been attentive to matters involving
 15 the Frog -- I'm going the call it that because you
 16 don't like cooperative. Have you been attentive to
 17 matters that involve the entity for a while now?
 18 MR. DE LA FUENTE: Object to form.
 19 A You know, repeat the question one more time,
 20 I'm sorry. Attentive -- I'm sorry. My hang-up is
 21 attentive to matters.
 22 Q (BY MS. ALLEN) Have you paid attention to
 23 what the water supply company is doing and have you
 24 been doing that for a while?
 25 A Does that mean have I been attending

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1 meetings? That's a very broad question. I mean, do I
 2 read the letters that are sent, yes.
 3 Q Okay, so you read the letters that the board
 4 sends out?
 5 A Correct.
 6 Q How long have you doing that?
 7 A Since I became a member of the, you know, of
 8 the community. That was 2014.
 9 Q Okay, so you moved into the community in
 10 2014?
 11 A Yes.
 12 Q And you don't need to be specific with me,
 13 but in what general area of the community do you live?
 14 A On Coventry Road. That would be on the
 15 northeast side of the community.
 16 Q Are you one of these airline -- airplane
 17 people? Are you one of these pilot people that have
 18 hangars out there at the Spicewood Airport?
 19 A No.
 20 Q Have you ever been a part of that, what I'm
 21 going to call the airport community?
 22 A In what capacity do you mean?
 23 Q Any capacity.
 24 A It's a pretty broad question. No, I mean --
 25 I don't know the definition of being part of the

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1 community. Have I gone to a party here and there that
 2 they have had? Yeah, I have gone to a couple of
 3 parties that are open to the public. I don't know
 4 what you mean by, you know, community -- it's broad.
 5 I don't know how to answer that beyond what I have
 6 just said.
 7 Q Okay. Fair enough. So since 2014, you have
 8 read the letters that the board has distributed; is
 9 that right?
 10 A Yes.
 11 Q Have you attended meetings, board meetings --
 12 sorry, board meetings?
 13 A In what year?
 14 Q Since 2014?
 15 A Since 2014, boy, that's a tough one. I mean
 16 I've obviously attended all this year or all since
 17 March 9th, but beyond that in previous years. I
 18 attended a petition hearing in 2017. I can't remember
 19 -- I attended one for a brief period of time and I
 20 can't remember if that was in '17 or '18, but, I mean,
 21 I can't remember if I have -- you know, if it was more
 22 than one. It wasn't that many if it was --
 23 Q What prompted you to run for a directorship?
 24 Was it 2014 that you did that? I can't remember.
 25 A No, it was not 2014.

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1 Q What year was it?
 2 A I ran -- I first ran in 2018.
 3 Q Okay.
 4 A And then 2019.
 5 Q And so what prompted you to run in 2018?
 6 A What prompted me to run in 2018? You know, I
 7 don't recall exactly what prompted me. I can say that
 8 I am a member of the POA board, the Property Owner's
 9 Association board in our community, and I saw a lot of
 10 things in the Property Owner's Association that needed
 11 to be done in terms of maintenance of our community
 12 assets and I thought that probably the -- some of this
 13 is coming back to me as I talk so.
 14 I remember when I stood up -- and I think
 15 what I said on my form, I can't remember exactly --
 16 but I know when I stood up at talked at the 2018
 17 annual meeting, I reminded everybody that I had worked
 18 on the POA to conduct a reserve study which catalogs
 19 all your community assets and it puts you on a
 20 schedule for repairing or replacing or maintaining
 21 community assets and I think in 2018 when I first ran
 22 for the -- for the Water Corporation Board, I said to
 23 everybody that I wanted to do, you know, a similar --
 24 give similar assistance to the water corporation and I
 25 said that in 2018 and also in 2019 when I stood up at

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1 the annual meeting and that's primarily the reason why
 2 I have run for these boards.
 3 Q What investigation, if any, did you do to
 4 determine whether that kind of work -- the work you're
 5 describing, the study that you're describing -- was
 6 needed at that time?
 7 A On the POA I could look around and I could
 8 see that there were -- there were literally -- there
 9 was a pergola that you would touch and it would wobble
 10 and almost fall down. There were basketball goals
 11 that needed painting. I found out that our electrical
 12 equipment was indoor rated even though it was outdoors
 13 at things. I found out in the POA that our signage
 14 for our pools was nonexistent and out of compliance
 15 with state and local regulations. I discovered that
 16 we had a fence around one pool that was noncompliant
 17 with regulations as well as with the POA board so what
 18 I saw around me was -- and that's just some of it.
 19 I mean, I could go on because I saw there
 20 were issues with roads, with our tennis courts. A
 21 wide range of problems that needed to be addressed, so
 22 based on that assessment on the POA, I surmised, I
 23 guess is the best way to put it, that more attention
 24 needed to be focused on -- could be focused by the
 25 Water Corporation on its assets and its equipment for,

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1 you know, for keeping things running into longevity --
 2 you know, over the long term for our community.
 3 Q Did you make any investigation into the state
 4 of the assets that were used to provide water and
 5 sewer service?
 6 A In what time frame?
 7 Q When you first were prompted to run for a
 8 directorship which I think you said was 2018?
 9 A At that time, no. I mean I didn't go to the
 10 water plant. I didn't -- you know, I didn't, you
 11 know, do -- I didn't, you know, do things like that.
 12 I mean, I thought that was, you know, would have,
 13 beyond what I needed to do. I mean, my exposure to
 14 the water plant was that there's a wooden fence that's
 15 not in very good condition so.
 16 Q Okay. When did you first hear about the
 17 dispute that brings us here today?
 18 MR. DE LA FUENTE: Object to form.
 19 A There are a lot of disputes so you would have
 20 to be more specific.
 21 Q (BY MS. ALLEN) When did you first hear about
 22 the board of directors transferring hangar lot
 23 property to a sitting director and the allegation was
 24 that it was for far less than fair market value?
 25 A There is a lot in that question and I don't

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1 know -- I can't answer that because there's a lot of
 2 specifics that I -- that don't jive with.
 3 Q (BY MS. ALLEN) You're aware -- sure and if I
 4 interrupted you, you just stop me right now and I will
 5 let you finish. Do you need to finish?
 6 A No, I don't.
 7 Q Okay.
 8 A I'm sorry.
 9 Q You are aware that the board of directors for
 10 Windermere Oaks transferred hangar lot property to
 11 sitting director or her affiliate in 2016, correct?
 12 MS. MITCHELL: Objection, form.
 13 A So if I have a problem with a term that you
 14 are using, I mean, I don't know that I can -- I can't
 15 answer the question that you asked with one of the
 16 terms.
 17 Q (BY MS. ALLEN) What term?
 18 A Transfer.
 19 Q Transfer?
 20 A Yes.
 21 Q Is it you don't know what transfer means?
 22 MR. DE LA FUENTE: Object to form.
 23 Q (BY MS. ALLEN) How about deeded? If I use
 24 the word deeded, would that be better?
 25 A Deeded, transferred, those are words that are

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1 beyond what I know to be. I mean, I don't know the
 2 exact definition of those words.
 3 Q So let's just say on day one, the real estate
 4 is owned and used as part of the facilities that are
 5 operating the water and wastewater service, okay? And
 6 on day five, part of that real estate is owned by
 7 someone else. Are you with me?
 8 A Key word there is owned.
 9 Q Are you with me?
 10 A Yes.
 11 Q What is it that you use to describe how that
 12 happened?
 13 A I would use the word sold.
 14 Q Sold, okay. Let me try it then. You are
 15 aware, are you not, that the board of directors in
 16 2016 sold hangar lot property to a sitting director on
 17 the board, correct?
 18 MS. MITCHELL: Objection, form.
 19 MR. DE LA FUENTE: Object to form.
 20 A Could you repeat the question?
 21 Q (BY MS. ALLEN) Are you aware that in 2016,
 22 the board of directors sold, to use your word, hangar
 23 lot property to a sitting director or her affiliate?
 24 MS. MITCHELL: Objection, form.
 25 MR. DE LA FUENTE: Object to form.

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1 A I mean, I am aware, yes.
 2 Q (BY MS. ALLEN) Okay, and you are aware that
 3 the plaintiffs in this lawsuit allege that the sale
 4 was made for much less than fair market value of the
 5 property, correct?
 6 A So you're asking me if I'm aware that they
 7 allege that?
 8 Q Right.
 9 A I am aware that they allege that, yes.
 10 Q And I am taking it that the board does not
 11 admit that; is that accurate?
 12 MR. DE LA FUENTE: Object to form.
 13 Q (BY MS. ALLEN) Let me ask you, does the
 14 board admit that in 2016 hangar lot property was
 15 conveyed to a sitting director or her affiliate for
 16 far less than fair market value?
 17 A I'm sorry, you will have to -- there's a lot
 18 in that question so you will have to repeat that for
 19 me. Could you repeat that for me?
 20 Q She will read it back, sure.
 21 (Record read by Reporter.)
 22 MR. DE LA FUENTE: Object to form.
 23 A The board does not admit that.
 24 Q (BY MS. ALLEN) Okay. So there is a
 25 controversy about that; is that right?

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1 A Yes, there is controversy -- well, hold on,
 2 about what exactly?
 3 Q About whether or not the board of directors
 4 sold -- to use your word -- sold hangar lot property
 5 to a sitting director or her affiliate for far less
 6 than fair market value? Is there a controversy about
 7 that?
 8 A Yes, there's controversy about that.
 9 Q Okay.
 10 (Exhibit Number 1 marked.)
 11 Q (BY MS. ALLEN) Let me show you what I have
 12 marked as Exhibit 1 to the deposition. You will have
 13 to reach a little bit because I'm way over here and I
 14 apologize for that. Please do share it with Mr. de la
 15 Fuente. I'm going to hand you some documents during
 16 the course of this and you just read them all you need
 17 to, okay?
 18 A Okay. Okay.
 19 Q Do you recognize Exhibit 1?
 20 A Yes.
 21 Q When did you first see it?
 22 A Earlier this year. I mean, specifically, I
 23 don't know.
 24 Q Was it before or after you became a member of
 25 the board?

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1 A I can't recall that. I really -- I don't.
 2 Q Can you recall the circumstances?
 3 A No. I can't recall if I saw it before or
 4 after or -- I mean, if I -- it's not ringing a bell
 5 with me if I saw it before I ran for the board and
 6 then if I saw it -- I can't tell you when I saw it
 7 afterwards. I'm sure I saw it afterwards.
 8 Q Okay. It's a letter prepared by Mr. de la
 9 Fuente who is the gentleman here with you at the
 10 deposition today; is that right?
 11 A Yes.
 12 Q And he was then and today with the firm Lloyd
 13 Gosselink; is that correct?
 14 A Yes.
 15 Q Was the firm Lloyd Gosselink in January 2019
 16 engaged by the board to represent the water supply
 17 company?
 18 A From the appearances of the letter, yes.
 19 Q Do you think otherwise?
 20 A No. So I'm not familiar -- the board had
 21 different counsel at one point, but I'm not sure when
 22 that counsel -- you know, when Lloyd Gosselink came on
 23 or what have you. From what I know, there were three
 24 -- there's been three attorneys for the water company
 25 in the last several years, but that's --

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1 Q You're on a litigation subcommittee of some
 2 kind that you established; isn't that right?
 3 A Legal subcommittee, yes, ma'am.
 4 Q Legal subcommittee. And part of what your
 5 job is on that legal subcommittee is to keep track of
 6 litigation, right?
 7 A Yes, ma'am.
 8 Q Have you performed your job? Have you done
 9 it?
 10 A Yes, ma'am.
 11 Q Did you undertake to learn what had happened
 12 before you came on the board?
 13 MR. DE LA FUENTE: Object, form.
 14 Q (BY MS. ALLEN) Mr. de la Fuente is right.
 15 You do know that litigation has been pending
 16 concerning the sale, to use your word, of these hangar
 17 lot properties for a while, right?
 18 A Yes. All members of our community are aware.
 19 Q Okay. When you came on the board and became
 20 a member of the legal subcommittee, did you undertake
 21 to educate yourself about what had happened in the
 22 litigation before you came on the board?
 23 A Yes.
 24 Q Was it in connection with that investigation
 25 that you first saw Exhibit 1?

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1 A Possibly. I mean, probably. I mean, like I
 2 said earlier, I don't remember exactly when I read
 3 this letter.
 4 Q Is it fair to say that so far as you're aware
 5 the Lloyd Gosselink firm was the water supply
 6 company's attorney at the time this letter was written
 7 in January of 2019?
 8 A Yes.
 9 Q And Mr. de la Fuente over there is the same
 10 guy who is sitting with you today who wrote this
 11 letter; is that right?
 12 A Yes.
 13 Q And this letter says -- and I will direct you
 14 to Page 3, but after we are done with that, you look
 15 at any part you want.
 16 A Okay.
 17 Q At the bottom of Page 3 in the last paragraph
 18 it says these words, the WOWSC board at the very least
 19 sold property with the proper market value of 700,000
 20 for a price of 203,000, a difference of 497,000,
 21 correct?
 22 A Yes, that's what it says.
 23 Q Has the attorneys -- have the attorneys for
 24 the entity ever changed their opinion?
 25 MR. DE LA FUENTE: Object to form and

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1 object to the extent they are seeking any
 2 attorney/client communication regarding this subject
 3 matter and instruct the witness not to answer.
 4 MS. MITCHELL: Objection, form.
 5 Q (BY MS. ALLEN) Just for the record, you're
 6 just going to have to say, I'm not going to answer
 7 that.
 8 A Okay. I'm not going to answer that.
 9 Q And again, just for the record, is it fair
 10 for me to understand that you're not going to answer
 11 that under a claim of privilege?
 12 A Yes, on the advice of counsel, yes.
 13 Q You understand I'm just --
 14 A I understand.
 15 Q I have to make my record. When you
 16 investigated what had gone on in the litigation, did
 17 you learn that there was a time that the board voted
 18 to proceed with all available avenues of recovery
 19 against Martin and Friendship and maybe even the
 20 appraiser Hinton; did you learn that?
 21 A No.
 22 Q Are you aware of that now?
 23 MR. DE LA FUENTE: Object to form.
 24 A I'm not aware of that now.
 25 Q (BY MS. ALLEN) Can you envision --

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1 A I mean, I am aware after you told me if
 2 that's true, I'm aware now, but I wasn't aware, no.
 3 Q Can you -- as a member of the current board
 4 of directors, can you envision any circumstance under
 5 which the board's sale of property with the market
 6 value of 700,000 for a price of 203,000, a difference
 7 of 497,000, could be fair and in the best interest of
 8 the enterprise?
 9 MR. DE LA FUENTE: Object to form.
 10 MS. MITCHELL: Object to form.
 11 A That's a hypothetical question. As a matter
 12 of form, I don't answer hypothetical questions. I
 13 mean, that's --
 14 Q (BY MS. ALLEN) It's the opinion that your
 15 lawyer gave in this letter of January 2019, Exhibit 1;
 16 isn't that right?
 17 MR. DE LA FUENTE: Object to form.
 18 MS. MITCHELL: Objection, form.
 19 A No, you asked a different question a minute
 20 ago.
 21 Q (BY MS. ALLEN) Do you see that the opinion
 22 your lawyer gave in the January 2019 letter -- I can
 23 read it again if you want, but if you can look with
 24 me --
 25 A It wasn't that question that you asked. I'm

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1 sorry.
 2 Q I'm asking a whole different question.
 3 A Okay.
 4 Q So we can avoid confusion.
 5 A Okay.
 6 Q We just looked at Page 3 and we've read your
 7 lawyer's words. Did I read them accurately?
 8 A You left out a few words at the beginning,
 9 but mostly accurate, yes, ma'am.
 10 Q Do those words that I left out make a
 11 difference?
 12 A No, they didn't.
 13 Q Okay. So you see that in January 2019, the
 14 lawyer that's here with you today and was representing
 15 the enterprise at the time wrote that the board at the
 16 very least sold property with a proper market value of
 17 \$700,000 for a price of 203,000. Do you see that?
 18 A I see that on the page, yes, ma'am.
 19 Q And what I'm asking you -- so you can see
 20 that this is the opinion expressed by your lawyer at
 21 that time?
 22 MS. MITCHELL: Objection, form.
 23 MR. DE LA FUENTE: Same objection.
 24 Q (BY MS. ALLEN) Right? I'm not making that
 25 up, am I?

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1 MS. MITCHELL: Objection, form.
 2 MR. DE LA FUENTE: Same objection.
 3 A Can you repeat the question, please. I'm
 4 sorry.
 5 Q (BY MS. ALLEN) Do you acknowledge that at
 6 the time of this letter, Exhibit 1, the opinion
 7 expressed by your lawyer was that the board had sold
 8 property worth \$700,000 for 203,000?
 9 MS. MITCHELL: Objection form.
 10 MR. DE LA FUENTE: Object to form.
 11 A Can I see that? I mean --
 12 Q (BY MS. ALLEN) Do you acknowledge that that
 13 was the opinion expressed in the letter?
 14 MR. DE LA FUENTE: Objection, form.
 15 MS. MITCHELL: Objection, form.
 16 A Do I acknowledge that that was what the
 17 attorney said? I have a problem with the word
 18 acknowledge.
 19 Q (BY MS. ALLEN) Okay. What word would you
 20 like to use?
 21 A I mean, I can see that that's what's written
 22 on the paper.
 23 Q Okay. When you came on the board, why is it
 24 that you took no steps to seek relief in a situation
 25 in which your lawyer said that the board had sold

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1 property worth \$700,000 for \$203,000?
 2 MS. MITCHELL: Objection, form.
 3 MR. DE LA FUENTE: And I'm gonna -- to
 4 the extent that that inquires into the legal decisions
 5 of the board, I'm going to instruct the witness not to
 6 answer on the basis of privilege.
 7 A Based on counsel's -- I'm not going to -- I
 8 can't answer.
 9 Q (BY MS. ALLEN) Okay. You know that this is
 10 not a hypothetical, don't you?
 11 MR. DE LA FUENTE: Object to form.
 12 A I don't know that.
 13 Q (BY MS. ALLEN) Well, the appraiser that was
 14 engaged by the board back in the end of 2018 has given
 15 adequate information from which it can be determined
 16 that this statement is accurate; isn't that true?
 17 MR. DE LA FUENTE: Object to form.
 18 MS. MITCHELL: Objection, form.
 19 A I don't know that. I'm not an appraiser. I
 20 don't -- I don't follow appraisal standards.
 21 Q (BY MS. ALLEN) No, but you hired a guy who
 22 is really good at it, didn't you?
 23 MS. MITCHELL: Object to form.
 24 MR. DE LA FUENTE: Object to form.
 25 A I didn't hire that person.

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1 Q (BY MS. ALLEN) The board hired a guy in late
 2 2018 who is really good at appraising and following
 3 those rules, didn't they?
 4 MR. DE LA FUENTE: Object to form.
 5 MS. O'BRIEN: Object to form.
 6 MS. MITCHELL: Object to form.
 7 A I can't speak to what they did or their
 8 review of qualifications.
 9 Q (BY MS. ALLEN) Do you have any reason at all
 10 to think that Bolton, who did the appraisal that we
 11 are just about to look at, is not completely
 12 qualified, experienced and knowledgeable to perform
 13 real property valuations?
 14 MR. DE LA FUENTE: Object to form.
 15 A I'm not an expert or knowledgeable about what
 16 -- about anything to do with appraisals or appraisal
 17 standards, appraisal certifications.
 18 Q (BY MS. ALLEN) You don't know anything that
 19 would suggest to you that David Bolton wasn't
 20 perfectly qualified to perform the assignment that the
 21 board gave him in late 2018, do you?
 22 MR. DE LA FUENTE: Object to form.
 23 A I can't speak to that. I mean, like I said,
 24 I don't know. I mean, I don't know --
 25 Q Okay.

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1 A -- anything about appraisals or
 2 qualifications or his qualifications. That is not
 3 anything that I have anything to do with.
 4 (Exhibit Numbers 2 and 3 marked.)
 5 Q (BY MS. ALLEN) So let's look at Exhibits 2
 6 and 3.
 7 A Okay.
 8 Q Do you see that Exhibit 2 is an email from
 9 someone -- from Chance Bolton in David Bolton's office
 10 sending the appraisal report out?
 11 A Yes, from Chance Bolton.
 12 Q Who does it go to?
 13 A To Bill@Aleshirelaw.com, Jose de la Fuente.
 14 Q And the Jose de la Fuente is the same guy
 15 that's here with you today; is that right?
 16 A Yes, ma'am.
 17 Q Okay. Who was representing the entity at the
 18 time; is that right?
 19 A December 3rd, 2018, yes, ma'am, I believe
 20 that he was.
 21 Q Okay. You are right --
 22 A I mean, I guess. I mean, like I said, I
 23 don't have exact knowledge of when they came on, but I
 24 would presume.
 25 Q Okay. And you're right, there was a fellow

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1 named Romo who was the lawyer for a while. That's the
 2 name I know. Is that a name familiar to you?
 3 A Yes, ma'am.
 4 Q And he was fired abruptly; did you know that?
 5 MR. DE LA FUENTE: Object to form.
 6 A I don't -- I don't know. I don't know the
 7 details of termination, of contract renewal. I was
 8 not on the board at that time.
 9 Q (BY MS. ALLEN) Well, whether you were or
 10 weren't on the board, you might still be aware of what
 11 the circumstances were under which he was disengaged?
 12 MR. DE LA FUENTE: Object, form.
 13 A I didn't have -- I didn't have knowledge from
 14 anybody on the board at that time as to why he was
 15 fired or the proceedings or if he was fired.
 16 Q Do you know now from anybody?
 17 A I don't.
 18 Q Nobody has told you?
 19 A I didn't know that he was fired. I don't
 20 know that there was a board, you know, resolution
 21 firing him -- and you had another part of your
 22 question. Do I know now? I mean, I know that he's
 23 not the attorney and that they selected different
 24 attorneys at one point.
 25 Q But you don't know anything about the

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1 circumstances of that; is that right?
 2 A So I have heard different allegations about
 3 things that were brought up about Mr. Romo. I know
 4 that -- I mean, the one thing that I've been told by
 5 another board member was in executive session so I
 6 don't know that I can reveal that so I can't -- I
 7 don't know that I can say anything if it was in
 8 executive session with another board member.
 9 MR. DE LA FUENTE: If it was in executive
 10 session, confidential discussion of legal matters, you
 11 should not answer that question.
 12 A So I can't answer that question.
 13 Q (BY MS. ALLEN) Okay, just so that I'm clear
 14 on timing -- again, just so the record is clear -- are
 15 you talking about a time when you were on the board
 16 when you were in executive session long after Mr. Romo
 17 was gone?
 18 A Correct.
 19 Q Okay. I just want to be clear that I
 20 understand this is not an executive session
 21 conversation in which the board is discussing whether
 22 or not to terminate him?
 23 A Okay.
 24 Q Is that right?
 25 A Yeah. I heard about circumstances in

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1 executive session and I'm trying to think -- I'm
 2 trying to recall to the best of my abilities if I had
 3 heard anything before I was on the board in 2018. I
 4 mean, I may have heard something around the
 5 neighborhood, but I can't recall specifically who it
 6 would have been with or, you know, why.
 7 Q How about what it was?
 8 A What?
 9 Q How about what it was, the substance of it?
 10 A The substance of our conversation?
 11 Q Right.
 12 MR. DE LA FUENTE: I'm asking for
 13 clarification. Are you asking about prior to him
 14 being on the board and in executive session?
 15 MS. ALLEN: That's what I thought he was
 16 talking about.
 17 THE WITNESS: Okay. We've got to reset
 18 here because I'm -- I think I am talking about
 19 different things. Before I was on the board in 2018,
 20 I heard -- and I can't remember from whom -- about the
 21 board firing Les Romo. I think I heard that and I
 22 think what I heard at the time was that people
 23 suspected that the board fired Mr. Romo because he had
 24 been successful in the -- you know, winning the TOMA
 25 lawsuit. That's what I heard. Now whether that's --

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1 that's to the best of my knowledge, best of my
 2 recollection.
 3 Q He had been successful in winning the lawsuit
 4 and so they fired him? Did I hear you right?
 5 A Yes, ma'am.
 6 Q Okay. Was there ever a time prior -- that
 7 you are aware of --
 8 A That's what I heard. Whether it's true or
 9 not is, you know, I don't know. I mean, when you're
 10 not on the board and you're not part of executive
 11 session, obviously you don't know. You hear what you
 12 hear.
 13 Q Well, you are aware, are you not, that there
 14 was a considerable period of time where the board of
 15 directors directed the attorneys for the organization
 16 to oppose efforts to recover the property that had
 17 been, in your words, sold?
 18 MR. DE LA FUENTE: Object to form.
 19 Q (BY MS. ALLEN) Right?
 20 A Can you ask the question one more time or say
 21 the question? There were some parts of it that I can
 22 not --
 23 Q Are you aware --
 24 A Am I aware.
 25 Q -- prior to the time you came on the board

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1 that there was a very -- pretty extended time when the
 2 board's attorneys were instructed to oppose any effort
 3 to recover the property?
 4 MR. DE LA FUENTE: And to the extent you
 5 are aware of the board's legal decisions or
 6 instructions to its attorneys by virtue of your
 7 position on the board as a member of the board, I'm
 8 going to instruct you not to answer on the basis of
 9 privilege. If you have any knowledge gained prior to
 10 your experience on the board about the subject matter,
 11 you may answer the question.
 12 A So yes, before I was on the board I heard
 13 through the neighborhood that the board -- that
 14 attorneys instructed the board to oppose the lawsuit.
 15 I think it was part of a member communication at one
 16 point.
 17 Q (BY MS. ALLEN) Okay. I was really asking it
 18 the other way around.
 19 A Okay.
 20 Q Did you know whether the board instructed the
 21 lawyers to oppose efforts to recover the property?
 22 MR. DE LA FUENTE: And I'm going to issue
 23 the same cautionary instruction on the privilege.
 24 Again, to the extent you gained any such information
 25 by virtue of your position as a board member privy to

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1 such attorney/client information, I instruct you not
 2 to answer. If you are privy to any such information
 3 prior to your role as a board member, you may answer.
 4 A I'm not aware. I wasn't aware of any -- I
 5 wasn't aware or privy to any instruction by the board
 6 previous to my coming on. I think that's -- I'm
 7 trying to do my best here. So did I answer? Let's
 8 try this one more time because you're asking about a
 9 prior board.
 10 Q (BY MS. ALLEN) I'm asking a member of the
 11 organization who was active enough to run for a
 12 directorship, who attended meetings, who read the
 13 letters -- I'm asking that guy whether he was aware
 14 that there was a considerable period of time when the
 15 position that was taken by and on behalf of the entity
 16 was that it opposed the recovery of the property?
 17 MS. O'BRIEN: Form.
 18 MR. DE LA FUENTE: I'm issuing the same
 19 cautionary instruction. I object to form as well,
 20 issuing the same cautionary instruction again. To the
 21 extent that you have such knowledge from prior to your
 22 participation on the board, you may answer the
 23 question.
 24 A Yes, I mean, I think all members who attended
 25 board meetings -- or at least the annual meeting, if I

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1 recall correctly from 2018, was aware that, you know,
 2 the board was instructed to whatever it was that you
 3 said.
 4 Q (BY MS. ALLEN) Did it not seem at best
 5 counterintuitive to you that the organization's
 6 lawyers would be seeking to prevent or oppose the
 7 recovery of the property?
 8 MR. DE LA FUENTE: Object to form.
 9 MS. MITCHELL: Object to form.
 10 MR. DE LA FUENTE: And again, I'm going
 11 to instruct to the extent that this asks about what
 12 you may have been thinking or considering prior to
 13 your role as a member of the board, you may answer.
 14 If this is asking as to your thinking today based on
 15 your membership on the board and attorney/client
 16 privileged communications and attorney work product, I
 17 will instruct you not to answer. So that is the
 18 dividing line; you may answer if you had such belief
 19 prior to your participation on the board.
 20 THE WITNESS: All right. So I've got
 21 that instruction from our attorney -- my attorney and
 22 if you can restate the question and I will try to
 23 think about my -- to the best of my memory about 2018
 24 and 2017.
 25 Q (BY MS. ALLEN) Did you have any

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1 understanding prior to the time that you became a
 2 director as to why on earth the lawyers for the
 3 organization would be seeking to prevent the
 4 organization from recovering the property that had
 5 been sold to Martin and Friendship in 2016?
 6 MR. DE LA FUENTE: Objection, form.
 7 MS. O'BRIEN: Objection, form.
 8 MS. MITCHELL: Objection, form.
 9 A No.
 10 Q (BY MS. ALLEN) Can you imagine a reason?
 11 MR. DE LA FUENTE: Object to form and to
 12 the extent it asks you to speculate as to your beliefs
 13 today and any privileged communications, I will
 14 instruct you not to answer.
 15 MS. MITCHELL: Objection, form.
 16 A So I'll --
 17 Q (BY MS. ALLEN) Just so you know, I'm not
 18 buying into the instruction that he's giving you. I'm
 19 just not complicating the record right now. I don't
 20 believe your thought processes are privileged for a
 21 second, but we will get to that if we have to. Now,
 22 here is my question.
 23 A Okay.
 24 Q Can you -- as a sitting member of the board
 25 of directors today, can you envision a circumstance

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1 where it would be proper for the organization's
 2 attorneys to oppose or seek to prevent the
 3 organization from recovering the property that was
 4 sold to Martin or Friendship in 2016?
 5 MS. MITCHELL: Object to form.
 6 MR. DE LA FUENTE: Object to form. To the
 7 extent that it inquires into any matter in which you
 8 have received advice from your attorneys, I will
 9 instruct you not to answer. To the extent you can
 10 answer that question without incorporating or
 11 revealing or advice of counsel to the WSC, you may
 12 answer.
 13 A I believe I've received counsel in the past
 14 on that so I can't answer that question.
 15 Q (BY MS. ALLEN) So you don't have an opinion
 16 except for the opinion that was given by counsel?
 17 MR. DE LA FUENTE: Object to form.
 18 MS. O'BRIEN: Object to form.
 19 Q (BY MS. ALLEN) Is that correct?
 20 MR. DE LA FUENTE: Object to form.
 21 A No, that's not correct.
 22 Q (BY MS. ALLEN) Okay. I'm asking your
 23 opinion, not what your lawyer's opinion is. I don't
 24 really care about that. I want your opinion.
 25 MR. DE LA FUENTE: Object to form.

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1 MS. MITCHELL: Objection, form.
 2 MR. DE LA FUENTE: Regarding?
 3 Q (BY MS. ALLEN) Regarding whether he can
 4 envision a circumstance where it would be appropriate
 5 for the entity's attorneys that are getting paid by
 6 the resources of the business enterprise to seek to
 7 prevent or oppose the organization's recovery of the
 8 property that was transferred to Martin or Friendship
 9 in 2016?
 10 MR. DE LA FUENTE: Ms. Allen, you're
 11 asking if he can envision a reason why the entity
 12 would instruct its attorneys to take a particular
 13 course of action in respect to litigation?
 14 MS. ALLEN: No, that's not what I asked
 15 him.
 16 MR. DE LA FUENTE: Well, this was a
 17 litigated matter if I'm recalling anything at all. In
 18 fact, it's a presently litigated matter so I can't see
 19 how you're not inquiring into something that is a core
 20 question of the actual lawsuit in which you're taking
 21 a deposition. I'm going to instruct the witness not
 22 to answer as to legal strategies.
 23 MS. ALLEN: Okay.
 24 MR. DE LA FUENTE: And any advice of
 25 counsel.

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1 A On the advice of counsel, I'm not going to
 2 answer that question.
 3 Q (BY MS. ALLEN) Again, I'm not going to
 4 badger you, I just want to make a clear record.
 5 A Yes.
 6 Q You do understand that the question that I'm
 7 asking you now is a question of you as a sitting
 8 director on the board without regard to what lawyers
 9 have told you. That is my question. Now you may
 10 still decline to answer, but I want that record to be
 11 clear.
 12 MR. DE LA FUENTE: Ms. Allen, you are
 13 asking not just about his opinion as sitting on the
 14 board and regardless of what lawyers have told you.
 15 You're asking about lawyers acting on behalf of the
 16 entity and why they would do a certain thing. I can't
 17 see how that will not encompass attorney/client
 18 communications between said attorneys and the board so
 19 I have to instruct the witness not to answer. If you
 20 would like to ask the question in a different way, you
 21 might be able to do so, but if you're asking about
 22 that, I have to instruct the witness not the answer on
 23 the basis of privilege.
 24 MS. ALLEN: You and I can agree to
 25 disagree.

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1 MR. DE LA FUENTE: Of course.
 2 MS. ALLEN: I want you to get your
 3 statement out on the record. My record is clear and I
 4 think that we are -- if you just tell me that you're
 5 not going to answer on account of your attorney told
 6 you not to, we are going to move forward.
 7 A I'm not going to answer because my attorney
 8 told me not to.
 9 Q (BY MS. ALLEN) Okay.
 10 MR. DE LA FUENTE: Why don't you let us
 11 know when you're near a breaking point. We've been
 12 going for a little over an hour.
 13 MS. ALLEN: Any time you want.
 14 MR. DE LA FUENTE: Okay.
 15 MS. ALLEN: No question on the table.
 16 You are free to go.
 17 MR. DE LA FUENTE: Okay. We will take --
 18 THE WITNESS: Let's take a break.
 19 MR. DE LA FUENTE: Let's take a
 20 ten-minute break or something.
 21 THE VIDEOGRAPHER: We are off the record
 22 at 11:38.
 23 (Off the record.)
 24 THE VIDEOGRAPHER: We are back on the
 25 record at 11:51.

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1 Q (BY MS. ALLEN) Are you ready to proceed?
 2 A Yes, ma'am.
 3 Q Okay. Great. Do you still have Exhibit 1 in
 4 front of you?
 5 A Exhibit 1, this was this letter, yes, ma'am.
 6 Q Okay, the letter from Mr. De la Fuente,
 7 January 25th, 2019. Are we together on this?
 8 A Yes, ma'am.
 9 Q Okay, good. Just want to cover a couple of
 10 things. You'll see in the first page of that letter
 11 and the second paragraph it talks about 3.86 acres
 12 along the west side of Piper Lane in Spicewood, Texas;
 13 do you see that?
 14 A Um-hum.
 15 Q And a right of refusal to purchase an
 16 additional approximately 7.01 acres; do you see that?
 17 A Yes, ma'am.
 18 Q And it says a total price paid for these
 19 interests was \$203,000. Do you see that?
 20 A Yes, ma'am.
 21 Q Did you ever learn anything to suggest to you
 22 that those facts were not accurate?
 23 MR. DE LA FUENTE: Object to form.
 24 A I'm sorry. Say your question one more time.
 25 Q Sure.

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1 A Did I ever?

2 Q Did you ever learn facts that suggested to

3 you that what had been recited here in this letter as

4 factual information was not accurate?

5 MR. DE LA FUENTE: Object to form.

6 MS. O'BRIEN: Object, form.

7 MS. MITCHELL: Object, form.

8 A I can't recall. I read the original

9 contract, but I can't recall the details as to whether

10 it said 4.3 or something else, but I can't -- I mean,

11 my recollection of reading the contract is foggy on

12 that matter.

13 Q (BY MS. ALLEN) Okay.

14 A So that would be a response to your question

15 because there was at some point 4.3 has come into the

16 mix. Now where I learned about that, I don't know. I

17 mean I can't remember if it was reading the contract

18 or something else, but I think I'm -- hopefully, I'm

19 responding to your question.

20 Q But when the lawyer says in the letter that

21 what was conveyed was 3.86 acres and a right of

22 refusal and that the total price paid for both

23 interests was 203,000, so far as you know that's

24 accurate information, correct?

25 MR. DE LA FUENTE: Object to form.

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1 MS. MITCHELL: Object, form.

2 A Well, no. I mean, if I've heard from

3 somewhere else and looked at the contract that it was

4 4.3, then I would look at that and say well, what

5 about the other half acre?

6 Q (BY MS. ALLEN) Okay. So you have undertaken

7 to investigate what it appears was contracted for back

8 in 2016; is that right?

9 A At some point, yes.

10 Q When did you do that?

11 A I couldn't say.

12 Q Do you have legal training?

13 A No.

14 Q Real estate broker-type training?

15 A No.

16 Q Do you recall what contract you reviewed?

17 A This would have been the contract between,

18 you know, Windermere Oaks Water Supply Corporation and

19 Dana or Friendship or whatever it was. This would be

20 the 2015 contract.

21 Q Do you distinguish between Dana Martin and

22 Friendship Homes?

23 MR. DE LA FUENTE: Object to form.

24 MS. O'BRIEN: Objection, form.

25 MS. MITCHELL: Object to form.

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1 A She's a person so I know her as a person.

2 Q (BY MS. ALLEN) Do you distinguish between

3 Dana Martin and Friendship Homes in your dealings with

4 them?

5 MR. DE LA FUENTE: Object to form.

6 MS. MITCHELL: Objection, form.

7 MS. O'BRIEN: Object to form.

8 A I don't know. I don't know how to answer

9 that. I don't know how that would be distinguishing.

10 Q (BY MS. ALLEN) To the best of your knowledge

11 has anyone other than Dana Martin ever purported to do

12 anything, take any action on behalf of Friendship?

13 A I don't know that.

14 Q Do you know that Dana Martin has purported to

15 take action on behalf of Friendship?

16 A I don't know. I don't know that -- I don't

17 know how she runs her business. You know, I don't

18 know what she's done in particular and in what

19 capacity.

20 Q You have dealt with her for how long on this

21 -- I'm not going to use the long term of this

22 agreement, I'm going to call it the October 2019

23 agreement, the one you just did. Do you know what I'm

24 talking about?

25 A The October 19th agreement?

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1 Q The October 2019 agreement.

2 A October 2019 agreement, okay; what about it?

3 Q You know what I'm talking about, right?

4 A The October 26th, 2019 agreement.

5 Q Right.

6 A Okay.

7 Q You know -- okay. Now, how long have you

8 been dealing with Dana Martin to get from wherever you

9 started to that agreement?

10 MS. MITCHELL: Objection, form.

11 MR. DE LA FUENTE: Same objection.

12 A That's kind of a vague question. I mean, you

13 could argue that I was -- from the minute that I was

14 elected as the board president or on the board.

15 Q (BY MS. ALLEN) When did you first discuss

16 with Dana Martin the idea of resolving matters in

17 dispute?

18 A So I'm trying to come up with a time period.

19 Q That would be good.

20 A I guess my problem in coming up with that

21 time period is that at one point we discussed in

22 executive session what to do about the matter.

23 Q Did you have Dana with you?

24 A No.

25 Q When did you talk with Dana Martin about it

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1 first? That's my question.
 2 A I mean, sometime within the last several
 3 months. I mean, I can't remember exactly, you know,
 4 if it was August, if it was September. It had to --
 5 if it was July. It had -- as I recall, we were trying
 6 to find dates for our mediation and so, you know, I
 7 think we talked about dates for mediation. I don't
 8 know the date.
 9 Q I'm sorry.
 10 A I can't even remember when our mediation was.
 11 It was -- I guess it had to have been -- was it
 12 September or early October? I can't remember exactly
 13 that.
 14 Q Who came up with the idea that maybe we ought
 15 to mediate?
 16 A I can't remember who exactly came up with
 17 that idea.
 18 Q Somebody on the board? Somebody with Dana
 19 Martin?
 20 A It may have been in executive session.
 21 MR. DE LA FUENTE: I'm going to object to
 22 form. I'm going to caution the witness to the extent
 23 that there was a legal strategy decision made or
 24 discussed in executive session or with counsel, I
 25 instruct you not to answer the question. If the

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1 question can be answered without incorporating legal
 2 strategy decisions on whether or not to mediate as
 3 discussed with counsel, you may answer.
 4 A So I'm going to have to take that advice
 5 because I believe we discussed it in executive
 6 session.
 7 Q (BY MS. ALLEN) Okay, look, I'm going to stop
 8 wrangling with you about this. You just don't answer
 9 and we will move on, okay?
 10 A Okay.
 11 Q Here is my question.
 12 A Okay.
 13 Q Tell me the time when the topic of resolving
 14 this dispute first came up to the board, the time?
 15 MR. DE LA FUENTE: Object to form.
 16 Q (BY MS. ALLEN) If you don't want to answer
 17 it, I don't care, just say you're not going to answer
 18 it. When in time did the topic of resolving this
 19 dispute come up with the board?
 20 MR. DE LA FUENTE: Object to form.
 21 MS. O'BRIEN: Object to form.
 22 A I can't tell you when in time. I mean, at
 23 some point this year, but I can't tell you --
 24 Q (BY MS. ALLEN) What were the circumstances?
 25 MR. DE LA FUENTE: And to the extent that

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1 she's inquiring into the circumstances of a board's
 2 discussion as to legal strategy of whether or not to
 3 resolve pending litigation -- are you really asking
 4 this question?
 5 MS. ALLEN: No, I'm not asking the
 6 question you're phrasing. No, I'm not asking that at
 7 all. I'm thinking maybe if he can remember how it
 8 came up, he can remember when it happened.
 9 MR. DE LA FUENTE: You're asking about
 10 when --
 11 MS. ALLEN: And if he doesn't want to
 12 answer it, I don't care anymore. Just don't answer it
 13 and we will move on. I just want my questions out
 14 there.
 15 MR. DE LA FUENTE: Mr. Gimenez, to the
 16 extent she's asking about when the board decided or
 17 discussed whether or not to resolve pending
 18 litigation, yes, I'm going to instruct you not to
 19 answer on the basis of the attorney work product and
 20 attorney/client privileges.
 21 Q (BY MS. ALLEN) Okay. Now I'm going to ask
 22 you the question that I would like for you to answer
 23 and if you don't want to answer it, just say so and we
 24 will move on.
 25 A Okay.

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1 Q Can you tell me a date when the topic of
 2 resolving this dispute, of taking steps to resolve
 3 this dispute, first came up?
 4 MR. DE LA FUENTE: I'm going to object to
 5 form and particularly based on that objection, I'm
 6 going to instruct the witness not to answer to the
 7 extent that it inquires into privileged and
 8 confidential communications among the board regarding
 9 a pending legal matter.
 10 A I can't provide you with the time.
 11 Q (BY MS. ALLEN) Can you help us to pinpoint a
 12 time by recalling the circumstances under which the
 13 topic came up?
 14 MR. DE LA FUENTE: I'm going to object to
 15 the form and I'm going to again instruct the witness
 16 not to answer as to the timing or circumstances of any
 17 legal strategy matter made with respect to a pending
 18 lawsuit. I'm instructing you not to answer.
 19 A I'm going to heed counsel.
 20 Q (BY MS. ALLEN) Just say, I'm not going to
 21 answer that question.
 22 A I'm not going to answer that question.
 23 Q Thank you. When you were elected to be on
 24 the board, was it your view when you joined the board
 25 that there ought to be a settlement of the dispute?

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1 A Was it my personal view that there should be
2 a settlement of the dispute?
3 Q Yes.
4 A Depends on your definition of settlement. I
5 mean, I wanted the dispute to be over.
6 Q How -- did you have a plan in mind of how you
7 were going to -- or how you would suggest or recommend
8 that it be over?
9 A No, ma'am.
10 Q You did not?
11 A I'm not an attorney. I, you know, wouldn't
12 be able to come up with a strategy. I knew that -- I
13 knew that the people who voted for me want resolution
14 and an ending of this matter and it was a two-to-one
15 vote in favor of me and -- almost a two-to-one vote in
16 favor of myself and others that we want the matter to
17 be finished and over and done with so that we stop
18 paying all the legal fees so that we can focus on the
19 business of the corporation which is needing
20 substantial attention due to all the distractions that
21 we've had with this litigation. And so I think that
22 maybe gives you some -- I think that answers the
23 question, hopefully.
24 Q What I'm hearing is that when you joined the
25 board, you were of a mindset that the litigation

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1 needed to conclude so that it wouldn't cost money and
2 be distracting, but you didn't really have a thought
3 in mind of how it ought to conclude? Is that fair to
4 say?
5 A That's fair to say.
6 Q All right. When you joined the board, is it
7 accurate that the board's view was to oppose these
8 plaintiffs in their effort to recover the property?
9 MR. DE LA FUENTE: Object to form.
10 MS. O'BRIEN: Object form.
11 MS. MITCHELL: Object to form.
12 MR. DE LA FUENTE: And to the extent
13 she's asking about anything you have learned about the
14 board's position in litigation since you joined the
15 board, I will instruct you not to answer it. To the
16 extent she's asking about any knowledge you have of
17 the board's litigation position prior to you joining
18 the board, you may answer.
19 A So with that advice, I think that the
20 knowledge that I had about the board's opposition to
21 the plaintiffs was related to the TOMA lawsuit, you
22 know, to oppose that for, you know, various reasons,
23 whatever they were. I knew that that --
24 Q (BY MS. ALLEN) Yeah, what were they?
25 A In the TOMA lawsuit?

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1 Q Yes, sir.
2 MR. DE LA FUENTE: And to the extent
3 she's asking about information you have acquired about
4 the board's position since you have become a director
5 in executive session in discussion of ongoing
6 litigation, I will instruct you not to answer. To the
7 extent she's asking you about what your understanding
8 was of the board's action with regard to the TOMA suit
9 before you joined the board, you may answer.
10 A Okay. So your question, ask your question
11 one more time.
12 Q She can read it back.
13 (Record read by Reporter.)
14 MS. ALLEN: I think I can start over and
15 get us back on track.
16 Q (BY MS. ALLEN) My understanding is that you
17 were talking to us earlier about information that you
18 gleaned about the TOMA lawsuit before you became a
19 director; did I hear you right?
20 A Yes, ma'am.
21 Q And that there are reasons for why it was
22 that the position taken in that lawsuit was to oppose
23 or try to prevent the organization from recovering the
24 property. Do you remember that discussion?
25 A Between us, no. No.

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1 Q Well, then, did you come to understand why it
2 was that the board was in opposition to having the
3 organization recover the property?
4 MS. O'BRIEN: Objection, form.
5 MS. MITCHELL: Objection, form.
6 MR. DE LA FUENTE: And object to form and
7 again, to the extent that the question inquires into
8 matters of litigation position and strategy of the
9 board prior to you coming on the board and your
10 understanding then, you may answer. To the extent it
11 inquires into knowledge and information you have
12 obtained as a board member and confidential and
13 privileged communications, I will instruct you not to
14 answer. With that dividing line, you may answer if
15 you can.
16 A So I'm recalling 2018 and 2017 and there may
17 have been a member communication to this effect or
18 not, but there may have been just discussions around
19 the neighborhood that -- and I remember -- it's coming
20 back to me, some emails and things that were put out
21 by TOMA where there was discussion about whether what
22 the plaintiffs wanted in that lawsuit would cause
23 additional litigation, okay, and I believe TOMA did
24 not believe that would be the case, but there were
25 others that I heard that said, you know, if TOMA is

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1 successful or if the board were to agree to TOMA's
 2 claims, that there would be much more additional
 3 litigation that would cost the neighborhood and
 4 community and the corporation a lot more money to
 5 litigate so that was my understanding of that lawsuit
 6 and its ramifications.
 7 Q (BY MS. ALLEN) What other litigation could
 8 there have been? Did you have any understanding about
 9 that?
 10 A As I understood it, there would be a lot of
 11 additional contractual -- if you break a contract,
 12 there could be contractual litigation, there might be
 13 litigation with the title company. Those were things
 14 that I heard so it would be basically opening it up to
 15 a large number of additional pieces of litigation.
 16 Q To your knowledge, were there ever any legal
 17 opinions, opinions of attorneys on the topic of
 18 whether there might be other litigation and what would
 19 it be?
 20 MR. DE LA FUENTE: Object to form and to
 21 the extent that counsel is inquiring as to legal
 22 opinions regarding ongoing litigation that you have
 23 learned of in the course and scope of your role as a
 24 board member and particularly including executive
 25 session that is attorney/client privileged information

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1 or product privileged information, I will instruct you
 2 not to answer. To the extent that it inquires as to
 3 any such knowledge or information you acquired prior
 4 to you joining the board, you may answer.
 5 MS. O'BRIEN: Objection, form.
 6 A So there was a letter from the -- there was a
 7 letter from the previous counsel to the water
 8 corporation, a fellow named Zepa xxx. And I think
 9 that that letter was provided -- was provided to a
 10 number of people and I believe that I recall receiving
 11 that letter. It was dated in 2015 or '16 or even '17
 12 and I don't recall the exact date of the letter, but,
 13 I mean, he was the attorney at that time in '15 and
 14 '16, I think, and so, yeah, I remember reading a
 15 letter from him, you know, maybe to that effect about
 16 the additional litigation, but, you know, my memory is
 17 foggy on the exact things related to your question. I
 18 recall some other things that were in that letter, but
 19 -- so...
 20 Q (BY MS. ALLEN) So this was a letter that was
 21 from -- if I understood you from Zepa to the board and
 22 you got a copy of it at a time when you were not on
 23 the board; is that right?
 24 A I think so. I think so.
 25 Q Who else got a copy of it?

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1 A I can't tell you.
 2 Q You mentioned earlier other people did. Do
 3 you remember that?
 4 A Other people, yes.
 5 Q Got a copy, yes, sir.
 6 A Yes. If I got it, other people got it, I
 7 would guess.
 8 Q Who gave it to you?
 9 A That, I can't remember. I would have to look
 10 that up if I, you know, if I could be -- if I could
 11 find that from years ago.
 12 Q Okay. A member of the board, do you think?
 13 A I just -- I don't know. So there was a
 14 petition hearing at one point, a petition for removal
 15 and I can't remember if that letter from the attorney
 16 -- I don't know the exact date, right. I can't
 17 remember when that petition hearing was, I can't
 18 remember when the date of the letter was. It seems to
 19 me that it was in conjunction with that, but I could
 20 be mistaken and the attorney letter basically said,
 21 you know, everything had been -- it talked about the
 22 transaction, et cetera, and the legalities of it.
 23 Q So if memory serves -- it does not always --
 24 what I think you're referring to is the petition
 25 hearing was the meeting at which it was considered to

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1 remove Dana Martin from the board, right?
 2 A Correct.
 3 Q If memory serves, that was in March 2017;
 4 does that sound right?
 5 A I'll take your word for it, yes, ma'am.
 6 Q You were not on the board?
 7 A No, ma'am.
 8 Q Your best recollection if I understand you is
 9 the Zepa letter that you are referring to is somewhere
 10 in that time frame?
 11 A Possibly. I -- possibly.
 12 Q Okay.
 13 A But like I said, I'm not -- I don't want to
 14 be held to that because I don't -- I mean, I just
 15 don't -- I think it would have been around '17, but
 16 I'm not exactly sure.
 17 Q Okay. To your knowledge, did Mr. de la
 18 Fuente or anybody else with the Lloyd Gosselink law
 19 firm ever write any kind of follow-up correspondence
 20 to Ms. Mitchell down there on behalf of Dana Martin
 21 and Friendship Homes to the effect that the January
 22 25th letter was incorrect?
 23 A I don't know about their correspondence.
 24 Q So you don't know of any such letter? In
 25 other words, did Mr. de la Fuente ever convey to

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1 Ms. Mitchell, so far as you know, or to Ms. Martin for
 2 that matter, that he was taking this back and the
 3 January 25th letter, he just shouldn't have written?
 4 A I'm unaware of any correspondence between our
 5 attorneys and what they do. That's not normal course
 6 of business.
 7 Q Well, how do you think this January 25th,
 8 2019 letter got prepared?
 9 MR. DE LA FUENTE: Objection, form.
 10 MS. O'BRIEN: Objection, form.
 11 MS. MITCHELL: Objection to form.
 12 Q (BY MS. ALLEN) Don't you think the board
 13 authorized it?
 14 MR. DE LA FUENTE: Objection to form.
 15 MS. MITCHELL: Objection to form.
 16 A I don't know.
 17 Q (BY MS. ALLEN) Would it matter to you as a
 18 sitting director today to know whether or not the
 19 board authorized the January 25th, 2019 letter?
 20 MR. DE LA FUENTE: Objection to form.
 21 MS. O'BRIEN: Objection to form.
 22 A Would it matter? I'm sorry, say the question
 23 -- would it matter? Would it matter?
 24 Q (BY MS. ALLEN) Do you understand -- do you
 25 acknowledge that as a member of the board of directors

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1 you have an ongoing duty to safeguard and protect the
 2 property and assets of the cooperative?
 3 MR. DE LA FUENTE: Objected to form.
 4 MS. O'BRIEN: Objection, form.
 5 MS. MITCHELL: Objection, form.
 6 A Do I have a duty to protect the assets?
 7 Q (BY MS. ALLEN) Do you understand that the
 8 board of directors is the group of people with the
 9 responsibility for the management of the affairs of
 10 the enterprise?
 11 A Yes.
 12 Q And the well-being of the property and assets
 13 are part of those management responsibilities; isn't
 14 that right?
 15 MR. DE LA FUENTE: Objection to form.
 16 MS. O'BRIEN: Objection to form.
 17 A I'm not sure about that.
 18 Q (BY MS. ALLEN) Well, if it's not the board's
 19 responsibility, whose responsibility is it?
 20 MR. DE LA FUENTE: Objection to form.
 21 MS. O'BRIEN: Objection to form.
 22 A I don't know. I think the allegation in the
 23 -- I don't know. The allegation in the petition is
 24 that somebody other than the board has that right,
 25 but I don't know. I'm confused.

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1 Q (BY MS. ALLEN) Okay. You're on the board,
 2 right?
 3 A Um-hum.
 4 Q Are you confused about the responsibilities
 5 of the board with regard to the property and assets of
 6 the business?
 7 MR. DE LA FUENTE: Objection to form.
 8 MS. O'BRIEN: Objection to form.
 9 A I'm not confused about that.
 10 Q (BY MS. ALLEN) Whose responsibility is it to
 11 take care of the property and assets of the business?
 12 MR. DE LA FUENTE: Objection to form.
 13 MS. O'BRIEN: Objection to form.
 14 A I don't know.
 15 Q (BY MS. ALLEN) If it's not the board, then
 16 who are the candidates?
 17 MR. DE LA FUENTE: Objection to form.
 18 MS. O'BRIEN: Objection to form.
 19 Q (BY MS. ALLEN) For that responsibility?
 20 MR. DE LA FUENTE: Objection to form.
 21 A I don't know.
 22 Q (BY MS. ALLEN) Okay. Right before we took a
 23 break, we looked at what I believe is Exhibit 2 which
 24 is the transmittal of the Bolton appraisal; is that
 25 right?

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1 A Yes, ma'am.
 2 Q And we saw that the Bolton appraisal went at
 3 the very same time to Bill Aleshire and Mr. de la
 4 Fuente, correct?
 5 A Yes, ma'am.
 6 Q Okay. Now, look at Exhibit 3 which is the
 7 Bolton appraisal.
 8 A I don't -- got you.
 9 Q And actually I can tell from what you're
 10 holding that you have a copy that is missing some of
 11 the pages and I'm going to swap you out, okay?
 12 A Okay.
 13 Q So I'm going to give you this copy of the
 14 Bolton appraisal so that it will be complete. Let me
 15 hand you that as Exhibit 3; I'm just going to take
 16 this one and -- is that okay with you because you can
 17 see that it's a little thinner?
 18 A Yes, ma'am.
 19 Q I want you to have a complete copy. And this
 20 is the appraisal that says that the property that was
 21 sold, in your words, to Martin or Friendship in 2016
 22 was actually worth 700,000; is that right?
 23 MR. DE LA FUENTE: Objection to form.
 24 MS. O'BRIEN: Objection to form.
 25 A I'm sorry, say the question again, please.

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1 Q (BY MS. ALLEN) This is the appraisal that
 2 the board commissioned and that reflected that the
 3 property that was sold to Martin or Friendship in 2016
 4 was actually worth 700,000, correct?
 5 MR. DE LA FUENTE: Object to form.
 6 MS. MITCHELL: Objection, form.
 7 MS. O'BRIEN: Object, form.
 8 A That's a -- there's a lot of -- so I don't
 9 know. There's a lot of assumptions in that statement.
 10 Q (BY MS. ALLEN) Okay. The Bolton appraisal
 11 -- you know without a doubt the Bolton appraisal was
 12 paid for with money from the Windermere Oaks Water
 13 Supply Corporation, right?
 14 A Partially.
 15 Q It -- well, how much money was paid out of
 16 the coffers of the water supply company for that
 17 appraisal?
 18 A I don't know.
 19 Q How much legal fees were paid in conjunction
 20 with the preparation of that appraisal out of the
 21 coffers of Windermere Oaks Water Supply Corporation?
 22 A I don't know.
 23 Q But you know that that happened, don't you?
 24 A That legal -- that the corporation paid for
 25 this and legal fees?

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1 Q It paid legal fees for the preparation of
 2 Exhibit 1, right?
 3 A I presume so, yes.
 4 Q Have you not reviewed the invoices to
 5 determine what it was paying fees for?
 6 A I have, but maybe not for that date.
 7 Q Well, the invoices would certainly show us
 8 what was billed and what services were furnished,
 9 right?
 10 A Yes.
 11 Q Okay. You would certainly assume unless you
 12 were told to the contrary that the water supply
 13 company paid good money in connection with the
 14 preparation of Exhibit 1, right?
 15 A Good money is your term.
 16 Q How about any money?
 17 A They paid money.
 18 Q How about any money? It paid money, right?
 19 A It paid money.
 20 Q Does it have bad money?
 21 MR. DE LA FUENTE: Object to form.
 22 A It paid money.
 23 Q I mean, seriously, does it have bad money?
 24 MR. DE LA FUENTE: Object to form.
 25 A It paid money.

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1 (Exhibit Number 4 marked.)
 2 Q (BY MS. ALLEN) And when that appraisal came
 3 out, the board sent a letter around, you told me you
 4 read the letters, it's Exhibit 4 here, to report that
 5 it had gotten the appraisal and was prepared to go
 6 forward, right?
 7 MR. DE LA FUENTE: Object to form.
 8 A Yes, ma'am, I did read this letter.
 9 Q (BY MS. ALLEN) So you recognize Exhibit 4 as
 10 a letter that came from the board in conjunction with
 11 the Bolton appraisal, right?
 12 A Yes, ma'am, I read this in December when I
 13 received it.
 14 Q And it talks about there's going to be a
 15 public meeting on January the 12th; do you see that?
 16 A Yes, ma'am.
 17 Q Did you go to that meeting?
 18 A No.
 19 (Exhibit Number 5 marked.)
 20 Q (BY MS. ALLEN) Let me show you Exhibit 5
 21 which are minutes I got off the website of the water
 22 supply company from that meeting.
 23 A Okay.
 24 Q And those minutes reflect that after the
 25 discussion at that meeting, the board was inclined to

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1 move forward to pursue recovery, correct?
 2 A I think that's what this says possibly, yes,
 3 ma'am.
 4 Q Okay. The board did not do that, did it?
 5 MR. DE LA FUENTE: Object to form.
 6 Q (BY MS. ALLEN) The board did not ever move
 7 forward to pursue the recovery of the property or the
 8 difference between what was paid and its value; is
 9 that correct?
 10 MR. DE LA FUENTE: Object to form.
 11 MS. O'BRIEN: Object to form.
 12 MS. MITCHELL: Objection, form.
 13 A I think that's incorrect.
 14 Q (BY MS. ALLEN) Tell me when the board moved
 15 forward to either recover the property or to recover
 16 the difference between what was paid for it and its
 17 actual value?
 18 MS. O'BRIEN: Objection, form.
 19 MS. MITCHELL: Objection, form.
 20 MR. DE LA FUENTE: Object to form.
 21 A I don't know. I don't know. I'm having a
 22 hard time with your word "actual value." The board --
 23 Q (BY MS. ALLEN) What word would you want to
 24 use to answer that question?
 25 MR. DE LA FUENTE: Object to form.

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1 A I'm sorry?

2 Q (BY MS. ALLEN) What word would you like to

3 use so that I can get an answer to that question?

4 MR. DE LA FUENTE: Object to form.

5 A The board has been engaged throughout 2019 in

6 seeking an end to the litigation.

7 Q (BY MS. ALLEN) Well, that's not what you

8 told me a little while ago when I asked you when was

9 it that the topic came up of resolving this dispute?

10 MR. DE LA FUENTE: Object to form.

11 MS. O'BRIEN: Object, form.

12 Q (BY MS. ALLEN) When did those ongoing

13 discussions that you just referred to begin?

14 A Oh, I see the problem here. I'm juxtaposing

15 the board and me personally. I think what I had said

16 earlier was something about me wanting that to end the

17 litigation. That was my personal opinion.

18 Q Then let me be clear.

19 A And then I think you are asking about the

20 board.

21 Q Let me be clear. With the board -- with the

22 group of people with responsibility to manage the

23 affairs of the business, with that group of people,

24 when did the topic come up of resolving this dispute?

25 MS. O'BRIEN: Object to form.

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1 MR. DE LA FUENTE: Object to form and to

2 the extent that this inquires about privileged

3 communications among the board regarding litigation

4 strategy and action, I will instruct the witness not

5 to answer. To the extent that this inquires into

6 public statements of the board regarding the board's

7 actions or discussions, those, of course, are not

8 privileged and you may answer.

9 A Okay. So when did the board -- I'm sorry, go

10 ahead, I have that counsel. Ask again, when did the

11 board? When did the group of people --

12 Q (BY MS. ALLEN) I want to know when the topic

13 came up in 2019 that you just talked about, those

14 ongoing discussions; remember that?

15 A Okay.

16 Q When did those begin, those ongoing

17 discussions about resolving this dispute?

18 MS. O'BRIEN: Object, form.

19 MR. DE LA FUENTE: And I'm going to -- to

20 the extent that there was discussion of the board of

21 legal strategy to resolve pending litigation, to the

22 extent that those discussions were not public, they

23 were privileged and I instruct the witness not to

24 answer. To the extent there are any public

25 discussions of the board about its decision to move

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1 forward with the path to end litigation the witness

2 may answer.

3 A So you're asking when did it begin. I think

4 that beginning in -- I mean, our first meeting in

5 March or possibly April, we began having executive

6 session discussions that are on our agendas about the

7 litigation so that would have been -- I mean, I'm

8 trying to recall when and the answer, I guess, is

9 either in late March when we had -- I remember that we

10 had our first -- so it was March 9th and I think that

11 we possibly had a meeting on either March 20th or

12 March 29th. I can't recall the exact dates, but at

13 that time or at a board meeting in April, we had that

14 on our agenda so sometime in that time frame we were

15 discussing these issues.

16 Q (BY MS. ALLEN) Okay. Was there ever a time

17 -- whether you were on the board or off the board, was

18 there ever a time that you know of when the board

19 communicated with Ms. Martin or Friendship or lawyers

20 for them or other representatives of them any demand

21 that they either return the property or pay the

22 difference between what they paid and what Bolton said

23 the property was worth?

24 MS. O'BRIEN: Object to form.

25 MR. DE LA FUENTE: Object to form.

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1 A That's a really broad question that I don't

2 -- ask me to speak about things that I wouldn't have

3 knowledge of so, no.

4 Q (BY MS. ALLEN) I'm really not asking you to

5 opine or testify about things that you don't know,

6 okay? But I can't tell what you do and you don't know

7 until I ask. Do you understand that?

8 A I understand.

9 Q And so maybe we can just break it down by

10 time. Let's just start when you have been on the

11 board. While you have been on the board, has the

12 board ever made a demand on Martin, Friendship or

13 somebody acting for them to either return the property

14 or pay the difference between what was paid at the

15 time of closing and what Bolton says it was worth?

16 A No, because nobody has -- no. No.

17 Q So that has not happened while you've been on

18 board?

19 A Not to my recollection.

20 Q To the best of your knowledge, did it ever

21 happen before you got on the board?

22 MR. DE LA FUENTE: Object to form.

23 MS. O'BRIEN: Object to form.

24 A I can't speculate.

25 Q (BY MS. ALLEN) I'm not asking you to

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1 speculate. That's why I prefaced it with to the best
 2 of your knowledge.
 3 A The only -- I mean the only evidence I would
 4 have would be this letter Exhibit 1 as to what
 5 happened before I was on the board, to the best of my
 6 knowledge.
 7 Q So is it fair to say that the closest thing
 8 you know of to the type of demand that I'm asking
 9 about is Exhibit 1?
 10 A Yes.
 11 (Exhibit Number 10 marked.)
 12 Q (BY MS. ALLEN) Let me show you Exhibit 10,
 13 which I think is another of the board's letter to
 14 members which you said you read.
 15 A Um-hum.
 16 Q I'm sorry about the highlighting. I happened
 17 to get away with nothing but one copy.
 18 A Okay.
 19 Q Do you recognize that as one of the board's
 20 letters to members?
 21 A Yes, ma'am.
 22 Q What is its date?
 23 MR. DE LA FUENTE: Object to form. Are
 24 you asking him to read the entire letter?
 25 MS. ALLEN: I asked him what is the date.

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1 MR. DE LA FUENTE: Oh, I thought you said
 2 what does it state. I'm sorry.
 3
 4 Q (BY MS. ALLEN) What is the date? I don't
 5 have a copy. What is the date?
 6 A July 10th, 2019.
 7 Q (BY MS. ALLEN) Okay, so that's this past
 8 summer?
 9 A Yes, ma'am.
 10 Q You're on the board?
 11 A Yes, ma'am.
 12 Q And what does the board say to the members
 13 about the result in the TOMA lawsuit?
 14 MR. DE LA FUENTE: Object to form.
 15 A Would you like for me to read it to you?
 16 Q You can if you need to, but you were on the
 17 board that wrote it.
 18 A It says fourth.
 19 MR. DE LA FUENTE: Objection, form.
 20 A Fourth, in mid June an appellate court ruled
 21 in favor of WOWSC and sided with the lower trial
 22 court's judgment rendered last year with regards to
 23 land sale by WOWSC in 2016 and related agenda items.
 24 In sum, while a previous board did not properly post
 25 parts of the agenda items related to the land sale,

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1 the violation did not warrant the court's intervention
 2 in voiding the land sale. This is a victory for WOWSC
 3 because voiding the land sale would have had serious
 4 financial implications for WOWSC. That's the
 5 paragraph.
 6 Q All right. You were a -- you are a member of
 7 the board that promulgated that letter, correct?
 8 A Yes, ma'am.
 9 Q Did you write it?
 10 A Not in its entirety.
 11 Q What part of it did you write? Did you write
 12 any part of it having to do with the TOMA lawsuit?
 13 A I probably did, but this was reviewed by
 14 counsel and there were a lot of --
 15 Q I didn't ask you what your lawyer did or
 16 said.
 17 A Okay.
 18 Q I asked you what you did or said.
 19 A Okay. Well, I wrote -- yes, I wrote that and
 20 it was revised by counsel.
 21 Q You do hear me that I'm not asking you what
 22 your counsel did or said, right?
 23 MR. DE LA FUENTE: Mr. Gimenez, just
 24 offer what you particularly drafted and if the letter
 25 does not represent what you drafted, then just tell

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1 Ms. Allen that.
 2 Q (BY MS. ALLEN) Okay, I'll bite. Are you
 3 going to tell me that letter does not represent what
 4 you wrote, is not what you wrote?
 5 A I mean, what draft? I mean, I can't tell you
 6 what --
 7 Q You're holding a letter that went out to the
 8 members of this water supply company?
 9 A Yes, ma'am.
 10 Q You are a director responsible for that
 11 letter, right?
 12 A Yes, ma'am.
 13 Q You wrote part of it, correct?
 14 A Yes, ma'am.
 15 Q Does what you're holding in your hand
 16 accurately reflect what you wrote about the TOMA
 17 lawsuit?
 18 MR. DE LA FUENTE: Object to form. And
 19 Ms. Allen, he's indicated, and not to anyone's
 20 surprise, that the letter was written with the
 21 assistance of counsel. So to the extent you're trying
 22 to get behind what the attorneys might have advised
 23 the board in making representations about an ongoing
 24 legal matter, much to no one's surprise, I'm going to
 25 notify you that that communication is privileged, that

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1 advice is privileged and I will instruct the witness
 2 not to answer. Now, because you're asking about a
 3 letter which was drafted with the assistance of
 4 counsel, I believe you can see the difficulty with
 5 your question.
 6 MS. ALLEN: No, I can't. I have made it
 7 clear five times that I'm not asking him about
 8 anything that lawyers said or did.
 9 MR. DE LA FUENTE: And he's answered to
 10 you that he wrote that with the assistance and editing
 11 of counsel. So for you to ask what the nature of what
 12 he wrote is necessarily discusses what counsel advised
 13 him.
 14 MS. ALLEN: Just advise him not to answer
 15 and we will move on.
 16 MR. DE LA FUENTE: I will advise him to
 17 answer to the extent that he can answer without
 18 revealing the advice of counsel in drafting a
 19 discussion of ongoing litigation.
 20 A So I wrote this letter with the advice of
 21 counsel. I can't tell you what exact parts of it were
 22 that they or I edited or changed or what have you.
 23 Q (BY MS. ALLEN) What were the financial
 24 consequences to which you referred? Did I use the
 25 right phrase?

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1 A I'll read the sentence. This is a victory
 2 for WOWSC because voiding the land sale would have had
 3 serious financial implications for WOWSC.
 4 Q Financial implications is the phrase, forgive
 5 me.
 6 A Is that what you're asking about?
 7 Q What were the financial implications to which
 8 you referred?
 9 A Litigation.
 10 Q What litigation?
 11 A We discussed it earlier. It was litigation
 12 that would result from legal -- additional legal
 13 entanglements because of voiding the land sale. I
 14 think that's the context.
 15 Q What information did you have at hand upon
 16 which you based your statement, there would be
 17 financial implications?
 18 MR. DE LA FUENTE: Object to form.
 19 A I don't know. I don't know what I had on
 20 hand.
 21 Q (BY MS. ALLEN) You wrote that for the
 22 purpose of persuading the members that fighting the
 23 TOMA lawsuit was the right thing to do, didn't you?
 24 MR. DE LA FUENTE: Object to form.
 25 A No.

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1 Q The word you used is victory; isn't that
 2 right?
 3 A Victory, yes, ma'am.
 4 Q That it was a victory that the organization
 5 did not get its property back, correct?
 6 MR. DE LA FUENTE: Object to form.
 7 MS. O'BRIEN: Objection, form.
 8 MS. MITCHELL: Object to form.
 9 A That's not correct.
 10 Q (BY MS. ALLEN) What was the victory?
 11 MR. DE LA FUENTE: Object to form.
 12 A Voiding the land sale would have had serious
 13 financial implications for WOWSC.
 14 Q (BY MS. ALLEN) And what I want to know is
 15 when you made that statement to the members, what
 16 information, if any, did you have suggesting that the
 17 statement was true?
 18 MR. DE LA FUENTE: Object to form.
 19 A Well, I can't answer that because that's
 20 privileged information.
 21 Q (BY MS. ALLEN) Did you rely in making this
 22 statement on an opinion of an attorney?
 23 A I think I just said a few minutes ago that
 24 the attorneys assisted with drafting this letter. I
 25 can't tell you exactly what part of the letter I

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1 drafted versus what they added, deleted, changed. I'm
 2 sorry, I can't.
 3 Q Okay. So you're not able to tell us here
 4 today that you relied on an attorney's opinion in
 5 making this statement to the members that there would
 6 have been financial implications associated with the
 7 return of the property; is that correct?
 8 MR. DE LA FUENTE: Object to form.
 9 MS. O'BRIEN: Object, form.
 10 A That's a very complicated question.
 11 Q (BY MS. ALLEN) We're going to break it down
 12 because we're going to get an answer or we're going to
 13 find out you're not going to answer it, so how do we
 14 need to break it down? What's complicated to you?
 15 A Try it again.
 16 Q All right, step one, you made a statement in
 17 the letter to the members that there would be -- what
 18 did you call it -- serious financial implications?
 19 A Yes, ma'am.
 20 Q Serious financial implications if the
 21 organization were to recover its property, correct?
 22 MR. DE LA FUENTE: Object, form.
 23 A No, that's not what it said.
 24 Q (BY MS. ALLEN) Well, what are you talking
 25 about then?

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1 MR. DE LA FUENTE: Object, form.
 2 A Voiding the land sale.
 3 Q And what does that mean to you? What would
 4 the result of that have been?
 5 MR. DE LA FUENTE: Object to form.
 6 A I'm not an attorney so I wouldn't know
 7 exactly what that would have entailed.
 8 Q (BY MS. ALLEN) You don't know what the
 9 plaintiffs were after in the TOMA lawsuit?
 10 MR. DE LA FUENTE: Object to form.
 11 A They wanted to void the sale.
 12 Q And wouldn't you think that would mean the
 13 property would come back to the organization?
 14 MR. DE LA FUENTE: Object to form.
 15 MS. O'BRIEN: Object.
 16 A I'm not an attorney.
 17 Q (BY MS. ALLEN) You're on the board of
 18 directors, you're writing about litigation that's
 19 ongoing and you don't know what the plaintiffs in that
 20 lawsuit are seeking?
 21 MR. DE LA FUENTE: Objection, form.
 22 MS. O'BRIEN: Objection, form.
 23 MS. MITCHELL: Objection, form.
 24 Q (BY MS. ALLEN) Is that what you're telling
 25 me?

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1 MR. DE LA FUENTE: Object to form.
 2 A I don't know.
 3 Q (BY MS. ALLEN) You didn't have a clue what
 4 voiding the land sale meant when you wrote the part of
 5 that July 2019 letter; is that correct?
 6 MR. DE LA FUENTE: Object, form.
 7 MS. O'BRIEN: Objection, form.
 8 MS. MITCHELL: Objection, form.
 9 A No, ma'am. Ask the question again. I'm
 10 sorry.
 11 Q (BY MS. ALLEN) Did you have any idea what
 12 the result of voiding the land sale would be when you
 13 wrote the letter that we see as -- could you remind me
 14 the exhibit number?
 15 A 10.
 16 Q Exhibit 10.
 17 A I just don't know how to answer.
 18 Q Well, it's either yes, you did or no, you
 19 didn't.
 20 A Okay, so give me the question one more time.
 21 Q Did you know what voiding the land sale would
 22 result in when you wrote the letter that is Exhibit
 23 10? That's the word you used, right, voiding the land
 24 sale?
 25 A It would have resulted in serious financial

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1 implications.
 2 Q Did you have an understanding about what that
 3 would accomplish with regard to the property, what
 4 voiding the land sale would result in with regard to
 5 the property?
 6 A I think I said earlier that it would involve
 7 a lot of additional legal entanglements.
 8 Q Okay.
 9 A And litigation.
 10 Q Did you have an understanding as to whether
 11 voiding the land sale would return the property to the
 12 organization?
 13 A I'm not an attorney so I can't answer that.
 14 Q If you had no understanding, that's a
 15 perfectly fine answer if it's honest.
 16 MR. DE LA FUENTE: Object to form.
 17 Q (BY MS. ALLEN) Is it honest?
 18 A I don't know about any process. I don't know
 19 about the processes so, yes, it's honest.
 20 Q Okay.
 21 A I don't know how those processes work so.
 22 Q Did you know what the consequences of voiding
 23 the land sale would be relative to the right of
 24 refusal that was given?
 25 A I don't know that. I didn't know how that

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1 would work out.
 2 Q Do you know it today?
 3 A No, I don't.
 4 Q So even today you don't know what the result
 5 vis-a-vis the property and the transaction would be if
 6 it were voided; is that right?
 7 MR. DE LA FUENTE: Object to form.
 8 A I'm not an attorney.
 9 Q (BY MS. ALLEN) So you don't know?
 10 A I don't know.
 11 Q Okay. What happened, if you know, in between
 12 January 2019 when the board is making demand letters
 13 to Dana Martin and Friendship Homes and July 2019 when
 14 it's saying that it's a victory because the land sale
 15 wasn't voided? What happened, if anything, to cause
 16 that change?
 17 MR. DE LA FUENTE: Object to form.
 18 MS. O'BRIEN: Objection, form.
 19 MS. MITCHELL: Objection, form.
 20 MR. DE LA FUENTE: And to the extent that
 21 broad question inquires into the consideration and
 22 state of mind of the board in evaluating its position
 23 in litigation and in an ongoing dispute, I will
 24 instruct the witness not to answer. To the extent
 25 that this question asks about something outside of

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1 those privileged communications and considerations, to
 2 the extent you can answer the question, you may
 3 answer.
 4 A Okay. Can you say this question one more
 5 time?
 6 Q (BY MS. ALLEN) We saw Exhibit 1.
 7 A Okay.
 8 Q January 25th, 2019 from this lawyer that's
 9 sitting over here by you today representing you that
 10 talked about the unfairness of the transaction -- you
 11 can read it again if you want to -- fraudulent hidden
 12 appraisals, stuff like that; do you remember that?
 13 A Um-hum.
 14 Q And made demand on Dana Martin and Friendship
 15 Homes and said we're going to pursue litigation if you
 16 don't. Do you remember that?
 17 A Um-hum.
 18 Q In July of 2019, the board put out a
 19 communique to the members declaring it a victory that
 20 the land sale wasn't voided. Do you remember that?
 21 A Um-hum.
 22 Q Do you appreciate that those are two
 23 different positions?
 24 MS. MITCHELL: Objection, form.
 25 MS. O'BRIEN: Objection, form.

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1 MR. DE LA FUENTE: Objection to form.
 2 Q (BY MS. ALLEN) Very different positions?
 3 MR. DE LA FUENTE: Objection, form.
 4 MS. MITCHELL: Objection, form.
 5 MS. O'BRIEN: Objection, form.
 6 A No.
 7 Q (BY MS. ALLEN) You don't appreciate that?
 8 A No.
 9 Q Do you think they are the same position?
 10 MR. DE LA FUENTE: Objection to form.
 11 MS. O'BRIEN: Objection to form.
 12 MS. MITCHELL: Objection to form.
 13 A No, they are different.
 14 Q (BY MS. ALLEN) Okay, I thought that's what I
 15 just asked you. So you do appreciate those are
 16 different positions, yes?
 17 MR. DE LA FUENTE: Objection to form.
 18 MS. O'BRIEN: Form.
 19 MR. DE LA FUENTE: Same objection.
 20 A I don't know. I don't understand.
 21 Q (BY MS. ALLEN) You don't know whether they
 22 are different positions?
 23 MR. DE LA FUENTE: Objection to form.
 24 MS. O'BRIEN: Objection, form.
 25 MS. MITCHELL: Objection, form.

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1 A You're -- you're -- you are asking about
 2 finite periods of time when there are things that
 3 happen in a continuum so I don't know. I can't answer
 4 the questions that you're asking because of how it
 5 occurred differently.
 6 Q (BY MS. ALLEN) So you don't know whether the
 7 position stated in the January 25th, 2019 letter and
 8 the position stated in the communique of July 2019 are
 9 different positions; is that what you're telling me?
 10 MR. DE LA FUENTE: Objection to form.
 11 MS. O'BRIEN: Objection to form.
 12 A I just don't know on a legal basis how that
 13 works. I'm not an attorney.
 14 Q (BY MS. ALLEN) You're on the board of
 15 directors that has to make decisions concerning the
 16 assets of this enterprise, right?
 17 A Yeah. I don't know that.
 18 Q If I've gotten that wrong, then we have
 19 wasted a lot of time here today. I thought you were
 20 on the board?
 21 A I am on the board.
 22 Q And I thought you agreed with me earlier the
 23 board is the group responsible for managing the assets
 24 and the property of this business?
 25 A It's responsible for managing the business,

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1 yes.
 2 Q And wouldn't it be prudent, reasonable and
 3 diligent for a member of the board to educate himself
 4 sufficiently to know what position the board is taking
 5 with regard to its property at any given point in
 6 time?
 7 MR. DE LA FUENTE: Objection to form.
 8 MS. O'BRIEN: Objection, form.
 9 MS. MITCHELL: Objection, form.
 10 A I don't know about that. You're asking --
 11 Q (BY MS. ALLEN) Do you disagree with me?
 12 MR. DE LA FUENTE: Objection to form.
 13 A You're asking certain questions that have
 14 different legal connotations and because I'm not an
 15 attorney, I can't answer those.
 16 Q (BY MS. ALLEN) So can you tell me this: Did
 17 anything that you consider of significance that is
 18 something that might be position-altering for the
 19 board happen between the January 25th demand letter
 20 and the July communique that we just looked at as
 21 Exhibit 10?
 22 MS. O'BRIEN: Objection, form.
 23 MR. DE LA FUENTE: Objection, form and to
 24 the extent that this inquires as to matters considered
 25 by the board in determining its legal position and

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1 litigation actions and strategies, that inquires into
 2 privileged matters and I will instruct you not to
 3 answer. To the extent this inquires about some
 4 external fact that you might know outside of that
 5 context perhaps, you can answer.
 6 A Okay.
 7 Q (BY MS. ALLEN) Did the board learn facts
 8 that suggested to the board that it needed not to make
 9 a demand on Martin, but to celebrate as a victory the
 10 appellate decision in TOMA?
 11 MR. DE LA FUENTE: Object to form and I'm
 12 going to instruct the witness not to answer because it
 13 is literally asking what the board learned in making
 14 its litigation position decisions. Ms. Allen, are you
 15 really going to keep asking these questions?
 16 MS. ALLEN: If you think for a second
 17 that I agree with you that the members of this
 18 cooperative don't have a right to know what
 19 information their governing body had when it was
 20 making decisions, then you and I have a serious
 21 difference of opinion.
 22 MR. DE LA FUENTE: Okay, we have a very
 23 serious difference of opinion.
 24 MS. ALLEN: So, yes, I do.
 25 MR. DE LA FUENTE: Because this entity

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1 does have attorney/client privilege. I'm pretty sure
 2 I have some pretty good law on that.
 3 MS. ALLEN: I'm pretty sure you don't get
 4 to cloak everything that is done with the board with
 5 secrecy and if it doesn't want to reveal the facts
 6 that it had now, that's fine. I don't want to hear
 7 them later.
 8 MR. DE LA FUENTE: If you want to ask why
 9 this board made certain decisions with respect to an
 10 ongoing suit brought by your clients, I suggest that's
 11 about as improper a purpose for a deposition as you
 12 can take, but you're entitled to ask whatever
 13 questions you want and I will issue the objections.
 14 MS. ALLEN: Great.
 15 MR. DE LA FUENTE: And you know we will.
 16 MS. ALLEN: Let's move. Are you done?
 17 MR. DE LA FUENTE: Keep asking your
 18 questions.
 19 MS. ALLEN: Okay. I think he instructed
 20 you not to answer.
 21 THE WITNESS: Yes, ma'am.
 22 Q (BY MS. ALLEN) You just need to say, I'm
 23 going to follow his instruction and I'm not going to
 24 answer.
 25 A I'm going to take his instruction and I'm not

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1 going to answer.
 2 Q Okay. And again, just for my record, are you
 3 taking his instruction and not answering on the basis
 4 of a claim of privilege?
 5 A Yes, ma'am.
 6 Q Okay. In other words, it's not because you
 7 don't know it, it's because it's privileged?
 8 MR. DE LA FUENTE: Object to form.
 9 A No, ma'am, I mean I don't know it and it's
 10 privileged.
 11 Q (BY MS. ALLEN) How could that be? You
 12 either know it and it's privileged or you don't know.
 13 MR. DE LA FUENTE: Object to form.
 14 A I don't know what I'm answering.
 15 Q (BY MS. ALLEN) It's really simple.
 16 A Okay. Ask it again.
 17 Q You know what the position is in the January
 18 demand letter, January 2019 demand on Dana Martin and
 19 Friendship Homes for all the wrongful conducts
 20 described in that letter. You know that, right?
 21 MS. O'BRIEN: Objection, form.
 22 MS. MITCHELL: Objection, form.
 23 MR. DE LA FUENTE: Object to form.
 24 Q Do you read it differently? If you do, just
 25 tell me that.

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1 MR. DE LA FUENTE: Object to form.
 2 MS. O'BRIEN: Object to form.
 3 A I don't know how you want me to read it.
 4 Q How you read it. That's how I want you to
 5 read it.
 6 MR. DE LA FUENTE: Object to form.
 7 A Okay. So what I'm reading is that this is a
 8 demand to preserve documents, correspondence, records
 9 and communications including emails, text messages and
 10 phone records that you have had with Mr. Hinton or
 11 with any past or current member of the WOWSC board
 12 regarding the property, the Hinton appraisal, the
 13 transactions; and, two, to meet and confer promptly
 14 with WOWSC through its legal counsel to discuss
 15 WOWSC's claims against Ms. Martin and Friendship Homes
 16 in a proper resolution thereof.
 17 Q And so what does the next-to-last sentence of
 18 the letter say since you can read it? I'm not talking
 19 about the one that says we look forward to your
 20 prompt. The one above that, what does that say?
 21 A I'm sorry, I'm trying to find it. I see.
 22 Q It starts, in the event that?
 23 A In the event that you failed to do so, WOWSC
 24 will have no choice but to pursue all available
 25 avenues of relief including pursuing litigation

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1 against Ms. Martin and Friendship Homes. Okay?

2 Q Okay.

3 A I'm sorry, what's the question?

4 Q So this is a letter that threatens to pursue

5 litigation against Martin and Friendship, right,

6 Exhibit 1? I mean --

7 A Yeah, it says that including -- it says

8 including.

9 Q Now at some point or another, the board

10 decided not to pursue litigation against Martin and

11 Friendship. Obviously it never did that, right?

12 A I guess it depends on your definition of

13 litigation.

14 Q Okay, I'm ready. Just tell me when in any

15 context you believe that the board caused the water

16 supply company to pursue claims against Dana Martin or

17 Friendship Homes, any context?

18 MR. DE LA FUENTE: Object form.

19 A Well, it says including litigation so that

20 means that there are other avenues and it says other

21 avenues.

22 Q (BY MS. ALLEN) Do you understand my

23 question? Because I'm thinking that you might not.

24 A I have had a hard time all day with that, I'm

25 sorry.

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1 Q Okay. Is there any context that you're aware

2 of -- you had a hard time with the word litigation so

3 I'm just going to broaden it. Is there any context in

4 which you're aware that the board that you sit on has

5 caused the water supply company to pursue claims

6 against Dana Martin or Friendship Homes in connection

7 with its acquisition of property?

8 A We had an open meeting about that on October

9 26th and we discussed very openly about all of the

10 different claims and we discussed the mediated

11 settlement or the mediated agreement, I guess, with

12 Ms. Martin and so in that context we did other things

13 than pursuing litigation.

14 Q In that context what were the claims that the

15 water supply company had against Martin or Friendship?

16 MR. DE LA FUENTE: Object, form.

17 MS. O'BRIEN: Object, form.

18 Q (BY MS. ALLEN) That were articulated or

19 discussed?

20 MR. DE LA FUENTE: Object to form.

21 A We had an entire term sheet that we sent to

22 our membership about what those were.

23 Q (BY MS. ALLEN) Do you understand what I'm

24 asking you when I ask you about claims?

25 A Apparently not.

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1 Q Allegations of wrongful conduct, that's what

2 I mean. Do you understand that?

3 A Okay, now I do.

4 Q Okay, so in the context you're describing of

5 the October 26th meeting and discussion, was there any

6 discussion of claims that the water supply company had

7 or intended to assert against Martin or Friendship

8 Homes?

9 A I don't recall us talking about the -- those

10 claims, but, you know, my memory is not perfect. It's

11 possible that we could -- we mentioned it. I mean I

12 don't have a videotape of it to review that. I know

13 somebody does. But it's possible, it's possible that

14 it was discussed, but I can't recall specifically in a

15 four-hour meeting -- four-and-a-half-hour meeting, you

16 know, if that was discussed or not.

17 Q Does it come to mind any claims that the

18 water supply company has or might assert against Dana

19 Martin or Friendship Homes?

20 MR. DE LA FUENTE: Object to form.

21 A Does what?

22 Q Can you think of any?

23 MR. DE LA FUENTE: Object to form.

24 A Can I think of any claims that the --

25 Q (BY MS. ALLEN) Water supply company has or

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1 might assert against Dana Martin or Friendship Homes?

2 MR. DE LA FUENTE: Object to form.

3 A I'm not an attorney so I don't know.

4 Q (BY MS. ALLEN) Except in the context of the

5 January 2019 letter, has there ever been an occasion

6 where the board has discussed pursuing claims against

7 Dana Martin or Friendship Homes and authorized that

8 action?

9 MR. DE LA FUENTE: Object to form.

10 MS. O'BRIEN: Object to form.

11 MR. DE LA FUENTE: I'm going to object to

12 the extent that it asks about discussions of the board

13 about whether or not to take a particular legal action

14 in executive session and what it considered in the

15 course of that. To the extent that this inquires

16 about actual action, the last part of the question

17 inquired about action taken by the board in open

18 meeting, you may answer that question.

19 A I don't recall any open meeting where we

20 would have discussed that in 2019 and we don't do so

21 under the advice of counsel, not to discuss pending

22 litigation in open meeting.

23 Q (BY MS. ALLEN) You do understand that if the

24 board were to authorize claims to be made against

25 Dana Martin or Friendship Homes, it would need to do

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1 that in open meeting, properly noticed, right?
 2 MR. DE LA FUENTE: Object, form.
 3 A If it were to pursue claims?
 4 Q (BY MS. ALLEN) If it were to authorize the
 5 pursuit of those claims, correct?
 6 A So you're talking about like after executive
 7 session if we were to come out and authorize that?
 8 Q That's how most people do it.
 9 A Yeah. So am I aware that that would be the
 10 process? Yes, I'm aware that that would be the
 11 process.
 12 Q Did it ever happen?
 13 A No, ma'am, it has not happened this year.
 14 Q Did it ever happen to your knowledge at any
 15 board meeting that you attended or are aware of?
 16 A I just said no.
 17 Q I thought you confined your question to your
 18 time on the board; that's why I asked the follow-up.
 19 A Okay.
 20 Q I'm talking about any time ever.
 21 A Okay, I'm sorry, so ask the question again.
 22 Q So I've heard you say during your time on the
 23 board that the board never authorized a pursuit of any
 24 claims against Martin or Friendship, correct?
 25 A Right.

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1 Q The closest it got was the January 2019
 2 letter, right?
 3 A Right.
 4 Q And then before you got on the board, are you
 5 aware of any occasion where the board authorized the
 6 pursuit of any claims against Martin or Friendship?
 7 MR. DE LA FUENTE: Object to form.
 8 Q (BY MS. ALLEN) Or Hinton for that matter?
 9 MR. DE LA FUENTE: Object to form.
 10 A I'm not aware of any, but -- I'm not aware of
 11 any.
 12 Q (BY MS. ALLEN) Has there ever been an
 13 occasion where Martin or Friendship has advised the
 14 board that Martin and Friendship have claims they
 15 intend to assert?
 16 A No, ma'am, I have never received any kind of
 17 -- the board has not received that.
 18 Q Are you aware of any claims that Martin or
 19 Friendship have they might assert against the water
 20 supply company?
 21 MR. DE LA FUENTE: Object to form.
 22 A I'm not an attorney so I can't speculate on
 23 that.
 24 Q (BY MS. ALLEN) To the best -- so are you
 25 telling me you're not aware of any?

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1 MR. DE LA FUENTE: Object to form.
 2 A I'm not aware of any.
 3 Q (BY MS. ALLEN) Okay.
 4 MR. DE LA FUENTE: It's about one, Kathy,
 5 what do you think about a lunch break or how much do
 6 you have? Maybe the predicate to that is what else do
 7 you think you got?
 8 MS. ALLEN: I really thought I would have
 9 been done by now. I'd like to go a little bit longer,
 10 but I'm going to ask the court reporter. Let's go off
 11 the record for a second.
 12 THE VIDEOGRAPHER: Off the record at
 13 1:01.
 14 (Off the record.)
 15 THE VIDEOGRAPHER: We are back on the
 16 record at 1:11.
 17 Q (BY MS. ALLEN) So far as you know, has the
 18 board ever commissioned another appraisal other than
 19 the Bolton appraisal that I believe we have marked as
 20 Exhibit 3 that we have looked at today?
 21 MR. DE LA FUENTE: Object, form.
 22 MS. MITCHELL: Objection, form.
 23 MS. ALLEN: I'm sorry, what's the
 24 objection?
 25 MS. MITCHELL: They didn't commission

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1 the appraisal. It was done jointly through
 2 Mr. Aleshire, his client, and Mr. de la Fuente. It
 3 was not the board commission.
 4 MS. ALLEN: Oh, okay.
 5 MR. DE LA FUENTE: And, additionally, you
 6 just asked about any appraisal in general, not with
 7 regard to any particular property.
 8 MS. ALLEN: Well, that's a fair one. I
 9 will go with that. Let me try again.
 10 Q (BY MS. ALLEN) We have seen an appraisal
 11 here today. It's marked as Exhibit 3. Now I
 12 understood you to tell me, but you can take it back if
 13 you want to, but it was in part paid for with funds of
 14 the water supply company. Did I hear you right?
 15 A That's what I've heard, yes.
 16 Q And it was delivered among others to the
 17 lawyer who is sitting with you here today who is the
 18 lawyer for the water supply company; is that right?
 19 A I assume so, yes. He wrote about it in the
 20 January 26th letter or 25th letter.
 21 Q Okay. And that was going to be my next
 22 question: And the lawyer incorporated that
 23 information into his January demand letter, right?
 24 A Yes, ma'am.
 25 Q Okay. So aside from whatever involvement it

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1 had with the payment of money and other things in the
 2 Bolton appraisal that's Exhibit 3, has the board ever
 3 gotten another value opinion for any of the property
 4 within the area of the old wastewater treatment plant?
 5 A I can't -- there has been another appraisal
 6 that I think certain board members saw, but I don't
 7 recall the specifics about what that appraisal
 8 includes.
 9 Q So just to be sure that we are clear what I'm
 10 asking so we don't draw an objection. I'm asking
 11 about is there an appraisal done by -- and we are
 12 setting apart the Exhibit 3 appraisal, we know about
 13 that one. Is there an appraisal done by an appraiser
 14 selected by the board?
 15 A No.
 16 Q Paid by the board?
 17 A No.
 18 Q Instructed by the board?
 19 A No.
 20 Q Okay. Of any part of the land within the old
 21 wastewater treatment plant?
 22 A Not in 2019.
 23 Q Do you know of any appraisal that meets those
 24 requirements ever?
 25 A There's a Hinton appraisal, but I'm not

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1 familiar with what it includes or excludes to your
 2 question.
 3 Q And so do you believe that the Hinton
 4 appraisal was -- that Hinton was selected by the
 5 board?
 6 A Yes.
 7 Q You do? Why do you believe that?
 8 A Because the -- because it has been talked
 9 about by the plaintiffs in open meetings in the past.
 10 Q That's the reason that you think it was
 11 selected -- that Hinton was selected by the board?
 12 A Oh, why it was selected by the board?
 13 Q Here is my question. Do you believe that
 14 Hinton was an appraiser that the board selected, that
 15 the board chose Hinton?
 16 A That's what the plaintiffs have said, so,
 17 yes.
 18 Q Is that the only basis upon which you would
 19 believe that?
 20 A The board paid for it, the plaintiffs have
 21 made known that there is a \$600 check that's -- that
 22 was paid for by the then -- a signatory to the
 23 account.
 24 Q Is that the one that's signed by Dana Martin?
 25 A That's correct.

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1 Q Okay. Okay.
 2 A Even though I haven't seen that, that's what
 3 they allege.
 4 Q So we know that -- at least you're saying
 5 that your understanding is that water supply company
 6 money was used to pay for the Hinton appraisal?
 7 A Yes, ma'am.
 8 Q And we can look at it if we need to, but you
 9 do recall we looked at the January 25 letter which
 10 says the Hinton appraisal is probably fraudulent; do
 11 you remember that?
 12 MR. DE LA FUENTE: Object to form.
 13 MS. O'BRIEN: Object to form.
 14 A I don't recall that from this letter.
 15 Q (BY MS. ALLEN) Okay. Just tell me, then, is
 16 the board placing even a tiny bit of reliance on the
 17 Hinton appraisal in any of its decision making with
 18 regard to this matter?
 19 MR. DE LA FUENTE: Object to form.
 20 MS. O'BRIEN: Object to form.
 21 A The board in open meeting on October 26th and
 22 in a letter and communication to our members recently
 23 said that we considered all the appraisals that were
 24 available to us.
 25 Q (BY MS. ALLEN) Okay. So this board reviewed

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1 the Hinton appraisal?
 2 A It's -- I mean, that would be individuals on
 3 the board whether they looked at it or not, but they
 4 were -- those appraisals were available to all of our
 5 board members.
 6 Q Are you saying that this board made use and
 7 reliance on the Hinton appraisal in its decision
 8 making?
 9 MR. DE LA FUENTE: Object to form.
 10 A The board members at the meeting expressed
 11 different levels of reliance on different appraisals
 12 so I can't --
 13 Q Did anybody at the meeting express reliance
 14 on the Hinton appraisal? Anybody?
 15 A I don't recall that specifically.
 16 Q This man over here said at the meeting nobody
 17 relied on the Hinton appraisal, didn't he?
 18 MR. DE LA FUENTE: Object to form.
 19 MS. O'BRIEN: Object to form.
 20 A I don't recall.
 21 Q (BY MS. ALLEN) You don't know one way or the
 22 other?
 23 A I don't recall.
 24 MR. DE LA FUENTE: Object to form.
 25 Q (BY MS. ALLEN) And why would this board rely

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1 on the Hinton appraisal when later the appraiser of
 2 its lawyers selection reached a much different value
 3 opinion? Why would the board rely on the Hinton
 4 appraisal?
 5 MR. DE LA FUENTE: Object, form.
 6 MS. O'BRIEN: Object, form.
 7 MS. MITCHELL: Object, form.
 8 A The board had available three -- you know, I
 9 think three appraisals and so what they relied upon I
 10 can't speculate.
 11 Q (BY MS. ALLEN) Did you in the exercise of
 12 good faith using reasonable diligence and acting in
 13 the best interest of this business, did you place any
 14 reliance on the Hinton appraisal from 2015?
 15 A I looked at all three appraisals.
 16 Q Do you understand my question?
 17 A You're asking if I placed any reliance on it?
 18 Q Yes.
 19 A So that would require me to be -- to judge
 20 whether that -- I mean, I'm having trouble with the
 21 word reliance.
 22 Q Yes, it does require you to judge and make a
 23 decision; yes, it does.
 24 MR. DE LA FUENTE: Object, form.
 25 A What part of that appraisal do I need -- I

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1 mean, there were parts of it and every other appraisal
 2 that I looked at --
 3 Q (BY MS. ALLEN) Did you rely on any part of
 4 the Hinton appraisal in your decision making as a
 5 member of the board in this matter?
 6 A Yes.
 7 Q What part did you rely on?
 8 A Oh, I couldn't tell you that. I don't know.
 9 Q How did you square the fact that Bolton said
 10 the value was \$700,000 of only a part of what Hinton
 11 appraised for a whole lot less? How did you square
 12 those things and in good faith determine that you
 13 should place any reliance on the Hinton appraisal?
 14 MR. DE LA FUENTE: Object to form.
 15 MS. O'BRIEN: Object to form.
 16 A I think a lot of people -- and I think it was
 17 discussed at the board meeting that appraisals are
 18 subjective and you can get, you know, 100 appraisals
 19 -- or 100 appraisals and each one would be different.
 20 So you're asking me how I would square that? I am not
 21 an appraiser so -- or -- you know, I can't evaluate
 22 how they do their business. But I do say -- I mean, I
 23 think everybody knows or acknowledges that, like I
 24 said, you ask for 100 different appraisals, you get
 25 100 different answers.

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1 Q (BY MS. ALLEN) Did you or did you not rely
 2 on the Hinton appraisal in your decision making in
 3 this matter?
 4 MS. O'BRIEN: Objection, form.
 5 A No.
 6 Q You did not, okay?
 7 A Well, hold on. I mean what part?
 8 Q Any part, any part?
 9 A You're making it sound like I solely relied
 10 on that appraisal.
 11 Q You can answer that question any way you
 12 like.
 13 A Okay. So --
 14 MR. DE LA FUENTE: Object to form.
 15 Q I bought it hook, line and sinker. I relied
 16 only on this part. I don't care. Whatever is the
 17 truth. Did you rely at all on the Hinton appraisal
 18 from 2015 in your decision making in this matter?
 19 MS. MITCHELL: Objection, form.
 20 MS. O'BRIEN: Objection, form.
 21 A No, I did not.
 22 Q (BY MS. ALLEN) Did any other board member
 23 that you can recall speaking or discussing it at that
 24 October meeting, did any other board member suggest
 25 that he or she relied at all on the Hinton appraisal?

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1 A I can't recall specifics of what people said
 2 during that meeting.
 3 Q Can you recall any other board member
 4 expressing that he or she relied on that Hinton
 5 appraisal?
 6 A I can't recall that.
 7 Q Okay. Now, I want to move to what I'm
 8 calling the October agreement because it's just easier
 9 for me because I can't say all the amended superseding
 10 and all that stuff all the time.
 11 A Sure.
 12 Q October 2019 agreement and you and I will
 13 know what we're talking about, right?
 14 A Yes, ma'am.
 15 Q And I'm going to go ahead and mark -- I going
 16 to affix the number so we'll know what we got here.
 17 (Exhibit Number 13 marked.)
 18 Q (BY MS. ALLEN) This is 13 and it's my
 19 understanding that that is the October 2019 agreement
 20 that was recently approved by the board.
 21 A Yes, ma'am.
 22 Q Okay. Let me just ask you about a couple of
 23 the matters that are in the recitals and then I'm
 24 going to just try to get you to help us to understand
 25 what was left in place and what was not left in place,

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1 okay?
 2 A Okay.
 3 Q All right. Number II says Dana Martin's
 4 affiliation with the buyer in her role in purchasing
 5 the property at issue was disclosed to the board. Do
 6 you see that?
 7 A Yes, ma'am.
 8 Q So does that mean that it was disclosed to
 9 the board that the benefit of the transaction was
 10 going to go to Dana Martin?
 11 MR. DE LA FUENTE: Object to form.
 12 MS. O'BRIEN: Object to form.
 13 MS. MITCHELL: Objection, form.
 14 A I don't know.
 15 Q (BY MS. ALLEN) What was her role in the
 16 transaction?
 17 A You're asking about -- you're asking about
 18 disclosure at the 2015 or 2016 board meeting. I would
 19 not know. I wasn't on the board at that time.
 20 Q Okay. This October agreement, the board
 21 might have done a couple of different things. Might
 22 have handled it a couple of different ways and maybe
 23 it's easier if we just kind of understand what the
 24 approach was. One thing it might have done is it
 25 might have just said that all of what has gone before

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1 is out the window, we have considered everything that
 2 we believe is relevant and we are here today going to
 3 approve a transaction whereby the water supply company
 4 is going to transfer land to Friendship Homes for
 5 \$203,000. That's one thing that board might have
 6 done. Is that what it did?
 7 MR. DE LA FUENTE: Object to form.
 8 MS. O'BRIEN: Objection, form.
 9 MS. MITCHELL: Objection, form.
 10 A Which board?
 11 Q (BY MS. ALLEN) Yours that you sat on, that
 12 you're sitting on. One way to handle the settlement
 13 of the deal would have been to say everything that's
 14 gone before is reversed. On this day, we the board
 15 here, October 2019, have considered everything we
 16 think is relevant and we hereby approve a sale to
 17 Friendship Homes of these particular tracts of land
 18 for \$203,000 or whatever price you wanted. That's one
 19 thing the board might have done. It doesn't appear to
 20 me that that's what the board did, but I need to know
 21 from the board member what the board did.
 22 MR. DE LA FUENTE: Object to form.
 23 MS. O'BRIEN: Objection, form.
 24 MS. MITCHELL: Objection, form.
 25 A You're asking me to speculate.

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1 Q (BY MS. ALLEN) No, I'm not.
 2 A You are. You're saying it might have been
 3 one thing. That's speculation.
 4 Q Okay. Did the board throw out everything
 5 that had gone before and make its own evaluation and
 6 determination about what land transaction it
 7 considered was appropriate for the water supply
 8 company to do?
 9 MR. DE LA FUENTE: Object to form.
 10 MS. O'BRIEN: Objection, form.
 11 MS. MITCHELL: Objection, form.
 12 A I'm just -- I don't know. I'm having a hard
 13 time following this question.
 14 Q (BY MS. ALLEN) You don't know?
 15 A I don't know.
 16 Q Okay. There is a reference in Paragraph 3 to
 17 the board's desire in 2015 to generate revenue in
 18 order to pay down significant debt. How significant
 19 was it?
 20 A I was not on the board at that time so I
 21 couldn't define what significant means.
 22 Q So, again, just to make sure I understand
 23 what the current board's role in this October
 24 agreement was, is it fair to say you didn't fact-check
 25 this stuff that is in these recitals?

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1 MR. DE LA FUENTE: Object to form.
 2 MS. O'BRIEN: Objection, form.
 3 MS. MITCHELL: Objection, form.
 4 Q Or did you?
 5 A It's not fair to say that.
 6 Q Okay. Did you fact-check these facts that
 7 are in these recitals to determine whether or not they
 8 were true or not true?
 9 A I reviewed them.
 10 Q You reviewed what?
 11 A I reviewed the recitals.
 12 Q Did you review anything else?
 13 MR. DE LA FUENTE: Object to form.
 14 Q (BY MS. ALLEN) I asked if you fact-checked
 15 them, not if you read them. There is a difference.
 16 A Not in every instance. Maybe. I mean, I'm
 17 looking at this. If you're going to ask me did I
 18 fact-check significant debt, I mean, what's the
 19 definition of significant? Who sets that definition?
 20 I mean, that's -- your question is very -- I mean --
 21 Q Did you fact-check the recital that there was
 22 disclosure of Dana Martin's affiliation in her role?
 23 A It was on the board meetings -- I mean board
 24 minutes.
 25 Q So you found out in the board minutes?

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1 A Yeah, that the -- was disclosed to the WOWSC
 2 board verbally prior to the board's vote on the
 3 transaction so that indicates to me from -- that the
 4 minutes say that.
 5 Q But you didn't go look at the minutes?
 6 A I have read the minutes.
 7 Q And you think that's what they say. Okay.
 8 How about did you fact-check the suggestion that the
 9 board desired to generate revenue to pay down the
 10 debt?
 11 A Based on the -- based on conversations with
 12 numerous people familiar with that, you know, that
 13 decision was made at open meeting in 2013 or discussed
 14 at open meeting in 2013. I wasn't there, but from
 15 what I understand from talking with people who were
 16 there and people who have, you know, much more history
 17 than I do, that was the desire of the board to
 18 generate revenue to pay down that debt.
 19 Q Did you happen to run across a meeting notice
 20 for that December 2015 meeting that stated there would
 21 be consideration of the sale of some of the business's
 22 property?
 23 A I don't recall that amount of detail from my
 24 review of those documents.
 25 Q Do you recall a meeting notice that said

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1 anything about a sale of the cooperative's property?
 2 A I don't -- you know, I don't recall. I don't
 3 recall. I don't recall, you know, looking that
 4 closely that, you know, what I would be looking for.
 5 Q You know that there needed to be a notice
 6 that had the topic, sale of 4.3 acres, or whatever the
 7 heck it was, right? It had to have one?
 8 A I think that's what the pleading was in the
 9 lawsuit in the TOMA case.
 10 Q Do you not know whether or not you have to
 11 post a notice that includes all the topics that the
 12 board intends to discuss?
 13 A Our board -- our attorneys have provided me
 14 with that knowledge, yes, ma'am.
 15 Q So you know that there should have been -- in
 16 order to comply with the law, there should have been a
 17 notice prior to the December meeting that included as
 18 a topic, we are going to talk about the sale of this
 19 property, right?
 20 A Yes, ma'am.
 21 Q But you just haven't found one?
 22 A I can't recall reading it.
 23 Q Has anybody told you that there is one?
 24 A No.
 25 Q Okay. Paragraph 5 of the recitals talks

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1 about supposed due diligence on the part of the 2015
 2 board members. Did you investigate that? Did you
 3 talk with any of the 2015 board members?
 4 A So Number 5, you're asking whereas in 2015,
 5 is that the correct one?
 6 Q I believe so, yes, sir.
 7 A Yes, ma'am, so you're asking whether I talked
 8 with 2015 board members?
 9 Q Yes.
 10 A Yes, ma'am, I did.
 11 Q Who did you talk to?
 12 A Pat Mulligan, Bob Mebane. I think Bill
 13 Earnest was on the board at that time, and to a
 14 limited extent, Mike Madden.
 15 Q And when did you have these discussions
 16 approximately?
 17 A Probably beginning in April of 2019.
 18 Q What prompted you to have these discussions?
 19 A My investigation as to whether they had done
 20 due diligence to determine the value of the property.
 21 Q Did it occur to you that their job was not to
 22 determine the value of the property?
 23 MR. DE LA FUENTE: Object to form.
 24 MS. O'BRIEN: Objection, form.
 25 MS. MITCHELL: Objection, form.

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1 A I don't know. That's a strange question.
 2 Say it again, please.
 3 Q (BY MS. ALLEN) Did it occur to you that
 4 their job was not to estimate the value of the
 5 property, but to obtain the highest price that the
 6 market would bring for property that was no longer
 7 needed for the provision of water and sewer service?
 8 MR. DE LA FUENTE: Objection, form.
 9 MS. O'BRIEN: Objection, form.
 10 MS. MITCHELL: Objection, form.
 11 A I don't know how to answer that. I don't
 12 know.
 13 Q (BY MS. ALLEN) Do you agree that the
 14 directors have a responsibility, a fiduciary duty some
 15 have called it, to sell surplus property for the
 16 highest price obtainable?
 17 MR. DE LA FUENTE: Objection, form.
 18 MS. O'BRIEN: Objection, form.
 19 MS. MITCHELL: Objection, form.
 20 A No, ma'am.
 21 Q (BY MS. ALLEN) You don't believe that's a
 22 duty?
 23 MR. DE LA FUENTE: Objection, form.
 24 MS. O'BRIEN: Objection, form.
 25 MS. MITCHELL: Objection, form.

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1 A I don't know.
 2 Q (BY MS. ALLEN) You don't know? What is your
 3 understanding of the board of directors' duty with
 4 regard to the surplus property and the disposition of
 5 surplus property?
 6 MR. DE LA FUENTE: Object to form.
 7 MS. O'BRIEN: Objection, form.
 8 A What is their duty?
 9 Q (BY MS. ALLEN) Yes.
 10 MR. DE LA FUENTE: Objection, form.
 11 MS. MITCHELL: Objection, form.
 12 A I don't know. It's not in our Articles of
 13 Incorporation. It's not in our Bylaws.
 14 Q (BY MS. ALLEN) So you don't know?
 15 MR. DE LA FUENTE: Object, form.
 16 MS. O'BRIEN: Object, form.
 17 Q (BY MS. ALLEN) Is that right?
 18 MR. DE LA FUENTE: Object, form.
 19 Q (BY MS. ALLEN) I'm sorry, your answer got
 20 kind of stepped on.
 21 MR. DE LA FUENTE: Same objection.
 22 A So can you say the question again, please?
 23 Q (BY MS. ALLEN) I asked you if you knew what
 24 the duty of the board of directors is or was in 2015
 25 with regard to surplus property and the disposition of

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1 surplus property?
 2 MR. DE LA FUENTE: Object, form.
 3 Q (BY MS. ALLEN) Of the enterprise?
 4 MS. O'BRIEN: Form.
 5 A I don't know what it was in 2015.
 6 Q (BY MS. ALLEN) Do you think it changed?
 7 MR. DE LA FUENTE: Object to form.
 8 A I don't know.
 9 Q (BY MS. ALLEN) What is it now?
 10 MR. DE LA FUENTE: Object to form.
 11 MS. O'BRIEN: Object, form.
 12 MS. MITCHELL: Object, form.
 13 A I don't know.
 14 Q (BY MS. ALLEN) Okay. Number 7 talks about
 15 two appraisals that predate both of which -- I think
 16 predate the Bolton appraisal; is that right? No, no,
 17 one doesn't. One does and one doesn't. The two
 18 appraisals that are referred to in Paragraph 7, one of
 19 them is the Hinton appraisal we have already talked
 20 about, right?
 21 A Yes, ma'am.
 22 Q And one of them is an appraisal that the
 23 title company that is defending Friendship Homes title
 24 here commissioned and presented; is that right?
 25 A I believe so, yes, ma'am.

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1 Q And that's the Hornsby appraisal?
 2 A I don't know the name of the --
 3 Q Yeah. Let's be safe and find it real quick.
 4 Here we go.
 5 (Exhibit Number 17 marked.)
 6 Q (BY MS. ALLEN) Here is Exhibit 17. Can you
 7 just confirm, I want to make sure that we know what
 8 appraisals are referred to in Item 7 of the recitals
 9 of the October agreement.
 10 A I believe so. I mean, I'm not familiar with
 11 -- I mean, I don't have a photographic memory so yes,
 12 I mean I believe so.
 13 Q (BY MS. ALLEN) And you can confirm that the
 14 Hornsby appraisal was furnished by the title company
 15 that's paying for the defense for Friendship in this
 16 lawsuit, right?
 17 A Yes, ma'am.
 18 Q Hornsby was not someone, in other words, that
 19 the board sought out; is that right?
 20 A That's correct.
 21 Q And Hornsby apparently came up with a
 22 different number than Bolton; fair to say?
 23 A Yes.
 24 Q So who went back to -- who from the board
 25 went back to Bolton with the Hornsby appraisal in hand

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1 and said, Bolton, what the heck?
 2 MR. DE LA FUENTE: Object to form.
 3 A I don't know. Nobody to my knowledge.
 4 Q (BY MS. ALLEN) Wouldn't that be the diligent
 5 thing to do is to go back to an appraiser that you've
 6 paid and provide him with information that has come to
 7 your attention and ask for him to reconcile that?
 8 MR. DE LA FUENTE: Object, form.
 9 MS. O'BRIEN: Objection, form.
 10 MS. MITCHELL: Objection, form.
 11 A I don't know.
 12 Q (BY MS. ALLEN) You don't know?
 13 MR. DE LA FUENTE: Object to form.
 14 A I don't know.
 15 Q (BY MS. ALLEN) Well, you might get better
 16 educated if you did that, wouldn't you?
 17 MS. O'BRIEN: Objection, form.
 18 MS. MITCHELL: Objection, form.
 19 MR. DE LA FUENTE: Objection, form.
 20 A I don't know.
 21 Q (BY MS. ALLEN) Did you place any reliance at
 22 all on the Hornsby appraisal -- I believe it's 17 --
 23 in your decision making in this matter?
 24 A Any reliance at all? Yes, I considered some
 25 of it.

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1 Q What did you rely on?
 2 A I don't know. Parts of it. I mean, I
 3 couldn't tell you right now specifically what parts.
 4 Just like I couldn't tell you on the Hinton appraisal.
 5 Q You certainly -- you told me before that you
 6 don't have the expertise to know why it is that
 7 Hornsby's number is different from the appraiser that
 8 the board paid back in 2018, right?
 9 A I don't have that expertise.
 10 Q You would need to go back to the appraiser
 11 that did the original work to get his take on it,
 12 wouldn't you?
 13 MR. DE LA FUENTE: Objection to form.
 14 MS. O'BRIEN: Objection, form.
 15 MS. MITCHELL: Objection to form.
 16 A Theoretically.
 17 Q (BY MS. ALLEN) What else would you do?
 18 MR. DE LA FUENTE: Objection to form.
 19 Q (BY MS. ALLEN) If you don't have it yourself
 20 -- you don't have the expertise yourself, what else
 21 would you do?
 22 MR. DE LA FUENTE: Objection to form.
 23 MS. O'BRIEN: Objection, form.
 24 MS. MITCHELL: Objection, form.
 25 A I don't know.

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1 Q (BY MS. ALLEN) Because what I'm trying to
 2 test here is whether it was reasonable and in good
 3 faith to place any reliance on the Hornsby appraisal
 4 that was provided by a title company and was at odds
 5 with the appraiser that the company -- water supply
 6 company paid without making that inquiry and circling
 7 back around with that original appraiser.
 8 A So what is your question?
 9 Q Do you think that it was in good faith and in
 10 the exercise of reasonable diligence to place any
 11 reliance on an appraisal tendered by an opponent for
 12 the purpose of securing a transaction that is
 13 beneficial to the person who is giving you the
 14 appraisal?
 15 MR. DE LA FUENTE: Objection, form.
 16 MS. O'BRIEN: Objection, form.
 17 MS. MITCHELL: Objection, form.
 18 A Well, I mean the Bolton appraisal was paid
 19 for by litigants against the -- the plaintiffs against
 20 the corporation.
 21 Q (BY MS. ALLEN) Are you taking back now what
 22 you told me earlier that you know that the water
 23 supply company participated financially in that
 24 appraisal?
 25 MR. DE LA FUENTE: Objection to form.

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1 A Am I taking it back?
 2 Q Yeah.
 3 A I don't know. I said earlier that the water
 4 corporation did participate.
 5 Q And its lawyer over there, Mr. de la Fuente,
 6 participated, right?
 7 A I don't know.
 8 Q Well, you saw that he got the appraisal. Do
 9 you think he didn't communicate with the appraiser?
 10 A I don't know what he did.
 11 Q You would expect that he would, wouldn't you?
 12 MR. DE LA FUENTE: Object, form.
 13 A That's speculation.
 14 Q (BY MS. ALLEN) Are you backing off from the
 15 Bolton appraisal?
 16 MR. DE LA FUENTE: Objection to form.
 17 MS. O'BRIEN: Objection, form.
 18 MS. MITCHELL: Objection, form.
 19 Q (BY MS. ALLEN) Just say it. Are you or are
 20 you not?
 21 MR. DE LA FUENTE: Objection to form.
 22 MS. O'BRIEN: Objection to form.
 23 MS. MITCHELL: Objection to form.
 24 A I previously said that we looked at all three
 25 appraisals -- or that I did. I mean --

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1 Q (BY MS. ALLEN) You got the Hinton appraisal
 2 that we've already talked about, you've got the
 3 Hornsby appraisal given to you by somebody who wants
 4 this transaction to stay put for the money that was
 5 already paid, right?
 6 MR. DE LA FUENTE: Objection, form.
 7 MS. O'BRIEN: Objection, form.
 8 MS. MITCHELL: Objection, form.
 9 A Right.
 10 Q (BY MS. ALLEN) We've got the Bolton
 11 appraisal that presumably -- I mean, we will get to
 12 the bottom of that, I promise, but I'm going to bet
 13 you we are going to find that your lawyer participated
 14 in the selection of that appraiser and we know the
 15 water supply company paid part of the bill, right?
 16 MR. DE LA FUENTE: Objection to form.
 17 MS. O'BRIEN: Objection, form.
 18 MS. MITCHELL: Objection, form.
 19 A So I would only say that yes, the water
 20 company paid part of the bill for the Bolton
 21 appraisal.
 22 Q (BY MS. ALLEN) And considered Bolton's
 23 appraisal reliable enough to take further steps based
 24 on it, right, we have seen that? Written the demand
 25 letter, wrote a letter to the members, put it on the

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1 website, all those things, right?

2 A So there were additional steps, yes, ma'am.

3 Q Because that board considered that appraisal

4 reliable, correct?

5 MR. DE LA FUENTE: Object, form.

6 MS. O'BRIEN: Object, form.

7 MS. MITCHELL: Object, form.

8 A They considered it.

9 Q (BY MS. ALLEN) You think they would have

10 done those things had the lawyer rely on it if they

11 didn't consider it reliable?

12 MR. DE LA FUENTE: Object, form.

13 MS. O'BRIEN: Object, form.

14 MS. MITCHELL: Object, form.

15 Q (BY MS. ALLEN) Would you?

16 MR. DE LA FUENTE: Object, form.

17 A I don't know.

18 Q (BY MS. ALLEN) Really? Really? Do you know

19 of any reason that anyone would think the Bolton

20 appraisal is not reliable?

21 A I can't speculate on that.

22 Q The answer then is no, you do not; is that

23 correct?

24 MR. DE LA FUENTE: Object to form.

25 MS. O'BRIEN: Object to form.

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1 A Say the question again.

2 Q (BY MS. ALLEN) Do know of any reason to

3 think that the Bolton appraisal is not reliable?

4 MR. DE LA FUENTE: Object to form.

5 A That would cause me to speculate.

6 Q (BY MS. ALLEN) So you don't know of any

7 reason; is that accurate?

8 MR. DE LA FUENTE: Object to form.

9 A I don't know. I can't answer that since it

10 would require speculation.

11 Q (BY MS. ALLEN) You either know or you don't

12 know. It's a yes or no.

13 MR. DE LA FUENTE: Object, form.

14 MS. O'BRIEN: Objection, form.

15 Q (BY MS. ALLEN) This is the appraisal that

16 went to your own lawyer and was paid for by

17 cooperative money. If you're going to discount it,

18 then don't you think you should have a reason?

19 MR. DE LA FUENTE: Objection, form.

20 MS. O'BRIEN: Objection, form.

21 MS. MITCHELL: Objection, form.

22 Q (BY MS. ALLEN) And I want to know if you

23 have got a reason.

24 MR. DE LA FUENTE: Object to form.

25 MS. O'BRIEN: Object to form.

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1 A Restate the original question, please.

2 Q (BY MS. ALLEN) Do you have any reason to

3 think that the Bolton appraisal, Exhibit 3, is

4 unreliable?

5 A I'm not an appraiser so I wouldn't know. I

6 don't know the science of appraisal, I don't know real

7 estate so I don't know.

8 Q You know it has been relied upon by board of

9 directors for the water company, right?

10 MR. DE LA FUENTE: Object to form.

11 MS. O'BRIEN: Object to form.

12 A I know it has been used by other board

13 members.

14 Q (BY MS. ALLEN) And no one has ever suggested

15 to you that the Bolton appraisal is not reliable;

16 isn't that right?

17 MR. DE LA FUENTE: Object to form.

18 MS. O'BRIEN: Object to form.

19 A I don't recall. I mean, I don't recall. I

20 mean, I don't recall discussions about reliability.

21 Q Look. This is so simple.

22 A So.

23 Q This is very simple. The Bolton appraisal

24 says according to Mr. de la Fuente's math that Dana

25 Martin and Friendship Homes walked away from the

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1 closing table with almost \$500,000 of value that

2 belonged to the members of the water supply company.

3 Do you remember that?

4 MR. DE LA FUENTE: Object to form.

5 MS. O'BRIEN: Object to form.

6 MS. MITCHELL: Object to form.

7 A No, I don't.

8 Q (BY MS. ALLEN) We can go back to the letter

9 and look at that math. Do you want to?

10 A Sure.

11 Q Can you find Exhibit 1?

12 A Sure. Okay.

13 Q Look towards the back and find the numbers.

14 I think it's the section that says something like

15 improper and unfair transaction. Do you see that?

16 A The resulting transaction being for a price

17 significantly lower than the proper market value at

18 the time was not fair to WOWSC.

19 Q You can't find the numbers?

20 A Is that what you --

21 Q I will help you find the numbers.

22 A This is the part that we discussed earlier,

23 right?

24 Q That's okay.

25 A Thus as a result, the WOWSC board at the very

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1 least sold property with a proper market value of
 2 700,000 for a price of 203,000, the difference of
 3 497,000; is that what you're referring to?
 4 Q That's it.
 5 A So what's your question about that?
 6 Q My question is that your lawyer in the
 7 January 2019 letter and your appraiser Bolton
 8 concluded that at the time of the closing the deal
 9 that was done resulted in Martin and Friendship
 10 walking away with \$497,000 worth of value, property,
 11 that really should have belonged to and been available
 12 for the members of the cooperative to use to pay debt
 13 or whatever, right?
 14 MR. DE LA FUENTE: Objection, form.
 15 MS. O'BRIEN: Objection, form.
 16 MS. MITCHELL: Object, form.
 17 A That's a long question and there are lots of
 18 parts.
 19 Q (BY MS. ALLEN) I will break it right down if
 20 you really make me.
 21 A I can't agree with that long form question.
 22 Q Good. One, your lawyer says that the
 23 purchase price was 203,000, right?
 24 A 203,000.
 25 Q You don't know any different, do you?

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1 A No, ma'am.
 2 Q Bolton and your lawyer both say the value was
 3 700,000, right?
 4 A Bolton said it.
 5 Q Well, do we find that in this letter or do we
 6 not?
 7 A It is there, yes, ma'am.
 8 Q Your lawyer considered Bolton's work reliable
 9 enough to rely on it?
 10 MS. O'BRIEN: Objection, form.
 11 MS. MITCHELL: Objection, form.
 12 MR. DE LA FUENTE: Objection, form.
 13 Q (BY MS. ALLEN) Did he not?
 14 MR. DE LA FUENTE: Object, form.
 15 Q (BY MS. ALLEN) Now, what's the math? Do we
 16 need to check Mr. de la Fuente's math?
 17 MR. DE LA FUENTE: Objection to form.
 18 Q (BY MS. ALLEN) Is the difference 497,000 or
 19 is he mathematically incorrect?
 20 A The math is correct.
 21 Q Okay.
 22 A So yes.
 23 Q So what do you want to argue about that?
 24 MR. DE LA FUENTE: Object to form.
 25 A I'm not arguing. I'm just answering your

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1 question.
 2 Q (BY MS. ALLEN) There is nothing fair or
 3 prudent or reasonable or in the interest of the water
 4 supply company to allow Dana Martin to walk away with
 5 \$700,000 worth of property for \$200,000, is there?
 6 MR. DE LA FUENTE: Object to form.
 7 MS. O'BRIEN: Objection, form.
 8 MS. MITCHELL: Object to form.
 9 A I don't know.
 10 Q (BY MS. ALLEN) Okay. So we can be clear
 11 that you certainly didn't make a determination that
 12 that was fair and reasonable, correct?
 13 MR. DE LA FUENTE: Object to form.
 14 MR. EARNEST: Are you shooting me the
 15 finger? Are you shooting me the finger? I'm asking.
 16 Keep it to yourself.
 17 MR. SORGEN: That's not what you're
 18 mouthing over there. Calling people assholes.
 19 MR. EARNEST: I didn't say anything. You
 20 shot me the finger. Don't do it again.
 21 MR. DE LA FUENTE: Hey guys, everybody
 22 needs to behave with proper decorum in this
 23 deposition.
 24 MR. SORGEN: He is the one that --
 25 MR. DE LA FUENTE: I'm aware that there's

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1 friction between people in this deposition, but people
 2 need to behave with proper decorum. If you-all have
 3 opinions about each other, you can take them outside.
 4 Q (BY MS. ALLEN) If we can just get this
 5 finished then we will stop, okay? But I'm going to
 6 lose my train of thought, so I need to go -- back up a
 7 little bit.
 8 So what I asked you a minute ago was wouldn't
 9 you agree there is nothing fair, reasonable or in the
 10 best interest of the water supply company to let Dana
 11 Martin take \$700,000 worth of the company's property
 12 for 200,000?
 13 MR. DE LA FUENTE: Object to form.
 14 MS. O'BRIEN: Objection, form.
 15 MS. MITCHELL: Objection, form.
 16 Q (BY MS. ALLEN) And your answer was I don't
 17 know. Do you want to stay with that?
 18 A Yes, ma'am.
 19 Q Okay, so since you don't know, I can be sure
 20 that you have not determined that that would be a fair
 21 transaction or one that was in the best interest of
 22 the water supply company; is that right?
 23 MR. DE LA FUENTE: Objection, form.
 24 MS. O'BRIEN: Objection, form.
 25 MS. MITCHELL: Object to form.

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1 A That I have not determined?
 2 Q (BY MS. ALLEN) I just need to know if you
 3 have made a determination of your own? I suspect you
 4 have not, but I need to know.
 5 MR. DE LA FUENTE: Object to form.
 6 A I think I previously said that I relied on
 7 parts of three different appraisals.
 8 Q (BY MS. ALLEN) Okay. Did you make a
 9 determination in conjunction with this October
 10 agreement or other -- anything else, have you ever
 11 made a determination as to whether it is fair and in
 12 the best interest of the water supply company to allow
 13 Dana Martin to have \$700,000 of water supply company
 14 property in exchange for \$200,000?
 15 MR. DE LA FUENTE: Objection, form.
 16 MS. O'BRIEN: Objection, form.
 17 MS. MITCHELL: Objection, form.
 18 A That's such a long question that --
 19 Q (BY MS. ALLEN) No, it's really simple.
 20 A It has so many parts, ma'am, it really does,
 21 and there are parts of it that I can agree with and
 22 parts of it that I can't.
 23 Q Let's parse it out then. What do you agree
 24 with?
 25 A Parts that I agree with?

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1 MR. DE LA FUENTE: Object to form.
 2 A Ask the question again and we will see what
 3 parts I agree with.
 4 Q (BY MS. ALLEN) Have you made a determination
 5 on your own as a sitting board member that a
 6 transaction whereby Dana Martin and Friendship Homes
 7 ends up with \$700,000 worth of property in exchange
 8 for \$200,000 is fair or in the best interest of the
 9 water supply company?
 10 MR. DE LA FUENTE: Object to form.
 11 MS. O'BRIEN: Objection, form.
 12 MS. MITCHELL: Objection, form.
 13 A I voted on October 26th to change many parts
 14 of that transaction.
 15 Q (BY MS. ALLEN) Your view was that the
 16 original transaction was not fair and in the best
 17 interest of the water supply company; is that so?
 18 A That there were parts of it that needed to be
 19 amended, yes.
 20 Q That the transaction as it was structured in
 21 2015 or early 2016, that that transaction was not fair
 22 or in the best interest of the water supply company;
 23 is that your conclusion?
 24 A Parts of it, and they were all voted and
 25 discussed at that meeting and we made changes.

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1 Q One thing you did not change was the
 2 conveyance of Tract H1, correct?
 3 A That's a specific -- I'm not sure about Tract
 4 H1. You would have to refresh my memory as to what --
 5 I will have to rely on counsel for explaining Tract
 6 H1.
 7 Q Honestly I'm never asking you here to involve
 8 your counsel unless you really want to.
 9 A Okay, I understand.
 10 Q But here are the deeds. First off, you do
 11 appreciate that what got conveyed were platted lots,
 12 right?
 13 MS. MITCHELL: Objection, form.
 14 MR. DE LA FUENTE: Objection, form.
 15 (Exhibit Number 18 marked.)
 16 Q (BY MS. ALLEN) Let me show you Exhibit 18
 17 which is a subdivision plat that Ms. Martin processed
 18 while she was a director of the water supply company
 19 before the closing.
 20 MS. MITCHELL: Objection, form.
 21 A Okay. So I'm way lost on this.
 22 Q Well --
 23 A I mean, I really don't know how to read these
 24 things.
 25 Q I know. Hang on. Bear with me.

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1 (Exhibit Number 19 marked.)
 2 Q (BY MS. ALLEN) So let me show you Exhibit
 3 19.
 4 A Okay.
 5 Q You know that there were two deeds given back
 6 in 2016, right?
 7 A Sold?
 8 Q Do you know that there were two deeds given
 9 back in 2016?
 10 A Okay. I will take your word for it.
 11 Q Well, if you don't, you don't.
 12 A I mean, I don't. I don't know -- I know that
 13 there was some --
 14 Q Do you see that --
 15 A I mean, I don't.
 16 Q Okay. Do you see that Exhibit 19 is a deed
 17 to Friendship Homes of Tract H1?
 18 A This is a warranty deed. The grantor is WOWSC
 19 and the grantee is Friendship Homes. Is that your
 20 question? Yes, ma'am.
 21 Q Well, was there any other transaction that
 22 the water supply company did with Friendship Homes
 23 other than the one in March 2016?
 24 A Well, there was something that happened in
 25 February of 2017 if I recall correctly, but I'm

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1 not --

2 Q I was going to ask you about that because I

3 don't know about that one either. Do you know of any

4 land conveyance that occurred other than the one that

5 occurred in March 2016?

6 A No, I don't know of any other.

7 Q Okay. So you've got a deed there from the

8 water supply company to Friendship Homes and what's

9 its date?

10 A It says what is --

11 Q I'm sorry. I have to speak up and be more

12 articulate. The date of the document?

13 A March 11th, 2016.

14 Q Okay, and then let me show you the other

15 deed. You can find Tract H1 on the plat, right?

16 A Well, yes, ma'am, I see Tract H1.

17 (Exhibit Number 20 marked.)

18 Q (BY MS. ALLEN) Let me show you Exhibit 20

19 which is a warranty deed for Tract H2. Do you see

20 that?

21 A Right there. Okay, Tract H2, yes, ma'am.

22 Q And that's to Friendship Homes, right?

23 A I'm just scanning this.

24 Q That's quite all right.

25 A You're asking about Exhibit 20, right?

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1 Q I believe so, yes, sir. That's the warranty

2 deed with vendor's lien.

3 A Well, I don't see where it says Friendship

4 Homes on here.

5 Q Did I give you the wrong one?

6 A Hold on. Yes, and by these presents does

7 grant, sell and convey unto Friendship Homes -- it

8 says, and by these presents does grant, sell and

9 convey unto Friendship Homes and Hangars, LLC. That's

10 what it says.

11 Q Okay. So those -- do you see that those are

12 the deeds to the two lots that were conveyed?

13 A Yes, ma'am.

14 Q Okay, and there actually was -- let me find

15 it -- do you know that there actually was a corporate

16 resolution that was prepared in conjunction with all

17 of this; do you know that?

18 A Corporate resolution when?

19 Q Hang on. Fair question.

20 (Exhibit Number 22 marked.)

21 Q (BY MS. ALLEN) Let me show you Exhibit 22.

22 A So I was not aware until you just showed me

23 this.

24 Q Are you aware the water supply company by

25 statute has to have a resolution authorized by the

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1 board in order to convey real estate?

2 A I'm not an attorney. I will trust you if you

3 say so.

4 Q I'm sorry. People who work with these boards

5 a lot of the time learn that, what the requirements

6 are; maybe you have and maybe you haven't?

7 A I have not.

8 Q Okay. Would it surprise you to learn that

9 there is a statute that says that in order to convey

10 real property there has to be a resolution approved by

11 the board of directors?

12 A Would it surprise me?

13 Q Yes.

14 A No, ma'am.

15 Q And the resolution that I have shown you

16 which I'm actually not saying was really approved by

17 the board of directors, but it is the only written

18 resolution that I know about, it describes what is the

19 property to be conveyed?

20 A I will read this slowly. There's two

21 sentences I'm just scanning. It says it is resolved

22 that Windermere Oaks Water Supply Corporation shall

23 sell to Friendship Homes and Hangars LLC all of its

24 interest in and to the following described real

25 property situated in Burnet County, Texas, to wit,

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1 being Tract H and H2 of Tract H on Piper Lane, a

2 subdivision in Burnet County, Texas as shown by plat

3 recorded and Clerk's Document Number 201601994,

4 official public records of Burnet County, Texas. I

5 mean, there are others.

6 Q You got to the part that I was looking for

7 which is the tracts that were to be conveyed.

8 A Yes, ma'am.

9 Q And at least pursuant to that corporate

10 resolution, the property that the board in 2015 or

11 2016 approved to convey were two platted hangar lots,

12 correct?

13 MS. MITCHELL: Objection, form.

14 Q (BY MS. ALLEN) H1 and H2?

15 A That's what I'm reading, yes, ma'am.

16 Q Have you uncovered any other resolution by

17 the board in 2015 or 2016 to convey something

18 different?

19 A No, ma'am.

20 Q Okay. Now let me show you this.

21 A I mean, I say that. I know that there is a

22 contract that I have read. I can't recall the

23 specifics of that contract between Windermere Oaks and

24 Friendship Homes.

25 Q Put a pin in that and we will get to it this

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1 afternoon, I promise.
 2 A Okay.
 3 (Exhibit Number 21 marked.)
 4 Q Here is Exhibit 21 which I am given to
 5 understand is a correction deed that was done in
 6 connection with the October agreement. Can you
 7 confirm that for me?
 8 A So you're asking if this is a correction
 9 deed?
 10 Q I understand that is the correction deed that
 11 was executed in connection with the October 2019
 12 agreement, but I need you to confirm that for me if
 13 you can.
 14 A Yes, ma'am.
 15 Q Okay. And again, I'm not trying to make you
 16 into a lawyer. Do you happen to know the reason that
 17 correction deed was done?
 18 A No, I don't know why this correction deed was
 19 done. Well, specifically, no. Although -- oh, yeah,
 20 I think that the only thing that I was aware of, and I
 21 think I mentioned this earlier, was that there was a
 22 half an acre that wasn't properly recorded or
 23 something or other and I believe that this -- looking
 24 at it -- looking at this correction deed, I think that
 25 this takes into consideration that half acre.

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1 Q Do you know of any corporate resolution that
 2 purports to authorize the conveyance of the half acre
 3 that you're talking about?
 4 A The only -- does the -- I don't know if the
 5 superseded agreement considers that or not, but I
 6 believe it does.
 7 Q Have you seen a corporate resolution that
 8 purports to authorize the conveyance of the additional
 9 I think it's .5151 acres?
 10 A Have I seen one?
 11 Q Right.
 12 A A corporate resolution?
 13 Q Yes, like the one you just looked at here?
 14 A I don't recall a corporate resolution to that
 15 effect.
 16 Q Okay. And I want my question to include both
 17 one that would be dated 2015 or 2016 and one that
 18 might be current. I want to include both types. Have
 19 you seen either type of corporate resolution that
 20 purports to authorize the conveyance of 0.5151 acres?
 21 MR. DE LA FUENTE: Object to form.
 22 A I have not seen the corporate resolution to
 23 that effect.
 24 Q (BY MS. ALLEN) Okay. Now the correction
 25 deed does not do a thing with regard to the conveyance

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1 of Tract H2, right? It just continues to convey Tract
 2 H2?
 3 MR. DE LA FUENTE: Object to form.
 4 A I'm not an attorney so I don't know what
 5 exactly you're asking.
 6 Q (BY MS. ALLEN) We can put them side by side.
 7 A Put what side by side?
 8 Q The correction deed with the original if we
 9 needed to. You saw the deed that conveyed Tract H2;
 10 do you remember that?
 11 A Yes.
 12 Q The correction deed also purports to convey
 13 Tract H2, correct?
 14 A Yes, ma'am.
 15 Q And its effective date is what?
 16 MS. MITCHELL: Objection, form.
 17 Q (BY MS. ALLEN) Is there a date at the top of
 18 the document?
 19 A Effective date, yes. The date effective,
 20 March 14th, 2016.
 21 Q (BY MS. ALLEN) So it purports to be
 22 retroactive; is that right?
 23 A It says that the effective date is March
 24 14th.
 25 Q Well, you signed it, right?

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1 A Yes, ma'am.
 2 Q And you didn't sign it March 2015 or 2016?
 3 A No, I did not.
 4 Q You signed it just the other day, right?
 5 A Correct.
 6 Q So if it's going to be effective in 2016,
 7 it's retroactive, right?
 8 A Okay, yes, ma'am.
 9 Q That's all I'm saying.
 10 A Yes, ma'am.
 11 Q Now, the correction deed surely doesn't do a
 12 thing with regard to Tract H1 which we saw in the
 13 other deed, right?
 14 MS. MITCHELL: Objection, form.
 15 MR. DE LA FUENTE: Object, form.
 16 A I don't know.
 17 Q (BY MS. ALLEN) Well, you remember we
 18 looked --
 19 A It doesn't say anything about Tract H1.
 20 Q Remember we looked at the deed that was back
 21 in 2016 that conveyed Tract H1?
 22 A Yes, ma'am.
 23 Q This board in the October agreement didn't do
 24 -- make any changes to that deed, right?
 25 MS. MITCHELL: Objection, form.

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1 MR. DE LA FUENTE: Object to form.
 2 Q (BY MS. ALLEN) Well, if you did, just tell
 3 me, that's all.
 4 A I don't know. I mean, I don't believe so.
 5 Q Okay. So if one of these plaintiffs'
 6 complaints in the lawsuit is that there should not
 7 have been a conveyance of tracts H1 and H2 effective
 8 2016 for \$203,000, that matter is still in
 9 controversy, right?
 10 MR. DE LA FUENTE: Object to form.
 11 MS. O'BRIEN: Objection, form.
 12 MS. MITCHELL: Objection, form.
 13 A I don't know. That's a legal question.
 14 Q (BY MS. ALLEN) Well, did anybody rescind
 15 those conveyances? They did not, right?
 16 A What conveyance?
 17 Q The conveyances of Tract H1 that you just
 18 looked at?
 19 A Did anybody rescind them?
 20 Q Right. The board didn't rescind those
 21 conveyances, did it?
 22 A No.
 23 Q Did Dana Martin pay the difference?
 24 MR. DE LA FUENTE: Object to form.
 25 MS. O'BRIEN: Object to form.

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1 MS. MITCHELL: Object to form.
 2 Q (BY MS. ALLEN) Or Friendship Homes pay the
 3 difference of 497,000 if Mr. de la Fuente's math is
 4 correct?
 5 MR. DE LA FUENTE: Object to form.
 6 MS. O'BRIEN: Object to form.
 7 MS. MITCHELL: Object to form.
 8 A She -- I don't know. She paid some amount.
 9 Q (BY MS. ALLEN) You think she paid \$497,000
 10 in this settlement?
 11 A No.
 12 MR. DE LA FUENTE: Object, form.
 13 MS. MITCHELL: Objection, form.
 14 A So no.
 15 Q (BY MS. ALLEN) Okay. So if the complaint is
 16 that the directors breached their duties by conveying
 17 tracts H1 and tracts H2 back in March 2016 for
 18 \$203,000, that has not been resolved, has it?
 19 MR. DE LA FUENTE: Object to form.
 20 MS. O'BRIEN: Objection, form.
 21 MS. MITCHELL: Objection, form.
 22 A I'm not an attorney so I don't know how that
 23 would work.
 24 Q (BY MS. ALLEN) Okay, but you can confirm for
 25 us the transactions of H1 -- of the conveyances of H1

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1 and H2 were not rescinded, you can confirm that, can't
 2 you?
 3 A Yes, ma'am.
 4 Q You can confirm that nobody paid the
 5 difference between 203,000 and what Bolton said the
 6 property was worth at the time, right?
 7 MR. DE LA FUENTE: Objection, form.
 8 MS. O'BRIEN: Objection, form.
 9 MS. MITCHELL: Objection, form.
 10 A Yes, ma'am.
 11 Q (BY MS. ALLEN) And the October agreement
 12 doesn't contemplate either one of those things
 13 happening, correct?
 14 MR. DE LA FUENTE: Objection, form.
 15 MS. O'BRIEN: Object to form.
 16 A I don't know how to respond to that.
 17 Q (BY MS. ALLEN) Well, did the board intend
 18 that those transactions should be rescinded and set
 19 aside?
 20 MR. DE LA FUENTE: Object to form.
 21 Q (BY MS. ALLEN) And by those I mean the
 22 conveyance of Tract H1 and Tract H2 for \$203,000. Did
 23 the board intend that those conveyances be set aside?
 24 MR. DE LA FUENTE: Object to form.
 25 MS. MITCHELL: Object to form.

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1 A I don't know the legalities of that.
 2 Q (BY MS. ALLEN) Did the board intend that
 3 Dana Martin or Friendship Homes should come up with
 4 \$497,000 in connection with this settlement?
 5 MR. DE LA FUENTE: Object to form.
 6 MS. MITCHELL: Object to form.
 7 A I can't speak to the board's intentions.
 8 Q (BY MS. ALLEN) Well, you can, you were on
 9 it. Of course you can.
 10 MR. DE LA FUENTE: Objection, form.
 11 MS. MITCHELL: Objection, form.
 12 Q (BY MS. ALLEN) Weren't you on the board?
 13 A On October 26th, 2019?
 14 Q Yes.
 15 A Yes, ma'am.
 16 Q And when this October 2019 agreement was
 17 signed, didn't you sign it?
 18 A To the October 2016 agreement, yes.
 19 Q You signed it?
 20 A Yes.
 21 Q For the board?
 22 A Yes, ma'am.
 23 Q Then was the intention from the board's
 24 perspective, was the intention to require Dana Martin
 25 or Friendship Homes to cough up \$497,000 in connection

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1 with the settlement?
 2 MR. DE LA FUENTE: Objection, form.
 3 MS. O'BRIEN: Objection, form.
 4 MS. MITCHELL: Objection, form.
 5 A The intention was to amend and supersede the
 6 prior contract.
 7 Q (BY MS. ALLEN) And since you're not a
 8 lawyer, I'm not going to dwell on those terms with you
 9 right now.
 10 A Thank you.
 11 Q I'm just trying to figure out what the board
 12 intended would be the result, okay?
 13 A Okay.
 14 MR. DE LA FUENTE: Object to form.
 15 MS. O'BRIEN: Object to form.
 16 Q (BY MS. ALLEN) So when you signed this
 17 agreement on behalf of the board, did you believe it
 18 was the board's purpose and intention that Dana Martin
 19 or Friendship Homes be required to pay the difference
 20 between what was paid back in 2016 and what Bolton
 21 says the property was worth at that time?
 22 MR. DE LA FUENTE: Objection, form.
 23 MS. O'BRIEN: Objection, form.
 24 MS. MITCHELL: Objection, form.
 25 A The intention was to correct deficiencies

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1 that we saw in the prior contract.
 2 Q (BY MS. ALLEN) And the payment of the
 3 difference between 203,000 and 700,000 was not one of
 4 those deficiencies, right?
 5 MR. DE LA FUENTE: Objection, form.
 6 MS. O'BRIEN: Objection, form.
 7 MS. MITCHELL: Objection, form.
 8 A You're -- I can't answer that because you're
 9 specifically saying one value and there were other
 10 values under consideration by the board.
 11 Q (BY MS. ALLEN) Well, I know that Mr. de la
 12 Fuente is waiting to object if I ask you what the
 13 board was thinking about and I'm not asking you that.
 14 You signed the agreement, you had to have a purpose
 15 and intent in mind when you did that on behalf of the
 16 board. And I just want to know because I think I know
 17 the answer: Was that purpose and intention that Dana
 18 Martin and Friendship Homes be required to come up
 19 with the difference between the amount that was paid
 20 in 2016 and the value that Bolton says the property
 21 had in 2016?
 22 MR. DE LA FUENTE: Object, form.
 23 MS. O'BRIEN: Objection, form.
 24 MS. MITCHELL: Objection, form.
 25 A The intention was to correct the contract

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1 according to what the board viewed as the deficiency.
 2 Q (BY MS. ALLEN) So the board didn't view as a
 3 deficiency the difference between what was paid and
 4 the value?
 5 MR. DE LA FUENTE: Objection, form.
 6 MS. O'BRIEN: Objection, form.
 7 MS. MITCHELL: Object, form.
 8 Q (BY MS. ALLEN) Because -- I mean, did it
 9 correct that or did it not? You can tell me whatever.
 10 A The board in that agreement obtained a
 11 promise of an additional \$20,000.
 12 Q Okay, that's it, 20 grand?
 13 A Yes, ma'am.
 14 Q Okay. No 497,000?
 15 A \$20,000, yes, ma'am.
 16 Q All right.
 17 MS. ALLEN: Why don't we stop for however
 18 long you want to.
 19 MR. DE LA FUENTE: How much more you got?
 20 MS. ALLEN: It shouldn't be much, but
 21 whatever you want to do. I'm good.
 22 MR. DE LA FUENTE: Joe, what do you want?
 23 THE WITNESS: I want to finish.
 24 MS. ALLEN: Great. Perfect.
 25 Q (BY MS. ALLEN) You have spoken before --

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1 A Can I tidy up real quick?
 2 Q Yes, you can.
 3 A Thank you.
 4 Q Thank you.
 5 MR. DE LA FUENTE: I'm just going to get
 6 a water. You can keep going. Y'all can hear me.
 7 MS. ALLEN: Sad but true. I didn't say
 8 that. That's off the record.
 9 (Exhibit Number 14 marked.)
 10 Q (BY MS. ALLEN) Let me show you Exhibit 14.
 11 And let's let Mr. de la Fuente get back and take a
 12 look at that before you start answering. But just by
 13 way of preview, you've talked about a contract from
 14 time to time and I want to see if that's the one you
 15 have been talking about?
 16 A Yes, ma'am.
 17 Q Okay, and so when it talks in Paragraph 2 of
 18 Article 1 of the October agreement about unimproved
 19 property contract, is the exhibit you're looking at
 20 now, is that what we're talking about?
 21 A Okay, I'm not sure what you're looking at.
 22 Q I'm looking at the October agreement. You
 23 will have a copy there.
 24 A Okay.
 25 Q And it is Page 2, Article 1, Paragraph 2.

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1 First, will you tell us what exhibit it is and I will
 2 make a note of that so I don't have to ask again?
 3 A Is this the amended restated, is that what
 4 you're referring to?
 5 Q Yes.
 6 A So Page 2.
 7 Q What exhibit number is that, sir?
 8 A I am seeing 13. Okay, now you're asking
 9 about?
 10 Q I'm looking at Article 1, Paragraph 2,
 11 acknowledgement. Do you see that?
 12 A Yes, ma'am, acknowledgement of consideration.
 13 Q There is a reference in the very last line to
 14 unimproved property contract.
 15 A Okay.
 16 Q I want to put a document with that. Is the
 17 right document to put with that the unimproved
 18 property contract that I just handed you?
 19 A Exhibit 14?
 20 Q Right.
 21 A Yes, ma'am.
 22 Q Okay. Now, this has the numerical 4.3, looks
 23 like plus/minus acres, right?
 24 A This meaning what?
 25 Q Exhibit 14, I'm sorry. Thank you.

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1 A Okay.
 2 Q It has the property 4.3 plus/minus acres,
 3 correct?
 4 A Yes, ma'am.
 5 Q So where is the acreage that was not
 6 conveyed? Where is it physically located on the
 7 ground?
 8 MR. DE LA FUENTE: Object to form.
 9 A I don't know.
 10 Q (BY MS. ALLEN) Well, how do we know that
 11 from the contract? How can we figure that out?
 12 MR. DE LA FUENTE: Object to form.
 13 MS. O'BRIEN: Object to form.
 14 A I don't know.
 15 Q (BY MS. ALLEN) When the board approved the
 16 -- I assume you did, the conveyance of the additional
 17 0.5151 acres, did this current board approve that?
 18 A Yes, ma'am. It was part of that agreement on
 19 October 26th, I believe.
 20 Q So this board approved the conveyance of
 21 0.5151 acres of additional property and it didn't
 22 require -- or maybe 20,000 is what it required as
 23 payment; is that right?
 24 MR. DE LA FUENTE: Object to form.
 25 MS. O'BRIEN: Objection, form.

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1 MS. MITCHELL: Objection, form.
 2 A That's not what the agreement says, so, no.
 3 Q (BY MS. ALLEN) So tell me what the agreement
 4 says?
 5 MR. DE LA FUENTE: Object, form.
 6 Q (BY MS. ALLEN) Because I didn't see payment
 7 for the .5151 acres, but I don't want to overlook it,
 8 so tell me.
 9 MR. DE LA FUENTE: Object to form.
 10 Q (BY MS. ALLEN) Where is it?
 11 MR. DE LA FUENTE: Object to form.
 12 A I can't tell you.
 13 Q Do you believe there was payment made for the
 14 .5151 acres?
 15 MR. DE LA FUENTE: Object to form.
 16 A I don't know. I mean, I don't know how that
 17 would work.
 18 Q (BY MS. ALLEN) Shouldn't there have been
 19 payment for the .5151 acres?
 20 MR. DE LA FUENTE: Object to form.
 21 MS. O'BRIEN: Objection, form.
 22 MS. MITCHELL: Object, form.
 23 A I don't know. I don't know how to answer that
 24 because I'm not an attorney. I'm not sure how that
 25 would work.

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1 Q (BY MS. ALLEN) How would it ever be fair or
 2 in the best interest of the water supply company to
 3 give its property away for no consideration?
 4 MR. DE LA FUENTE: Object to form.
 5 Q (BY MS. ALLEN) How would that ever be fair
 6 and in the best interest of the water supply company?
 7 MR. DE LA FUENTE: Object to form.
 8 MS. O'BRIEN: Object to form.
 9 MS. MITCHELL: Object to form.
 10 A I don't know.
 11 Q (BY MS. ALLEN) Do you see in the October
 12 agreement any provision that requires payment of
 13 anything, much less market value, for .5151 acres that
 14 was approved for conveyance?
 15 MR. DE LA FUENTE: Object to form.
 16 A Well, I'm not an attorney so there are two
 17 statements, four and five, on Page 3.
 18 Q Okay.
 19 A That may be related, but I don't know.
 20 Q Let's see. Four and five. So four -- I
 21 don't see a provision for payment, but I might be
 22 overlooking it. Do you see it in four?
 23 A Well, it says that was included in the
 24 transaction and I assume that means the transaction
 25 from March 2016.

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1 Q Well, this board approved the conveyance,
 2 right?
 3 A The 2019 board?
 4 Q Yes.
 5 A Yes, this is -- this goes with it.
 6 Q And in order to approve the conveyance, isn't
 7 it correct that this board needed to be persuaded that
 8 the conveyance was fair and in the best interest of
 9 the water supply company?
 10 A We discussed all of that at the board meeting
 11 that the entirety of that contract was in the best
 12 interest of the corporation.
 13 Q How would -- as succinctly as you can, was
 14 there a decision made by this board, a determination
 15 by this board that the conveyance of .5151 acres for
 16 no additional consideration or maybe 20,000 was fair
 17 to the water supply company or in its best interest?
 18 MR. DE LA FUENTE: Object to form.
 19 MS. O'BRIEN: Objection, form.
 20 MS. MITCHELL: Objection, form.
 21 A The entirety of the October 26th agreement
 22 conveyed the board's intent.
 23 Q (BY MS. ALLEN) Is it fair, then, to say that
 24 there is no -- there was no determination by the board
 25 that the conveyance of the .5151 acres was fair to the

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1 water supply company or in its best interest?
 2 MR. DE LA FUENTE: Object to form.
 3 MS. O'BRIEN: Object to form.
 4 MS. MITCHELL: Object to form.
 5 A No.
 6 Q (BY MS. ALLEN) Okay. So there either was a
 7 determination of that or there was not and it doesn't
 8 matter to me what the answer is, I just want the
 9 truth.
 10 MR. DE LA FUENTE: Object to form.
 11 A Okay, I'm sorry, so say the question again.
 12 Q (BY MS. ALLEN) From what we have seen in the
 13 document, the October 2019 agreement contemplates
 14 there will be a conveyance of a half acre -- more than
 15 a half acre, actually, of additional property without
 16 payment.
 17 MR. DE LA FUENTE: Object to form.
 18 MS. O'BRIEN: Object to form.
 19 Q (BY MS. ALLEN) That was the paragraph you
 20 just directed me to. If you want to direct me to
 21 another paragraph or tell me I'm wrong about that,
 22 that's fine.
 23 MR. DE LA FUENTE: Object to form.
 24 MS. MITCHELL: Objection, form.
 25 A I don't know how -- I don't know how to

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1 answer that.
 2 Q Then answer this.
 3 A Okay.
 4 Q Can you envision any circumstance in which
 5 giving away the cooperative's property for nothing
 6 would ever be fair to it or in its best interest?
 7 MR. DE LA FUENTE: Object to form.
 8 MS. O'BRIEN: Objection, form.
 9 MS. MITCHELL: Objection, form.
 10 A That's speculation so I can't answer that.
 11 Q (BY MS. ALLEN) Okay. Would -- did the board
 12 rely on an opinion of an attorney that the water
 13 supply company had an obligation to convey the .5151
 14 acres?
 15 MR. DE LA FUENTE: Object to form and to
 16 the extent she's asking about advice of counsel, I'm
 17 going to instruct you not to answer.
 18 Q (BY MS. ALLEN) Let me just tell you
 19 something, the reason I'm asking you these questions.
 20 There is a safe harbor provision that allows you as a
 21 board member to rely on advice of attorney and to
 22 defend what you have done on that basis. So that's
 23 why I'm asking from time to time, did you rely on
 24 advice of attorneys. So if you want to take advantage
 25 of that and it's true, you will be able to, but I'm

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1 happy for you not to answer if that's what your lawyer
 2 wants. I just want you to know I'm not badgering you.
 3 There is a safe harbor provision for reliance, good
 4 faith reliance, on advice of counsel and if you want
 5 to do that, I want you to have the opportunity, but
 6 you don't have to.
 7 MR. DE LA FUENTE: And to the extent that
 8 the board considered privileged communications, that
 9 privilege belongs to the board and to the extent that
 10 that is or would be a basis for a response to
 11 Ms. Allen's question, I will instruct you not to
 12 answer. To the extent there is any advice or other
 13 information that is not privileged, you may answer.
 14 A Okay. So let's start with the question
 15 again, please.
 16 Q (BY MS. ALLEN) Well, my question is pretty
 17 simple. Did --
 18 A They all are.
 19 Q Did the board conclude that giving away a
 20 half an acre of property without requiring somebody to
 21 pay for that was in the best interest of the water
 22 supply company and was fair to it? That is my
 23 question.
 24 MR. DE LA FUENTE: Object to form.
 25 MS. O'BRIEN: Objection to form.

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1 MS. MITCHELL: Objection, form.
 2 Q (BY MS. ALLEN) But we've had trouble with
 3 that one.
 4 MR. DE LA FUENTE: Object to form.
 5 A There's -- I don't know how to answer that.
 6 There is so much in there that I could object to.
 7 Q (BY MS. ALLEN) What's in there that is so
 8 hard? Half an acre, no consideration, is that fair;
 9 and in the best interest of the water supply company
 10 or is it not?
 11 MR. DE LA FUENTE: Object to form.
 12 MS. O'BRIEN: Object to form.
 13 MS. MITCHELL: Object, form.
 14 Q (BY MS. ALLEN) Why is that hard?
 15 MR. DE LA FUENTE: Object to form.
 16 MS. O'BRIEN: Object to form.
 17 Q (BY MS. ALLEN) Is it hard because it's not
 18 fair?
 19 MR. DE LA FUENTE: Object to form.
 20 MS. O'BRIEN: Objection, form.
 21 MS. MITCHELL: Object, form.
 22 A We had -- we had an agreement, we had a board
 23 meeting about this. It included it in there. It was
 24 the intent of the board to correct this document --
 25 contract.

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1 Q (BY MS. ALLEN) Okay, the contract that
 2 you're talking about, Exhibit 14, that's the contract
 3 that was the subject of one of the blatant open
 4 meetings act violations; was it not?
 5 MR. DE LA FUENTE: Object to form.
 6 MS. O'BRIEN: Object to form.
 7 A I don't know how that would work. I don't
 8 know. I'm not an attorney.
 9 Q (BY MS. ALLEN) You don't know how that
 10 works?
 11 A No, ma'am.
 12 Q Do you know any of the circumstances that
 13 surround this contract that is Exhibit 14?
 14 MR. DE LA FUENTE: Object to form.
 15 A Say that again. Do I know any?
 16 Q (BY MS. ALLEN) Do you know the circumstances
 17 that gave rise to Exhibit 14?
 18 MR. DE LA FUENTE: Object to form.
 19 MS. O'BRIEN: Object, form.
 20 A No, I don't know those circumstances.
 21 Q (BY MS. ALLEN) Do you know whether or not it
 22 was purportedly approved at a meeting that violated
 23 TOMA?
 24 A Do I know if it was approved, purportedly
 25 approved?

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1 Q Was it purportedly approved at a meeting that
 2 violated TOMA, that is, are there meeting minutes that
 3 reflect a discussion of Exhibit 14 for a meeting where
 4 it was not posted on the notice?
 5 A I'm all confused now. I don't know.
 6 Q You don't know?
 7 A No.
 8 Q Okay. Did somebody suggest to you -- let me
 9 say it this way. Did the board reach the conclusion
 10 that the water supply company was somehow obligated to
 11 convey the .5151 acres?
 12 A That it was -- to convey -- that this
 13 board -- okay.
 14 Q That any board.
 15 A Okay.
 16 Q That the water supply company was obligated
 17 to convey .5151 acres?
 18 A Well, the original contract says 4.3 and I
 19 think it was a deficiency of the deed that it said
 20 3.86 at some point.
 21 Q Well, so let's take that one step at a time.
 22 Do you have any earthly idea whether Exhibit 14 is or
 23 is not a valid contract -- valid and binding and
 24 enforceable?
 25 MR. DE LA FUENTE: Objection to form.

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1 MS. MITCHELL: Objection, form.
 2 A I'm not an attorney so I can't.
 3 Q (BY MS. ALLEN) Did the board reach a
 4 conclusion in connection with its approval and
 5 execution of this October agreement whether the
 6 contract that is Exhibit 14 is valid and enforceable?
 7 MR. DE LA FUENTE: Object to form.
 8 MS. O'BRIEN: Objection, form.
 9 MS. MITCHELL: Objection, form.
 10 A You're asking a lot of very -- I don't know.
 11 I don't know. You're asking legal questions that
 12 would require an attorney to --
 13 Q (BY MS. ALLEN) No, I'm not.
 14 A I think you are.
 15 Q I just want to know what the board did or
 16 didn't conclude.
 17 MR. DE LA FUENTE: Object, form.
 18 Q (BY MS. ALLEN) I don't care if it is right,
 19 just want to know what the board did or didn't
 20 conclude. Did the board conclude that Exhibit 14 was
 21 a valid and binding contract on the water supply
 22 company?
 23 MR. DE LA FUENTE: Object, form.
 24 MS. O'BRIEN: Object, form.
 25 A The board amended and superseded that

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1 contract.

2 Q (BY MS. ALLEN) Okay, what did the board

3 amend, what part of it?

4 MR. DE LA FUENTE: Object to form.

5 A Well, I mean it amended a number of parts of

6 it.

7 Q Can we just go back to this October agreement

8 and you just find the amendments for me and we will

9 check them off?

10 MR. DE LA FUENTE: Object to form.

11 Q (BY MS. ALLEN) Wouldn't they be in here?

12 MR. DE LA FUENTE: Object to form.

13 A So the amendments, I believe, are on Page 3

14 of that document.

15 Q (BY MS. ALLEN) Of the October agreement?

16 A Yes, ma'am.

17 Q Of Exhibit 13?

18 A Yes, ma'am.

19 Q Okay. So Number 1 does say the word

20 amendment, but there never was a taxiway easement to

21 the seven-acre remainder, right?

22 MR. DE LA FUENTE: Objection, form.

23 MS. O'BRIEN: Objection, form.

24 MS. MITCHELL: Objection, form.

25 A I can't answer that. I don't know how to

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1 answer that.

2 Q (BY MS. ALLEN) Well, did the board determine

3 one way or the other whether the remainder seven-acre

4 tract had taxiway access in connection with its

5 decision to approve the October agreement?

6 MR. DE LA FUENTE: Object to form.

7 A I just don't know how to answer that.

8 Q (BY MS. ALLEN) Do you know as you sit here

9 today whether the remaining seven acres had taxiway

10 access before this agreement was approved?

11 A I don't know. I'm not an expert on taxiways

12 and easement.

13 Q Did you have an impression one way or the

14 other about whether the seven acres had taxiway access

15 before this October agreement?

16 A I didn't have an impression one way or the

17 other.

18 Q What was the purpose for including a

19 provision for taxiway access?

20 A What was the purpose?

21 Q If you didn't know what the situation was

22 before the agreement was done, why did you include

23 this provision?

24 A Because I believe there were a number of

25 comments in the past at previous open meetings about

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1 that -- about that access.

2 Q What was the problem or was there a problem?

3 A What they contended was that there wasn't

4 access or there would not be access.

5 Q Did the board investigate and get to the

6 bottom of that?

7 MR. DE LA FUENTE: Object to form.

8 A I don't know if they did or not.

9 Q (BY MS. ALLEN) Did the board that you're

10 president of investigate and get to the bottom of

11 whether or not the 2016 board had landlocked the

12 seven-acre remainder?

13 MR. DE LA FUENTE: Object to form.

14 MS. O'BRIEN: Object to form.

15 A I think that would be privileged information.

16 Q (BY MS. ALLEN) The question, did the board

17 undertake an investigation, you think is privileged?

18 MR. DE LA FUENTE: Object to form.

19 Q (BY MS. ALLEN) Okay, so you're not going the

20 answer that?

21 A I'm not going to answer that.

22 Q Because it's privileged?

23 A I believe so.

24 Q Okay. Do you know whether or not the

25 seven-acre tract was landlocked as a result of the

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1 March 2016 transaction?

2 A I'm not an expert on how that would work.

3 Q Do you know what taxiway access the land that

4 was encompassed within the old wastewater treatment

5 plant had? Do you know what taxiway access it had, if

6 any?

7 A No, I don't.

8 Q Do you know whether it even had taxiway

9 access?

10 A I don't.

11 Q So you don't know whether any of the tract

12 had taxiway access before?

13 A I don't.

14 Q And when members came to the board

15 complaining that the remaining seven acres was

16 unmarketable because it didn't have any taxiway

17 access, did the board undertake to investigate that?

18 MR. DE LA FUENTE: Object to form.

19 MS. O'BRIEN: Object, form.

20 A Which board are you talking about? I don't

21 know.

22 Q (BY MS. ALLEN) Any board that you know of?

23 A I can't speak for any other board other than

24 my own.

25 Q You could know what they did.

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1 MR. DE LA FUENTE: Object, form.
 2 A I don't know what they did.
 3 Q (BY MS. ALLEN) The member comments that you
 4 referred to earlier, the complaints about access, do
 5 you remember referring to that?
 6 A Yes, ma'am.
 7 Q When was that?
 8 A That would have had to have been 2018 when
 9 they complained about it.
 10 Q And that would had to have been then because?
 11 A Because that was the only meeting I attended
 12 or one of the few meetings I attended in 2018.
 13 Q Which meeting was that?
 14 A That was the annual member meeting.
 15 Q In 2018?
 16 A Yes, ma'am.
 17 Q Okay, and so it garnered your attention
 18 apparently that there was an issue with access to the
 19 seven-acre remainder, yes?
 20 A Yes, I think so.
 21 Q When you became a member of the board, what
 22 steps, if any, did you take to determine whether or
 23 not that matter had been resolved?
 24 A Well, we discussed that in executive counsel
 25 -- executive session at times.

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1 Q Okay. Did you take any other steps besides
 2 executive session discussion to try to determine
 3 whether or not the matter had been -- the matter of
 4 access to the seven-acre remainder had been resolved?
 5 A No, not outside of executive session.
 6 Q Did the board reach a conclusion about
 7 whether or not the matter of access, taxiway access,
 8 to the seven-acre remainder had been resolved?
 9 A Not out of executive session, no.
 10 Q The board took no steps until the October
 11 2019 agreement to address taxiway access to the
 12 seven-acre remainder; is that right?
 13 MR. DE LA FUENTE: Object to form.
 14 A The 2019 board, is that what you're asking?
 15 Q I'm really asking any board, but I can see
 16 that there's a provision in the October 2019 agreement
 17 about a taxiway easement. I'm wondering if the board
 18 took any steps at all to address access to the seven
 19 acre remainder aside from the October 2019 agreement?
 20 A Not out of executive session.
 21 Q Well, you better not be taking steps in
 22 executive session. Are you taking steps in executive
 23 session?
 24 A Oh, we weren't taking steps in executive
 25 session.

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1 Q Were you taking steps anywhere?
 2 A I'm sorry. I'm sorry. I should have said
 3 discussion and not steps, I guess, is the proper. So
 4 what was your second question?
 5 Q I want to know if the board was taking any
 6 steps when you became its president -- aware of this
 7 issue that had been raised at the members' meeting and
 8 you became its president, did the board take any steps
 9 to address taxiway access for the seven-acre
 10 remainder?
 11 MR. DE LA FUENTE: Object to form.
 12 A No, not out of executive session.
 13 Q (BY MS. ALLEN) Did the board take steps --
 14 did it act in executive session to address this
 15 taxiway access to the seven-acre remainder?
 16 A Did you ask if it took the steps in executive
 17 session?
 18 Q Yes.
 19 A I can't answer that because it was executive
 20 session.
 21 Q You do know that the law does not allow you
 22 to take action in executive session, right?
 23 A Right.
 24 Q And so I'm asking you about action.
 25 A Did it take action in executive session?

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1 Q Yes, did it take any action to address that
 2 concern that you were aware of when you became the
 3 president of the board that there was an issue with
 4 taxiway access for the remainder seven acres?
 5 A It did not take any action in executive
 6 session.
 7 Q Did it take any action outside of executive
 8 session?
 9 A I think I said that already.
 10 Q Just say it.
 11 A No.
 12 Q Thank you.
 13 A Can I get a Coke, please?
 14 Q Yes.
 15 A Thank you.
 16 Q Do you want to stop and stretch your legs a
 17 minute?
 18 A Just if I could have a Coke, that would be
 19 great.
 20 Q Somebody could bring you a Coke, but you
 21 could also get up and stretch your legs if you'd like.
 22 MR. DE LA FUENTE: How much longer you
 23 got, Karen?
 24 MS. ALLEN: Not too.
 25 MR. DE LA FUENTE: You said that an hour

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1 and a half ago.
 2 MS ALLEN: I thought I would be done
 3 before noon. You know why I'm not done before noon
 4 and so that's all I'm going to say about that. Let me
 5 just sit here and take a minute and go through all
 6 this mess and figure out how I can focus.
 7 MR. DE LA FUENTE: Appreciate it.
 8 THE VIDEOGRAPHER: We are off the record
 9 at 2:38.
 10 (Off the record.)
 11 THE VIDEOGRAPHER: We are back on the
 12 record at 2:54.
 13 Q (BY MS. ALLEN) We were talking about the
 14 half-an-acre tract that was conveyed in the
 15 correction; deed, do you remember our discussion?
 16 A Yes, ma'am.
 17 Q Okay, and I believe that I asked you, but I
 18 just want to be absolutely sure. Do you know where
 19 that tract is on the ground?
 20 A The half acre?
 21 Q Yes, sir.
 22 A No, ma'am, I don't.
 23 Q Do you know whether it's inside the airport
 24 or not?
 25 A No, ma'am, I don't.

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1 Q Okay. Do you know anything about it at all,
 2 anything about that half acre tract other than it's
 3 .5151 acres?
 4 MR. DE LA FUENTE: Object to form.
 5 A No, ma'am, I don't.
 6 Q (BY MS. ALLEN) And by that, I mean anything
 7 that would describe and identify it. Do you know
 8 anything, any descriptive information or identifying
 9 information?
 10 A No, ma'am.
 11 Q To your knowledge, does -- did anyone on the
 12 board express that they knew where that tract is
 13 physically located? The board that approved the
 14 October 2019 agreement.
 15 A That would have been discussed in executive
 16 session and so I don't know -- I can't answer that
 17 because it would have been in executive session.
 18 MR. DE LA FUENTE: And to the extent
 19 she's inquiring about any discussions that were in
 20 open meeting, you may obviously answer that.
 21 A So there were no discussions in open meeting
 22 about that. There may have been discussions at open
 23 meeting about that at the October 26th, 2019 meeting,
 24 but I can't recall exactly.
 25 Q (BY MS. ALLEN) Okay, fair enough. By the

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1 way, I have not seen any appraisal or value opinion
 2 with regard to the .5151 acres. Is there an appraisal
 3 or a value opinion as to that tract?
 4 MR. DE LA FUENTE: Object to form.
 5 Q (BY MS. ALLEN) Let me say that again. Is
 6 there an appraisal or a value opinion concerning the
 7 .5151 acres that the board used or relied upon when it
 8 decided to go forward with this October 2019
 9 agreement?
 10 MR. DE LA FUENTE: Object to form.
 11 MS. O'BRIEN: Object to form.
 12 A I don't know.
 13 Q (BY MS. ALLEN) So you don't know of any?
 14 MR. DE LA FUENTE: Object to form.
 15 A I don't know of any explicitly.
 16 Q (BY MS. ALLEN) What does that mean exactly?
 17 A I don't know if that's included in the other
 18 three appraisals or not.
 19 Q Okay.
 20 A I can't recall. I can't recall if that's in
 21 those other three appraisals.
 22 Q Do you have a recollection -- let me just ask
 23 it this way. Do you have an opinion yourself based
 24 upon reading the other appraisals or from whatever
 25 source you might have gleaned it other than Mr. de la

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1 Fuente who I don't think is an appraiser, do you have
 2 an impression about the value of the .5151 acres?
 3 MR. DE LA FUENTE: Object to form.
 4 A No.
 5 Q (BY MS. ALLEN) Do you recall any other board
 6 member expressing their opinion or impression about
 7 the value of what would be given away if the board
 8 approved the October agreement to convey the .5151
 9 acres?
 10 MR. DE LA FUENTE: Object to form.
 11 MS. O'BRIEN: Objection, form.
 12 MS. MITCHELL: Objection, form.
 13 A I don't know about that.
 14 Q (BY MS. ALLEN) Do you understand what I'm
 15 asking you? I want to know if you knew the value of
 16 that acreage that you were planning to include in this
 17 agreement and convey?
 18 A That wasn't what your question was a minute
 19 ago.
 20 Q Well --
 21 A So say your question now.
 22 Q Fair enough. The agreement -- the October
 23 2019 agreement provided for the conveyance of .5151
 24 more acres than Martin and Friendship had before,
 25 correct?

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1 MR. DE LA FUENTE: Object to form.
 2 MS. O'BRIEN: Objection, form.
 3 MS. MITCHELL: Objection, form.
 4 A I don't know about that. That's -- that
 5 would involve other considerations. I don't know
 6 about that statement.
 7 Q (BY MS. ALLEN) When was the first time the
 8 .5151 acres was conveyed by the water supply company?
 9 MR. DE LA FUENTE: Object to form.
 10 Q (BY MS. ALLEN) When?
 11 A Well, it was part of that contract.
 12 Q When was the first time it was conveyed? Was
 13 it the correction deed?
 14 MR. DE LA FUENTE: Object to form.
 15 A I mean, I don't know. If it -- I don't know
 16 exactly if it was part of the -- I believe it was part
 17 of this contract, Exhibit 14.
 18 Q (BY MS. ALLEN) Do you know what conveyed
 19 means? It means deeded, transferred. When was the
 20 first time the .5151 acres was transferred?
 21 A I don't know.
 22 Q To the best of your knowledge, isn't it true
 23 the first time it was transferred was when you signed
 24 a correction deed?
 25 A I don't -- I don't know how that would work

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1 legally because I'm not a lawyer.
 2 Q Do you know of any other deed that says the
 3 .5151 acres, the same 5151 acres that are in the
 4 correction deed?
 5 A I don't know if that's in those other deeds
 6 or not, those first two.
 7 Q Okay. We have looked at them; you didn't see
 8 it in there, did you?
 9 MR. DE LA FUENTE: Object to form.
 10 A I don't recall. I don't recall. I don't
 11 recall.
 12 Q (BY MS. ALLEN) Okay. When you signed the
 13 correction deed that clearly did transfer .5151 acres,
 14 is it accurate to say that you did not know what its
 15 value was?
 16 MR. DE LA FUENTE: Object to form.
 17 A Is it clear to say that I didn't know what
 18 its value was, no.
 19 Q (BY MS. ALLEN) Did you know what its value
 20 was?
 21 A No.
 22 Q Help me with that. Did you have --
 23 A I'm not an appraiser.
 24 Q You either knew what its value was or you
 25 didn't?

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1 MR. DE LA FUENTE: Object to form.
 2 Q (BY MS. ALLEN) Did you know what its value
 3 was?
 4 MR. DE LA FUENTE: Object to form.
 5 A I'm not an appraiser.
 6 Q (BY MS. ALLEN) You would need an appraiser
 7 the tell you what its value was?
 8 MR. DE LA FUENTE: Object to form.
 9 Q (BY MS. ALLEN) Is that right?
 10 MR. DE LA FUENTE: Object to form.
 11 A Not necessarily.
 12 Q (BY MS. ALLEN) How else would you find out
 13 what its value was? We'll do it the hard way.
 14 A What a willing buyer is willing to pay for
 15 it.
 16 Q Do you seriously think that that property is
 17 worthless?
 18 MR. DE LA FUENTE: Object to form.
 19 MS. O'BRIEN: Objection, form.
 20 MS. MITCHELL: Objection, form.
 21 A I didn't say that.
 22 Q (BY MS. ALLEN) You transferred it to
 23 Friendship Homes for no consideration. Are you saying
 24 the property is worthless?
 25 MR. DE LA FUENTE: Object to form.

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1 MS. O'BRIEN: Objection, form.
 2 MS. MITCHELL: Objection, form.
 3 A I didn't say that.
 4 Q (BY MS. ALLEN) What are you saying?
 5 MR. DE LA FUENTE: Object to form.
 6 A I'm saying that we had a -- an amended
 7 agreement that, considered in its totality, made
 8 changes to the original contract.
 9 Q (BY MS. ALLEN) If you have it handy, can you
 10 give me the date of the correction deed?
 11 A Correction deed?
 12 Q Yes, sir, the one you signed.
 13 MR. DE LA FUENTE: It is one of the
 14 exhibits.
 15 MS. ALLEN: I kind of culled through my
 16 stuff and put that away.
 17 A It's at the very bottom.
 18 Q (BY MS. ALLEN) The date I'm looking for,
 19 sir, is the signature date which will be where your
 20 signature and acknowledgements are.
 21 A Okay. This was October 31st, 2019.
 22 (Exhibit Number 23 marked.)
 23 Q (BY MS. ALLEN) Okay, so let me hand you
 24 Exhibit 23 and let's see if you can fill that out.
 25 MR. DE LA FUENTE: Object to form.

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1 Q (BY MS. ALLEN) Can you fill that out?
 2 A No, ma'am.
 3 MR. DE LA FUENTE: Object to form.
 4 A No, ma'am.
 5 Q (BY MS. ALLEN) Okay. Are you refusing on
 6 any privileged grounds or anything like that?
 7 A Ma'am, I am not a buyer of the acreage in
 8 question.
 9 Q You can't fill it out because you don't know
 10 the answer?
 11 MR. DE LA FUENTE: Object to form.
 12 Q (BY MS. ALLEN) If you know the answer, I'm
 13 asking you to put it in that blank.
 14 MR. DE LA FUENTE: Object to form.
 15 A I don't know.
 16 Q (BY MS. ALLEN) Okay. Could you give me the
 17 effective date of the correction deed, please, the one
 18 you signed?
 19 A The effective date?
 20 Q Yes, sir, not your signature date, but the
 21 effective date?
 22 A March 14th, 2016.
 23 (Exhibit Number 24 marked.)
 24 Q (BY MS. ALLEN) Let me hand you Exhibit 24
 25 and if you know that information, I would like for you

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1 to share it with us, please.
 2 MR. DE LA FUENTE: Object to form.
 3 A I don't know.
 4 Q (BY MS. ALLEN) Okay. How many conversations
 5 have you had with Dana Martin about the transaction
 6 that is the focus of this lawsuit, March 2016
 7 transaction?
 8 A I don't know.
 9 Q How many conversations have you had with her
 10 about it in the last month?
 11 A About the --
 12 Q How many conversations have you had with her
 13 about anything that has to do with the transaction or
 14 this October 2019 agreement?
 15 A I don't know. I'm not sure exactly.
 16 Q In the last month?
 17 A In the last month; of the October agreement?
 18 Q Anything having to do with why we have just
 19 spent the better part of our day here together?
 20 MR. DE LA FUENTE: Object to form.
 21 MS. O'BRIEN: Object to form.
 22 A Two, three.
 23 Q (BY MS. ALLEN) In the last month?
 24 A Yes, ma'am.
 25 Q When was the most recent one?

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1 A Couldn't tell you. Not very recently.
 2 Q Do you recall when it was that Dana Martin
 3 volunteered to extinguish the right of first refusal?
 4 MR. DE LA FUENTE: And I'm going to
 5 object and I'm going to ask Molly because to the
 6 extent that these matters were discussed in mediation,
 7 there's some mediation confidentiality.
 8 THE WITNESS: Yes.
 9 MR. DE LA FUENTE: So I'm going to
 10 instruct the witness and I presume Molly will do the
 11 same to maintain the confidentiality of mediation
 12 discussions.
 13 MS. MITCHELL: On behalf of my client I
 14 would preserve the confidentiality with everything
 15 that occurred within the scope of mediation
 16 protection.
 17 MR. DE LA FUENTE: If it was outside the
 18 mediation you may answer.
 19 A So the question was?
 20 Q (BY MS. ALLEN) When was the first time that
 21 Dana Martin offered to extinguish her right of
 22 refusal? You know that she had a right of refusal
 23 that was given to her in connection -- in the March
 24 2016 transaction, right?
 25 A Um-hum.

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1 Q You have to answer yes.
 2 A Yes.
 3 Q That's what I'm talking about.
 4 MS. MITCHELL: Objection, form.
 5 Q (BY MS. ALLEN) And I'm asking when was the
 6 first time that she offered to extinguish it?
 7 A I don't recall.
 8 Q If it wasn't in mediation, can you work hard
 9 with me to try to pin that down?
 10 A It was in mediation.
 11 Q Okay. Then don't tell me anything that was
 12 discussed in mediation, but tell me when the mediation
 13 occurred?
 14 A I don't have my phone with me. It was -- I
 15 can't remember if it was late October or early -- late
 16 September or early October. It was several weeks
 17 before.
 18 Q 2019?
 19 A 2019, yes, ma'am.
 20 Q Is there -- were there any pre-mediation
 21 exchanges of proposals or terms or anything of that
 22 nature? Do you understand what I'm asking you?
 23 A Yes, ma'am, I understand what you're saying.
 24 Q Okay.
 25 A And no, ma'am, not with me.

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1 Q Well, do you know whether there were any at
2 all?
3 A That would have been something that our
4 attorneys would have handled and I wouldn't know about
5 it.
6 Q Okay. Is there any source of information
7 that I might use other than asking people what
8 happened at mediation in order to pin down when it was
9 that Dana Martin first offered to extinguish the right
10 of refusal?
11 MS. MITCHELL: Objection, form.
12 MS. O'BRIEN: Objection, form.
13 MR. DE LA FUENTE: Same objection.
14 A I don't know about that. I wouldn't know any
15 other source.
16 Q (BY MS. ALLEN) Well, okay, I mean, I'm
17 trying to dance all around this so that later on, the
18 judge can decide do I get to find that out or do I
19 not. So I need to just find out from you if you were
20 me and you wanted to know that without knowing what
21 occurred at mediation, is there any place else to go
22 to look for that?
23 A Not from me, so, no. I don't know.
24 Q Do you know of a source?
25 A I don't, I don't.

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1 Q That's fair enough. When was the first
2 conversation that you had with Dana Martin about the
3 transaction or the events that resulted from it?
4 A It could have been as far back as 2016.
5 Q So the year of the transaction?
6 A Yes, ma'am.
7 Q And why would that have been? What would
8 have prompted that in 2016?
9 A Yeah, I mean, it might have been. I just
10 don't know. I mean, I can't remember specifically
11 right now anything like that. At the time in 2016
12 there was other litigation going on in the
13 neighborhood regarding marinas and our POA and she was
14 -- I was on the board of the POA and she was on the
15 board of one of the marinas involved and so at that
16 time, there might have been mention of some of what
17 was going on. I mean when the petition for removal
18 for her occurred in that -- in 2016, I guess, you
19 know, there may have been, you know, we might have
20 been talking about, you know, this business.
21 Q Has she ever offered to you an explanation of
22 why she believes that it would be fair to the water
23 supply company or in its best interests to allow her
24 or Friendship to retain the property that was conveyed
25 in March 2016?

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1 A Okay, that's a long question. Say it one
2 more time, please.
3 Q You know property was conveyed in March of
4 2016, correct?
5 A It was sold.
6 Q And Martin and Friendship were involved on
7 the buyer's side, right?
8 A Yes, ma'am.
9 Q And we know that \$203,000 changed hands,
10 right?
11 A Yes, ma'am.
12 Q And we know that Bolton says the property was
13 worth 700,000 at the time, correct?
14 A Bolton says that, yes, ma'am.
15 Q Has Martin ever offered to you an explanation
16 that satisfied you as to why a transaction like that
17 would be fair to the water supply company or in its
18 best interest?
19 MR. DE LA FUENTE: Object to form.
20 MS. O'BRIEN: Objection, form.
21 MS. MITCHELL: Objection, form.
22 A I don't recall. I don't recall any kind of a
23 conversation to that specific question. The only
24 conversation we may have had was that her reminding me
25 about the 2013 discussion of the board to build a

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1 wastewater treatment plant and then to sell property
2 at the highest possible value to pay off some of the
3 debt that was incurred for paying for that plant.
4 Q (BY MS. ALLEN) Did she ever express to you
5 that she believed the water supply company had gotten
6 the highest possible value for the property?
7 A I think she has conveyed that, yes.
8 Q Did she persuade you?
9 A All the materials that I have seen that we
10 talked about at the October 26th meeting convinced me
11 that we had gotten the highest value.
12 Q Okay. Well, I gotta ask. What about the
13 appraisal that your lawyer was involved with with
14 David Bolton and you used -- and the board used water
15 supply company to pay for? What about that?
16 MR. DE LA FUENTE: Object to form.
17 MS. O'BRIEN: Objection, form.
18 Q (BY MS. ALLEN) When you say all the
19 information that I had, what about what some people
20 might call your own appraisal?
21 MR. DE LA FUENTE: Object to form.
22 MS. O'BRIEN: Object, form.
23 MS. MITCHELL: Objection, form.
24 A I think I answered earlier that our board
25 looked at all the different appraisals and made

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1 considerations of different parts of them. I think I
 2 answered that question earlier.
 3 Q (BY MS. ALLEN) Okay. The one piece of the
 4 October 2019 agreement that I don't think we have
 5 talked about yet is the easement. Do you know what I
 6 mean?
 7 A The October -- which agreement?
 8 Q The October 2019 agreement.
 9 A Okay.
 10 Q It had provision in it for the taxiway
 11 easement?
 12 A Okay.
 13 Q Back to the seven acres, do you know what I'm
 14 talking about?
 15 A Yes, ma'am.
 16 Q Okay, because you've got the agreement and
 17 you're welcome to look at it if you need to refer back
 18 to it. I have a copy of that that I was going to
 19 share with you. Here it is.
 20 (Exhibit Number 25 marked.)
 21 Q (BY MS. ALLEN) Let me hand you Exhibit 25
 22 and let you take a look at that as long as you need
 23 to. Could you confirm that it's the easement that is
 24 called for in Article 2, Paragraph 1 of the October
 25 29th agreement?

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1 A Article 2, Section 2, is that it?
 2 Q I had looked at one, but I might be looking
 3 at the wrong paragraph.
 4 A Oh. One, yes, ma'am.
 5 Q So is -- I'm sorry, tell me the exhibit
 6 number again.
 7 A The one that you just handed me?
 8 Q Yes, sir.
 9 A 25.
 10 Q Is Exhibit 25, then, the easement that's
 11 called for under Article 2, Section 1 of the October
 12 2019 agreement?
 13 A They look similar, yes, ma'am.
 14 Q Is there another easement that was granted
 15 pursuant to the October 2019 agreement?
 16 A Another easement granted? I don't believe
 17 so.
 18 Q Okay. You just seemed like you weren't
 19 certain and I want to make sure that I know all the
 20 documents that were executed.
 21 A I think that's the only easement that we
 22 talked about, yes, ma'am.
 23 Q Okay. Now, this easement is dated October
 24 29th, 2019 which I think is when you signed it, right?
 25 A I signed it --

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1 Q You signed it on the 31st?
 2 A 31st, yes.
 3 Q I see that now. In all events though, the
 4 easement is not retroactive, correct, back to the date
 5 of the 2016 transaction?
 6 A I would not know. I'm not a lawyer. I cannot
 7 tell you how that would work.
 8 Q Did you understand that the easement was
 9 going to be retroactive to the transaction date of
 10 March 2016?
 11 A I did not. I did not think about that or
 12 understand that.
 13 Q Okay.
 14 A Just because -- yeah.
 15 Q Well, here is why I'm asking.
 16 A Okay.
 17 Q It's my belief that on October 29th of 2019
 18 the owner of the property covered by the easement was
 19 not Friendship Homes and Hangars; do you know?
 20 MR. DE LA FUENTE: Object to form.
 21 A I don't know.
 22 Q (BY MS. ALLEN) You would appreciate that
 23 that would be important, right?
 24 A That's --
 25 MR. DE LA FUENTE: Object to form.

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1 A That's a legal question. I wouldn't know.
 2 Q (BY MS. ALLEN) It doesn't take a lawyer to
 3 know that you cannot grant an easement over property
 4 that you do not own, right?
 5 MR. DE LA FUENTE: Object to form.
 6 A I'm not sure what we're talking about right
 7 now. You're asking me -- you're probing my knowledge
 8 and I have said that I'm not an attorney so I can't
 9 answer your question.
 10 Q (BY MS. ALLEN) Does your common sense not
 11 tell you that a person can't grant an easement across
 12 property that he or she doesn't own?
 13 MR. DE LA FUENTE: Object to form.
 14 A I don't know.
 15 Q Okay.
 16 A I mean, I'm thinking of different situations
 17 and that would call for speculation, I think.
 18 Q What steps, if any, did the board take to
 19 determine whether or not the entity that was
 20 purporting to grant this easement, Friendship Homes
 21 and Hangars LLC, was the owner of the property that
 22 the easement was going to cross on October 29th, 2019?
 23 A I mean, the board relied on legal counsel for
 24 that.
 25 Q Okay. I have to ask you the question. Did

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1 the board rely on an opinion of an attorney that it
 2 was sufficient, that they would get a good title to an
 3 easement to have Friendship Homes and Hangars as the
 4 grantor, whether or not it owned the property?
 5 MR. DE LA FUENTE: Object to form.
 6 A I can't answer that question. I don't know
 7 how -- I don't know how to answer that question.
 8 Q (BY MS. ALLEN) Well, do you appreciate that
 9 if the easement has been granted by somebody who
 10 didn't own the property at the time, that could be an
 11 issue?
 12 MR. DE LA FUENTE: Object to form.
 13 MS. O'BRIEN: Objection, form.
 14 MS. MITCHELL: Objection, form.
 15 A Yes, I can appreciate that that would be a
 16 problem.
 17 Q (BY MS. ALLEN) Do you appreciate the
 18 significance of providing taxiway access to the
 19 seven-acre remainder if we allow the transaction with
 20 the hangar lots to stand?
 21 MR. DE LA FUENTE: Object to form.
 22 MS. O'BRIEN: Objection, form.
 23 Q (BY MS. ALLEN) Do you see why that's
 24 important?
 25 MR. DE LA FUENTE: Objection, form.

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1 A I don't know -- I don't know.
 2 Q (BY MS. ALLEN) You don't?
 3 A No, ma'am.
 4 Q Did you not see the part of the Bolton
 5 appraisal that spoke to the injury, the damage, that
 6 was caused by the fact that the 2016 board conveyed
 7 off all of the taxiway frontage?
 8 MR. DE LA FUENTE: Object to form.
 9 A I don't recall that part of the appraisal.
 10 Q (BY MS. ALLEN) So you didn't know that the
 11 board actually had a quantification of the damage that
 12 was associated with the board's failure to retain a
 13 taxiway easement in 2016?
 14 MR. DE LA FUENTE: Object to form.
 15 MS. O'BRIEN: Objection, form.
 16 MS. MITCHELL: Objection, form.
 17 Q (BY MS. ALLEN) Is that right?
 18 MR. DE LA FUENTE: Objection, form.
 19 A I don't recall that part of the appraisal.
 20 Q Does it shock you, the idea that if there's
 21 no taxiway access to the remaining seven acres, it
 22 would diminish its value, perhaps significantly?
 23 A It does not shock me.
 24 Q Because you know how important -- even if you
 25 don't hang out in the airport community, you know how

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1 important that taxiway access is there, don't you?
 2 A To pilots for sure.
 3 Q Isn't that what this property is expected to
 4 be used for?
 5 MR. DE LA FUENTE: Which property?
 6 Objection to form.
 7 MS. O'BRIEN: Object to form.
 8 Q (BY MS. ALLEN) Isn't it true that every
 9 single appraiser who has looked at it except for our
 10 friend Mr. Hinton has said that the highest and best
 11 use for the old wastewater treatment plant property is
 12 for hangars?
 13 MR. DE LA FUENTE: Object to form.
 14 MS. O'BRIEN: Objection, form.
 15 A I don't know. I don't recall that part of
 16 the appraisals.
 17 Q (BY MS. ALLEN) So you just -- when the board
 18 decided on this October agreement, it had no idea
 19 whether there had been any damage to the seven-acre
 20 remainder?
 21 MR. DE LA FUENTE: Object, form.
 22 MS. O'BRIEN: Objection, form.
 23 Q (BY MS. ALLEN) By virtue of not having a
 24 taxiway easement?
 25 MR. DE LA FUENTE: Object, form.

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1 MS. O'BRIEN: Objection, form.
 2 A At the October 26th meeting we discussed the
 3 due diligence that other board members in the past had
 4 done.
 5 Q (BY MS. ALLEN) And --
 6 A To ascertain value.
 7 Q And we ascertained they had not secured a
 8 taxiway easement, correct?
 9 MR. DE LA FUENTE: Objection, form.
 10 MS. O'BRIEN: Objection, form.
 11 MS. MITCHELL: Objection, form.
 12 A I don't know about that.
 13 Q (BY MS. ALLEN) Did anybody, the old board,
 14 anybody associated with the water supply company ever
 15 suggest to you what do they need a taxiway easement
 16 for, they have one already, prior to this October 2019
 17 agreement?
 18 A I don't recall.
 19 Q Did anybody ever express to you why that
 20 provision was in the October agreement? Why did we
 21 need to have a taxiway easement in there?
 22 MR. DE LA FUENTE: Object to form.
 23 A I don't recall that. I don't recall any.
 24 Q (BY MS. ALLEN) So you don't know what the
 25 purpose of that was as you sit here today?

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1 A Correct.

2 Q Do you recall who suggested hey, we need a

3 taxiway easement?

4 A I recall one conversation, but it was in

5 executive session.

6 Q Did Dana Martin ever offer a taxiway

7 easement?

8 MR. DE LA FUENTE: Object to form.

9 A To me, no.

10 Q (BY MS. ALLEN) Well, to the board, to the

11 water supply company. Did she ever offer, hey, I will

12 give a taxiway easement?

13 MR. DE LA FUENTE: Object to form.

14 A I don't recall.

15 Q (BY MS. ALLEN) Did the board ever make a

16 demand on her for a taxiway easement? Did the board

17 ever make a demand on Martin or Friendship for a

18 taxiway easement to the seven-acre remainder?

19 MS. MITCHELL: Objection, form.

20 A A demand in what sense?

21 Q In any sense. Let me just back up for a

22 minute. Is it true that you were not aware whether or

23 not the remainder had taxiway access?

24 A I was not aware.

25 Q Do you know whether your fellow directors

Page 211

1 were aware whether the seven acres had taxiway access?

2 MR. DE LA FUENTE: Object to form.

3 MS. O'BRIEN: Objection, form.

4 A I don't know what they were thinking.

5 Q (BY MS. ALLEN) Well, you would know if they

6 told you. Did they tell you?

7 A If they told me, they would have told me in

8 executive session so I can't --

9 Q Of course. There is a provision in the

10 agreement for a 25-foot building setback; do you

11 recall that? I think that is the Paragraph 2 that you

12 were looking at earlier?

13 A Yes, ma'am.

14 Q Where is the 25-foot building setback in any

15 of these documents?

16 MR. DE LA FUENTE: Object to form.

17 A I don't understand the question. I mean,

18 it's here on Page 3 of the Exhibit 13.

19 Q (BY MS. ALLEN) Is there any memorialization

20 of the 25-foot building setback that the board would

21 consider to be binding on the public and the

22 successors to the property?

23 MR. DE LA FUENTE: Object, form.

24 MS. O'BRIEN: Objection, form.

25 A I don't know about that.

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1 Q (BY MS. ALLEN) Do you know why the 25-foot

2 building setback was included? What its purpose is,

3 in other words?

4 A That might have been discussed in either

5 executive session or the mediation so I can't --

6 MR. DE LA FUENTE: To the extent that it

7 was discussed in open meeting -- I'm just cautioning

8 you, to the extent that that was ever discussed in

9 open meeting, you can answer the question.

10 THE WITNESS: Okay. Well, yeah, okay, so

11 I seem to recall that on October 26th we did have

12 discussion with a couple of members about those

13 setbacks and how they came about. I don't recall the

14 specifics, but there were questions that those members

15 asked and, you know, I don't recall if we addressed

16 them or not, but yes.

17 Q (BY MS. ALLEN) If it turns out that -- if it

18 turns out that Friendship Homes and Hangars does not

19 impose 25-foot setbacks on the northern boundary of

20 the 50-foot access easement, do you know what the

21 impact of that is going to be on taxiway access for

22 the remaining seven acres?

23 A No, ma'am.

24 Q In other words, do you know how important it

25 is that the -- that there be a 25-foot building

Page 213

1 setback?

2 A The only thing that somebody has brought our

3 attention to and probably at the October 26th meeting

4 had to deal with wingspans.

5 Q Do you have an understanding that the taxi --

6 the supposed taxiway easement won't be adequate to

7 accommodate the aircraft that are typical within the

8 airport without the 25-foot building setback?

9 A I'm not aware of the specifics of what planes

10 might go through there.

11 Q Do you -- let me back up. You do understand

12 that this area that this easement traverses is just

13 raw land right now, right? Do you know that?

14 A Where the easement is?

15 Q Yes. In other words, there's no taxiway

16 there right now?

17 A Right.

18 Q You know that, right? Somebody is going to

19 have to come in and pave it; do you know that?

20 A Okay. Yes.

21 Q Okay. Do you know whether or not the

22 easement document that the board approved allows the

23 water supply company or its successors, its purchaser,

24 to come in and pave the taxiway whenever it needs to?

25 A I'm not aware of any of that.

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1 Q Do you understand that if it cannot come in
2 and pave the taxiway whenever it needs to, the taxiway
3 is useless to it?
4 MR. DE LA FUENTE: Object to form.
5 A I'm not aware.
6 Q (BY MS. ALLEN) One way or the other?
7 A I'm not aware.
8 Q Do you not think those are important matters
9 that the board should be taking into account when it
10 determines what kind of an easement is acceptable?
11 MR. DE LA FUENTE: Object to form.
12 MS. O'BRIEN: Objection, form.
13 MS. MITCHELL: Objection, form.
14 A The board considered a lot of factors.
15 Q (BY MS. ALLEN) Well, obviously, it didn't
16 consider some things, right, that we have just talked
17 about because you didn't know about them?
18 MR. DE LA FUENTE: Object to form.
19 MS. O'BRIEN: Objection, form.
20 Q (BY MS. ALLEN) So what factors did it
21 consider?
22 MR. DE LA FUENTE: Object to form.
23 A Everything that was in that amended agreement
24 for the October 26th meeting.
25 Q (BY MS. ALLEN) What factors did it consider

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1 in connection with the things -- the criteria for this
2 easement? What things did it need for the easement to
3 be usable and valuable to the water supply company?
4 MR. DE LA FUENTE: Object to form.
5 MS. O'BRIEN: Object to form.
6 A I don't know.
7 Q (BY MS. ALLEN) You don't know?
8 A No.
9 Q So I take it you don't know as you sit here
10 today whether the easement that you signed is usable
11 or valuable to the water supply company?
12 MR. DE LA FUENTE: Objection to form.
13 MS. O'BRIEN: Objection, form.
14 MS. MITCHELL: Objection, form.
15 A I don't know in what capacity you're asking.
16 Q (BY MS. ALLEN) What does that matter?
17 A I don't know what use you're asking for and
18 the capacity so I don't know.
19 Q Do you know that years ago the water supply
20 company spent \$25,000 to acquire a taxiway easement
21 from a guy named Spencer Mann; do you know that?
22 A I don't.
23 Q That's news to you?
24 A Well, I mean, I've heard it. No, I think I
25 have heard it, but I didn't know any specifics of it.

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1 Q And the rationale --
2 A I can't tell you what year.
3 Q And the rationale for that was that it was
4 going to enhance the value of the water supply
5 company's property; did you know that?
6 MR. DE LA FUENTE: Object to form.
7 MS. O'BRIEN: Objection, form.
8 MS. MITCHELL: Objection, form.
9 A If that's your assertion. I didn't know
10 that.
11 Q (BY MS. ALLEN) Did you know what the purpose
12 was --
13 A I don't know.
14 Q -- for acquiring for \$25,000 a taxiway
15 easement from Spencer Mann?
16 A No, ma'am, I wasn't on the board.
17 MS. MITCHELL: Objection, form.
18 Q (BY MS. ALLEN) As you sit here today as the
19 person who signed the easement agreement and the
20 October 2019 agreement, are you confident that the
21 easement that is provided for provides adequate
22 taxiway access to the remaining seven acres of the
23 water supply company property?
24 MR. DE LA FUENTE: Object to form.
25 A Am I confident?

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1 Q (BY MS. ALLEN) Yes.
2 A As confident as I can be. We discussed that
3 in open meeting and there were a couple of questions
4 about it. I think we addressed those questions and
5 so, yeah, I was -- I mean, based on that, there's some
6 confidence there.
7 Q So you don't have any concerns about the fact
8 that Friendship Homes did not own the property in
9 October 2019; is that right?
10 MR. DE LA FUENTE: Object to form.
11 MS. O'BRIEN: Objection, form.
12 MS. MITCHELL: Objection, form.
13 A I don't know that we -- I don't know what
14 happened -- I don't know how that -- I don't know how
15 you're coming up with that conclusion. I'm not
16 following that.
17 Q (BY MS. ALLEN) I'm looking at the deeds.
18 How is here I come up with that conclusion.
19 A Okay.
20 Q Because Friendship Homes conveyed out to the
21 Mairs before you signed that easement document the
22 property the easement is sitting on.
23 (Exhibit Number 26 marked.)
24 Q (BY MS. ALLEN) Would you take a look at what
25 I believe is 26?

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1 A 26.
 2 Q Which is a deed from Friendship to the Mairs
 3 and that's the deed that covers the property that the
 4 easement sits on. Do you know that?
 5 A Yes, ma'am, if that's what you're saying.
 6 Q. So as of 2017, the Mairs owned the land,
 7 right, according to that deed?
 8 A I believe so, yes, ma'am.
 9 Q How then can they give an easement or can
 10 Friendship Homes and Hangars give an easement on
 11 October 29th, 2019 on that property?
 12 A I don't know. That's a legal question.
 13 MS. MITCHELL: Objection, form.
 14 MR. DE LA FUENTE: Object, form.
 15 Q (BY MS. ALLEN) Doesn't it give you some
 16 pause?
 17 MR. DE LA FUENTE: Object to form.
 18 MS. O'BRIEN: Objection, form.
 19 Q (BY MS. ALLEN) I mean, look, were y'all just
 20 going through the motions here or were you really
 21 trying to solve a problem?
 22 MR. DE LA FUENTE: Object to form.
 23 MS. O'BRIEN: Objection, form.
 24 MS. MITCHELL: Objection, form.
 25 Q (BY MS. ALLEN) Really?

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1 MR. DE LA FUENTE: Object to form.
 2 A I think I said earlier that we had problems
 3 with this contract that we wanted to correct.
 4 Q (BY MS. ALLEN) And I don't suppose you could
 5 show me where in the contract you made corrections,
 6 huh?
 7 MR. DE LA FUENTE: Object to form.
 8 MS. O'BRIEN: Object to form.
 9 MS. MITCHELL: Objection, form.
 10 A So I'm not an attorney. We had -- there were
 11 a lot of issues that we looked at and all of those
 12 were reflected in the October 26th meeting.
 13 Q (BY MS. ALLEN) Well, tell me one thing: If
 14 we were so intent on getting everything just right,
 15 how come it was that not once but twice we omitted the
 16 restrictive covenant that was supposed to be in the
 17 deeds that said that future lots will pay Spicewood
 18 Pilot's Association dues? How come we omitted that
 19 from every deed?
 20 MR. DE LA FUENTE: Object to form.
 21 MS. O'BRIEN: Objection, form.
 22 Q (BY MS. ALLEN) This contract is supposed to
 23 be it, right? Everybody is supposed to have done
 24 everything that's in this contract, correct, Exhibit
 25 14?

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1 MR. DE LA FUENTE: Object, form.
 2 MS. O'BRIEN: Objection, form.
 3 MS. MITCHELL: Objection, form.
 4 A I don't understand the question.
 5 Q (BY MS. ALLEN) There were supposed to be
 6 restrictive covenants in the deeds that went to
 7 Friendship that said every owner becomes a member of
 8 Spicewood Pilot's Association. Do you see that?
 9 A Okay.
 10 MR. DE LA FUENTE: Objection, form.
 11 MS. O'BRIEN: Objection, form.
 12 Q (BY MS. ALLEN) That didn't get in any deed.
 13 MR. DE LA FUENTE: Object to form.
 14 Q (BY MS. ALLEN) Why don't we have a
 15 correction deed for that?
 16 MR. DE LA FUENTE: Object to form.
 17 MS. MITCHELL: Objection, form.
 18 A I don't know.
 19 Q (BY MS. ALLEN) Isn't it true that the deal
 20 that you struck that is reflected in the October 2019
 21 agreement was a deal that got the lawsuit over with,
 22 the turmoil over with between the water supply company
 23 and Martin?
 24 MR. DE LA FUENTE: Object to form.
 25 MS. O'BRIEN: Object to form.

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1 MS. MITCHELL: Object to form.
 2 A I don't know.
 3 Q (BY MS. ALLEN) Wasn't that the purpose?
 4 MR. DE LA FUENTE: Object to form.
 5 MS. O'BRIEN: Objection, form.
 6 THE WITNESS: I'm sorry, Renea.
 7 A We corrected this contract.
 8 Q (BY MS. ALLEN) The purpose was to end the
 9 controversy between the water supply company and
 10 Martin and hopefully to foreclose the lawsuit that we
 11 are here about today; isn't that right?
 12 MR. DE LA FUENTE: Objection, form.
 13 MS. O'BRIEN: Objection, form.
 14 MS. MITCHELL: Objection, form.
 15 A The purpose was to correct the contract.
 16 Q (BY MS. ALLEN) If this lawsuit that we are
 17 here about today doesn't go away in Friendship and
 18 Martin's favor within a year, all the money that has
 19 changed hands -- which I think, by the way, is a
 20 whopping 2,500 bucks; do you know that?
 21 A Yes, ma'am.
 22 MR. DE LA FUENTE: Object to form.
 23 MS. O'BRIEN: Objection, form.
 24 Q (BY MS. ALLEN) That goes back to the title
 25 company that paid it; do you know that?

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1 MR. DE LA FUENTE: Object to form.
 2 Q (BY MS. ALLEN) And the 20,000 additional
 3 never gets paid or whatever the balance is, never gets
 4 paid; do you know that?
 5 MR. DE LA FUENTE: Object to form.
 6 MS. O'BRIEN: Object to form.
 7 MS. MITCHELL: Object to form.
 8 Q (BY MS. ALLEN) We can check. Do you want to
 9 check or do you already know that?
 10 MS. MITCHELL: Objection, form.
 11 MR. DE LA FUENTE: Objection, form.
 12 Q (BY MS. ALLEN) I've got the agreement. We
 13 have to do it the hard way. Let's just find it.
 14 A Which agreement?
 15 Q October 2019. It's Exhibit 13 by my count.
 16 A Okay.
 17 Q I see it addressed in Article 2, Paragraph 5,
 18 but you may see it in a different paragraph.
 19 A No, I see that.
 20 Q And what does it say about the money coming
 21 back to the title company that paid it?
 22 A It says that.
 23 Q If this lawsuit is not dismissed with
 24 prejudice, correct?
 25 A Dismissal with prejudice, yes, ma'am, it says

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1 that.
 2 Q Okay. The additional consideration will go
 3 back to the title company, but the deed to the .5151
 4 acres will not go back to the water supply company,
 5 will it?
 6 A That's a legal question. I don't know.
 7 Q You don't know what the deal was?
 8 MR. DE LA FUENTE: Object to form.
 9 MS. O'BRIEN: Objection, form.
 10 A I don't know the process of how all that
 11 would work.
 12 Q (BY MS. ALLEN) Do you believe the deal was
 13 that the deed and the correction deed and the easement
 14 were all contingent on the dismissal of the lawsuit or
 15 the payment of the money?
 16 MR. DE LA FUENTE: Object to form.
 17 MS. O'BRIEN: Objection, form.
 18 MS. MITCHELL: Objection, form.
 19 A I'm not an attorney so I wouldn't know how
 20 all that would work.
 21 Q (BY MS. ALLEN) You had no intention of how
 22 that was supposed to work?
 23 MR. DE LA FUENTE: Object to form.
 24 A I'm not an attorney so I don't know how all
 25 that would work.

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1 Q (BY MS. ALLEN) Okay. You said that you read
 2 the petition that I filed. I don't expect you to
 3 remember all of it, but do you remember that there's a
 4 claim in there for the recovery of attorneys' fees and
 5 other expenses that were paid with water supply
 6 company money to oppose or prevent the recovery of the
 7 property?
 8 MR. DE LA FUENTE: Object to form.
 9 A I recall that, yes.
 10 Q (BY MS. ALLEN) Okay. Do you recall that the
 11 plaintiffs are seeking a money judgment against the
 12 directors or others, not the company, to get recovery
 13 of those amounts?
 14 A I'm aware of that.
 15 Q Is it true that the invoices that have been
 16 generated and sent to the water supply company are the
 17 documents that will reflect how -- which of the
 18 expenses were done for that purpose and which of the
 19 expenses are attributable to other purposes?
 20 MR. DE LA FUENTE: Objection, form.
 21 MS. O'BRIEN: Objection, form.
 22 MS. MITCHELL: Objection, form.
 23 A I don't know how those invoices will be
 24 created or how they will --
 25 Q (BY MS. ALLEN) Well, you have gotten them,

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1 haven't you, in the past?
 2 A Yes, ma'am.
 3 Q And you have reviewed them and you --
 4 A Yes, ma'am.
 5 Q And you know what they look like?
 6 A Yes, ma'am.
 7 Q And you know what information they contain,
 8 correct?
 9 A Yes, ma'am.
 10 Q And you know that if you have the invoice,
 11 you can ascertain what services were provided and what
 12 the purpose was, right, or what the task was?
 13 A For the most part, yes, ma'am.
 14 Q And you can go through there if you're
 15 patient and pick through to see which of these
 16 expenses are associated with efforts to prevent or
 17 oppose the recovery of the property, right?
 18 MR. DE LA FUENTE: Object to form.
 19 MS. O'BRIEN: Objection, form.
 20 A I'm sorry, my mind drifted.
 21 Q (BY MS. ALLEN) I get it. With those
 22 invoices that you're familiar with, you can go through
 23 if you're patient and you can pick out which of the
 24 entries pertain to efforts to prevent or oppose the
 25 recovery of the property, right?

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1 A Yes, ma'am.

2 MR. DE LA FUENTE: Object, form.

3 MS. O'BRIEN: Objection, form.

4 Q (BY MS. ALLEN) Okay.

5 (Exhibit Number 12 marked.)

6 Q (BY MS. ALLEN) Exhibit 12 has to do with the

7 open records request that somebody made and it got my

8 attention because it appeared to me that it might

9 pertain to those very invoices.

10 MR. DE LA FUENTE: Object to form if

11 there is a question in there.

12 Q (BY MS. ALLEN) Can you look at that and

13 confirm --

14 A Can I go to the restroom right now?

15 Q Yeah, sure.

16 MS. ALLEN: I'm going to make an

17 exception to my question-on-the-table rule just for

18 you.

19 THE WITNESS: Thank you.

20 THE VIDEOGRAPHER: We are off the record

21 at 3:42.

22 (Off the record.)

23 THE VIDEOGRAPHER: We are back on the

24 record at 3:49.

25 Q (BY MS. ALLEN) We were looking at Exhibit

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1 25, is it, or 26?

2 A I think it's Exhibit 12.

3 Q Is it 12?

4 A Yes, ma'am.

5 Q That has to do with the invoices?

6 A Yes, this has to do -- yes, ma'am.

7 Q Describes some of the invoices and what I was

8 trying to figure out that came to my attention was

9 something else, but are those the invoices that I

10 would need in order to determine which of the

11 attorneys' fees and expenses were devoted to efforts

12 to prevent or oppose the recovery of the property?

13 MR. DE LA FUENTE: Object to form.

14 A I don't know exactly what you would need.

15 Q (BY MS. ALLEN) Well, we have talked about

16 the information that would be in the invoices. Is

17 there anything else that would have in it the detailed

18 information about what has been done by the attorneys,

19 what the tasks were so we can know what they pertain

20 to and the costs associated with that?

21 A Is there anything else? That's your --

22 Q Besides the invoices, yes, sir.

23 A Not to my knowledge, no, ma'am.

24 Q Just to close the loop on that.

25 (Exhibit Number 11 marked.)

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1 Q (BY MS. ALLEN) Look at Exhibit 11. If I had

2 to give an answer to that question, the invoices would

3 be the materials that would supply the data from which

4 I could answer that question, correct?

5 MR. DE LA FUENTE: Object to form.

6 A Okay, your question again, please. I'm

7 sorry. I had to take a minute to read this.

8 Q (BY MS. ALLEN) Right, I know. It's kind of

9 stilted.

10 A Yeah.

11 Q If that were a question at the trial that

12 needed to be answered, what I wanted to confirm is

13 that the invoices that are described in the

14 correspondence would be the data from which that

15 answer could be determined, right?

16 MR. DE LA FUENTE: Object, form.

17 A I mean, I wouldn't know.

18 Q (BY MS. ALLEN) You know, you have looked at

19 them, you know what's in them, you know how they are

20 styled, right?

21 A But I don't know how the court would view

22 something like that.

23 Q Not asking you what the court would do.

24 A Okay.

25 Q What I'm asking you is how do I calculate

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1 that number? I need data, raw data, in order to

2 calculate those fees and I want to see if we can

3 confirm that the raw data that would be needed to make

4 that calculation is in the invoices?

5 MR. DE LA FUENTE: Object, form.

6 A I don't know how you would calculate those

7 fees, calculate that data so I don't know.

8 Q (BY MS. ALLEN) I would want to know what

9 tasks were performed, I would want to know when they

10 were performed and I would want to know the costs

11 associated with them.

12 MR. DE LA FUENTE: Object to form.

13 Q (BY MS. ALLEN) And that is all information

14 that will be in the invoices, correct?

15 MR. DE LA FUENTE: Object to form.

16 A I guess it's possible.

17 Q (BY MS. ALLEN) Okay.

18 (Exhibit Number 27 marked.)

19 Q (BY MS. ALLEN) Let me show you Exhibit 27

20 which are the Articles of Incorporation, but not the

21 one that changes the name.

22 A Articles of Incorporation, okay.

23 Q Articles of Incorporation for the water

24 supply company. Do you recognize them as such?

25 A I have looked at Articles of Incorporation in

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1 the past. I'll take your word for it that these are
 2 the same.
 3 Q Okay. We talked at the very beginning of the
 4 deposition about the limitations on the powers of the
 5 company and the board of directors and I want to
 6 direct your attention to Article 6 of these Articles
 7 of Incorporation. It is on Page 2 of 4. I'm going to
 8 focus you on that, but you can look at any part of it
 9 you need to, okay?
 10 A Okay.
 11 Q Do you see Article 6 at the top of the page?
 12 A Yes, ma'am.
 13 Q Do you see the second paragraph that starts,
 14 the corporation shall have no power?
 15 A Yes, ma'am.
 16 Q And it says the corporation shall have no
 17 power to engage in activities or use its assets in a
 18 manner that are not in furtherance of the legitimate
 19 business of a water supply cooperative or sewer
 20 service cooperative as recognized by 1434(a) and
 21 Internal Revenue Code 501(c)12(a); do you see that?
 22 A Yes, ma'am.
 23 Q Do you know what limitations that imposes
 24 upon the powers of the corporation?
 25 MR. DE LA FUENTE: Object to form.

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1 A I don't know.
 2 Q Do you have an understanding about what the
 3 legitimate business of a water supply cooperative or
 4 sewer service cooperative is?
 5 A That would be a legal definition so I
 6 wouldn't know offhand.
 7 Q I take it, then, that no one has explained to
 8 you how the business is supposed to be run as a
 9 cooperative?
 10 MR. DE LA FUENTE: Objection, form.
 11 MS. O'BRIEN: Objection, form.
 12 MS. MITCHELL: Objection, form.
 13 A I thought we established earlier that I was
 14 unaware that the corporation is a cooperative.
 15 Q (BY MS. ALLEN) Okay. Fair enough. If you
 16 said that, I'm going to let it stand.
 17 (Exhibit Number 30 marked.)
 18 Q (BY MS. ALLEN) Here, Exhibit 30 is a version
 19 of a definition from tax cases. Do you have any
 20 quarrel with that definition?
 21 MR. DE LA FUENTE: Object to form.
 22 MS. O'BRIEN: Objection, form.
 23 MS. MITCHELL: Objection, form.
 24 A I'm sorry, that's a definition from where?
 25 Q The tax cases that deal with 501(c)12(a)

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1 entities.
 2 A Okay.
 3 Q Do you remember that reference in the
 4 articles?
 5 A Okay.
 6 Q 501(c)12(a)?
 7 A Correct.
 8 Q There are tax court cases that describe how
 9 these entities have to operate in order to be -- to
 10 meet the requirements of that section.
 11 A Okay.
 12 Q That wouldn't surprise you, would it?
 13 A No, ma'am.
 14 Q And from those cases, this is one formulation
 15 of what the legitimate business of this kind of a
 16 cooperative is and I have handed that to you. I want
 17 to know if you have a quarrel with it?
 18 MR. DE LA FUENTE: Object to form.
 19 MS. O'BRIEN: Objection, form.
 20 Q (BY MS. ALLEN) Do you think the legitimate
 21 business of a water and sewer cooperative is something
 22 different from this?
 23 MR. DE LA FUENTE: Objection to form.
 24 MS. O'BRIEN: Objection, form.
 25 MS. MITCHELL: Objection, form.

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1 A I don't know. I'm not in a position to
 2 quarrel with it. I'm not an attorney. I didn't write
 3 the tax law. I didn't write the articles of
 4 incorporation so I'm not in a position to quarrel with
 5 it.
 6 Q (BY MS. ALLEN) If this formulation is
 7 correct, you would agree with me that selling property
 8 for a quarter or so of its market value is not in
 9 furtherance of the legitimate business of this
 10 cooperative, wouldn't you?
 11 MR. DE LA FUENTE: Objection, form.
 12 MS. O'BRIEN: Objection, form.
 13 MS. MITCHELL: Objection, form.
 14 A That's a hypothetical question.
 15 Q (BY MS. ALLEN) No, sir, it is not a
 16 hypothetical question, but even if it were, can you
 17 not answer it?
 18 MR. DE LA FUENTE: Objection, form.
 19 MS. O'BRIEN: Objection, form.
 20 MS. MITCHELL: Objection, form.
 21 A I don't know.
 22 Q (BY MS. ALLEN) Do you have a view as to
 23 whether the limitation on the powers to dispose of
 24 property of this cooperative, whether that limitation
 25 would prevent the board from giving away 0.5151 acres

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1 without consideration?
 2 MR. DE LA FUENTE: Objection, form.
 3 MS. O'BRIEN: Objection, form.
 4 MS. MITCHELL: Objection, form.
 5 A That's a legal question. I'm not a lawyer.
 6 Q (BY MS. ALLEN) I take it, then, that you
 7 have never considered these questions?
 8 A I have considered many questions. I don't
 9 recall if that specifically was a question.
 10 Q Have you ever considered the question of
 11 whether the board has the power to sell cooperative
 12 property for a quarter or so of its market value?
 13 MR. DE LA FUENTE: Object to form.
 14 MS. O'BRIEN: Objection, form.
 15 MS. MITCHELL: Objection, form.
 16 A No, I haven't considered that question.
 17 Q (BY MS. ALLEN) Have you considered the
 18 question whether the board has the power to convey
 19 0.5151 acres of the water supply company's property
 20 for no consideration?
 21 MR. DE LA FUENTE: Object to form.
 22 MS. O'BRIEN: Objection, form.
 23 MS. MITCHELL: Objection, form.
 24 A. No, I haven't made that consideration.
 25 Q Do you think either of those transactions

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1 that I have just described are fair to the water
 2 supply company or in its best interest?
 3 MR. DE LA FUENTE: Objection, form.
 4 MS. O'BRIEN: Objection, form.
 5 MS. MITCHELL: Objection, form.
 6 A I don't know.
 7 (Exhibit Number 28 marked.)
 8 Q (BY MS. ALLEN) Exhibit 28 is a copy of the
 9 bylaws for the water supply company that I got off of
 10 its website.
 11 A Okay.
 12 Q Can you look through there and confirm that
 13 is what I'm telling you it is?
 14 A It looks familiar, but I can't.
 15 Q When was the last time you had a look at the
 16 bylaws?
 17 A I'm trying to think. It has to be in early
 18 October that I scanned it for something, so I looked
 19 at it briefly. I think that's it.
 20 Q Is it accurate that the board has authorized
 21 the advancement of or payment of legal expenses by the
 22 directors who have been named as parties in this
 23 lawsuit?
 24 A Yes, ma'am.
 25 Q Did you look at it in conjunction with that

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1 decision to determine do the bylaws allow you to do
 2 that?
 3 A I didn't look at that in conjunction with the
 4 bylaws.
 5 Q Do you know whether the bylaws allow you to
 6 do that?
 7 MR. DE LA FUENTE: Object to form.
 8 A I'm not an attorney. I wouldn't be able to
 9 determine that.
 10 Q (BY MS. ALLEN) Do you know whether the
 11 bylaws address that in some manner?
 12 A I don't recall the bylaws specifically enough
 13 to answer that question.
 14 Q Do you know whether the law allows the water
 15 supply corporation funds to be disbursed for the
 16 purpose of paying or reimbursing legal expenses for
 17 former directors?
 18 MR. DE LA FUENTE: Objection, form.
 19 MS. O'BRIEN: Objection, form.
 20 A I'm not a lawyer so I can't make that
 21 determination.
 22 Q (BY MS. ALLEN) But in any event, it's
 23 definitely accurate that the board has been disbursing
 24 water supply company funds for the purpose of paying
 25 or reimbursing legal expenses for the directors named

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1 in this lawsuit, right?
 2 A Yes, I believe so.
 3 Q And it's accurate to say that it is still
 4 doing that even after the October 2019 agreement?
 5 A Yes.
 6 Q So if I have a quarrel with that, if that's a
 7 controversy, it certainly has not been resolved,
 8 correct?
 9 MR. DE LA FUENTE: Object to form.
 10 MS. O'BRIEN: Objection, form.
 11 MS. MITCHELL: Objection, form.
 12 A I'm not following that question.
 13 Q (BY MS. ALLEN) Yeah, I get that. You do
 14 appreciate that there is a controversy about whether
 15 the board has the authority to use water supply
 16 company money to pay legal expenses for current and
 17 former directors, right?
 18 MR. DE LA FUENTE: Object to form.
 19 MS. O'BRIEN: Objection, form.
 20 A That's a legal question that's contained in
 21 your document so I can't comment.
 22 Q (BY MS. ALLEN) You know that I have pleaded
 23 that you do not -- the board does not have the
 24 authority to disburse water supply company money for
 25 those purposes; you know that, right?

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1 A That's your pleading, yes.
 2 Q There is nothing about the October 2019
 3 agreement that addresses the matter of advancing water
 4 supply company funds to pay legal expenses for current
 5 or former directors, right?
 6 A That is correct.
 7 Q Okay.
 8 (Exhibit Number 29 marked.)
 9 Q (BY MS. ALLEN) Exhibit 29 is an excerpt out
 10 of the tariff, also from the website of the water
 11 supply company. The excerpt is Section G, rates and
 12 service fees.
 13 MR. DE LA FUENTE: Let me look at it
 14 first.
 15 THE WITNESS: Okay.
 16 Q (BY MS. ALLEN) Let me just -- I'm going to
 17 hush and let Mr. de la Fuente take a look at it.
 18 A Okay.
 19 MR. DE LA FUENTE: Okay.
 20 Q (BY MS. ALLEN) Is that the section of the
 21 tariff that explains what the sources of money -- what
 22 sources of money are available to the water supply
 23 company for its operations and debt service and things
 24 of that nature?
 25 A It appears so, yes.

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1 Q So this section describes the fees and rates
 2 and so forth that allow -- that the water supply
 3 company charges to generate income, right?
 4 A Yes, ma'am.
 5 Q And it's also the section that permits the
 6 water supply company to make assessments if there are
 7 shortfalls, right?
 8 A I'm not familiar with that provision, but I
 9 will take your word for it if you say so.
 10 Q Well, I would rather you didn't. Let's see
 11 if we can find it.
 12 A Okay.
 13 Q I looked at Paragraph 11 on this excerpt.
 14 It's on the page marked 43.
 15 A Okay.
 16 Q It's the very bottom of the page. This
 17 section appears to me to be a section that allows the
 18 water supply company to make assessments, to cover
 19 shortfalls in annual expenses?
 20 A Okay.
 21 Q Is that right?
 22 A I'm not an attorney, but that appears to be
 23 so.
 24 Q Well, has the water supply company ever made
 25 assessments to cover shortfalls?

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1 A I don't have history on that so I don't know.
 2 Q To your knowledge?
 3 A To my knowledge, no. To my knowledge, no,
 4 but I don't know.
 5 Q Okay. Do you know -- other than the sources
 6 of income that are described in the tariff here that
 7 we are looking at, there was a tract of surplus
 8 property where the old wastewater treatment plant was
 9 that was available to generate funds for operations
 10 and debt service and so forth, right?
 11 MR. DE LA FUENTE: Object to form.
 12 A I don't know that to be fact or not. I mean,
 13 you're --
 14 Q (BY MS. ALLEN) What part of that is not
 15 fact?
 16 MR. DE LA FUENTE: Object to form.
 17 Q (BY MS. ALLEN) There was an old wastewater
 18 treatment plant site, right?
 19 A Okay, yes.
 20 Q That is a fact?
 21 A Yes.
 22 Q And it included, what, about ten acres?
 23 A I'm not entirely familiar with what that
 24 included.
 25 Q Well, do you not recall -- I think you

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1 reminded me that Dana Martin reminded you at a point
 2 in time the board decided it would move the wastewater
 3 treatment plant and sell that site so that it could
 4 pay off debt and things, correct?
 5 A The 11 acres? You said 10 acres.
 6 Q How about this, the old wastewater treatment
 7 plant site, however many acres might be contained in
 8 it?
 9 A So I'm not sure exactly where that would be.
 10 That would be in that 10 acre -- 11 acres that was
 11 included as part of the sale.
 12 Q Do you not know where the old wastewater
 13 treatment plant site is?
 14 A I don't know exactly where it is, no, ma'am.
 15 Q Do you know whether the property that was
 16 conveyed to Friendship is in the old wastewater
 17 treatment plant site?
 18 A I don't know. I'm not that familiar with it.
 19 Q By the way, is there any problem with the old
 20 wastewater treatment plant site?
 21 MR. DE LA FUENTE: I'm going to object to
 22 the extent that this inquires as to any matter
 23 discussed about real estate in executive session that
 24 might impair the competitive marketing of the property
 25 so I will caution you to the extent that there's been

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1 any discussion of that issue in executive session
 2 under the evaluation of the value of real estate not
 3 to answer that question.
 4 A So upon the advice of counsel, I'm not going
 5 to answer that question.
 6 Q (BY MS. ALLEN) You know that there was a
 7 closure plan that was submitted to the TCEQ, correct?
 8 A I do not know that.
 9 Q Does it surprise you that there was a closure
 10 plan submitted to the TCEQ?
 11 A If that's the process, I don't know. I'm not
 12 familiar with that process.
 13 Q Does it surprise you that there are rules and
 14 regulations that govern how you can close down a sewer
 15 plant?
 16 A That does not surprise me.
 17 Q Do you know that the board has not yet
 18 provided a final completion letter on the closure of
 19 the old wastewater treatment plant?
 20 A I don't know what the board has provided or
 21 not.
 22 Q Well, you're the president of the board. Has
 23 the board provided a closure letter or a final
 24 completion letter on the closure?
 25 A I don't know whether the board has.

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1 MR. DE LA FUENTE: Object to form.
 2 Q (BY MS. ALLEN) At any time prior to your
 3 coming on the board, did you become aware of there
 4 being any sort of issue with the physical condition of
 5 the property that was part of the old water wastewater
 6 treatment plant?
 7 A Prior to my coming on to the board, I can't
 8 recall anything like that.
 9 Q Is there one now?
 10 MR. DE LA FUENTE: Excuse me.
 11 Q (BY MS. ALLEN) Do you know of one now?
 12 MR. DE LA FUENTE: To the extent there is
 13 any discussion of the condition of the property one
 14 way or the other that bears on its marketability that
 15 was discussed in executive session, I'm going to
 16 instruct the witness not to answer. If you know
 17 something that's outside of those discussions or from
 18 your prior experience, you may answer.
 19 A So I'm not going to answer on the advice of
 20 counsel.
 21 Q (BY MS. ALLEN) Is there a contract that is
 22 under negotiation currently for any part of the
 23 property included within the old wastewater treatment
 24 tract?
 25 A No.

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1 Q Has there been a contract under negotiation
 2 during the time you've been the president of the
 3 board?
 4 A No.
 5 Q Have there been negotiations with potential
 6 buyers for any part of that whatever it is, 10 acres,
 7 11 acres, in the middle of the airport where the old
 8 wastewater treatment plant used to sit?
 9 A No.
 10 Q Has the board put together any marketing
 11 materials or advertisements or anything of that
 12 nature?
 13 A No.
 14 Q Has the board engaged a real estate
 15 professional to market at least the seven-acre
 16 remainder?
 17 A No.
 18 Q Why not?
 19 MR. DE LA FUENTE: Object to form.
 20 A I don't know. It hasn't been the board's
 21 discussion. It hasn't been part of the board's
 22 discussion.
 23 Q (BY MS. ALLEN) So there's no reason; you
 24 just hadn't got around to it?
 25 MR. DE LA FUENTE: Object to form.

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1 MS. O'BRIEN: Object to form.
 2 A Board hasn't discussed it.
 3 Q (BY MS. ALLEN) Is there a reason why the
 4 board has not put the remaining seven acres on the
 5 market?
 6 MR. DE LA FUENTE: Object to form.
 7 A The board hasn't discussed it.
 8 Q (BY MS. ALLEN) So there is no reason that
 9 you can articulate?
 10 MR. DE LA FUENTE: Object to form.
 11 A There's been no discussion.
 12 Q And any discussion of the condition of the
 13 property in executive session, if I'm understanding
 14 you correctly, could not possibly have been involving
 15 a contract that was pending, right, because there
 16 haven't been any; is that right?
 17 THE WITNESS: Can I answer that?
 18 MR. DE LA FUENTE: You've already
 19 answered the question whether there is a contract
 20 pending.
 21 A There's no contract pending.
 22 Q (BY MS. ALLEN) So there could not possibly
 23 be discussion in executive session that involved the
 24 condition of the property in connection with a pending
 25 contract, right?

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1 A Correct.
 2 Q There couldn't have been discussion in
 3 executive session concerning contract negotiations,
 4 right, because there haven't been any?
 5 A Correct.
 6 Q There couldn't have been discussion in
 7 connection with the preparation of an offer or other
 8 negotiations, right, because there haven't been any?
 9 A Correct.
 10 Q And the water supply company is not going to
 11 fail to disclose to a prospective purchaser a
 12 prospective problem with a condition of the property,
 13 is it?
 14 MR. DE LA FUENTE: Object to form.
 15 A That's a legal question. The corporation
 16 will follow legal counsel on whatever it is that we
 17 do.
 18 S. ALLEN: So tell me again what the
 19 basis of the executive session privilege thing is?
 20 MR. DE LA FUENTE: Sure, it's any -- it's
 21 any discussion that might relate on or impair the
 22 value of property that may be -- that may be sold. It
 23 doesn't have to be the subject of the current
 24 transaction. I mean, I can explain it to you in just
 25 simple analogy form.

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1 If I would even contemplate selling the
 2 property and I want to investigate issues that might
 3 have bearing on the value, before I even list or
 4 discuss it or to put it up for sale, I'm allowed to do
 5 that because it bears on the value of the property.
 6 MS. ALLEN: Okay. Good enough.
 7 Q (BY MS. ALLEN) So is there any way for me to
 8 learn what possible problem there might be with the
 9 land within the old wastewater treatment plant site
 10 aside from asking the court to require you to tell me
 11 what's been discussed in executive session?
 12 MR. DE LA FUENTE: Object to form.
 13 A I don't know if there is any way that you can
 14 do that. You can do whatever you want, obviously.
 15 Q (BY MS. ALLEN) I'm asking you if there is
 16 any other source for that information?
 17 A I wouldn't know.
 18 Q That I could go to so that if the court looks
 19 at me and says have you tried everything, I can say
 20 yes, I have.
 21 MR. DE LA FUENTE: Object to form.
 22 Q (BY MS. ALLEN) So if you know another source
 23 for that information, let me know.
 24 A I don't know of another source.
 25 Q Okay. Is the board aware of information that

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1 suggests that there was an issue with the condition of
 2 the property back in December 2015 or March 2016?
 3 MR. DE LA FUENTE: Object to form and to
 4 the extent this discusses the condition of the
 5 property as exists at present. To the extent that may
 6 relate back and it's been discussed in executive
 7 session, I will instruct the witness not to answer.
 8 If there is any other source of that information, you
 9 may answer.
 10 A So I'm going to -- I don't know if -- I don't
 11 know anything about what happened reaching back to
 12 2015 and so -- and I can't talk about anything that
 13 may have transpired recently in executive session.
 14 Q (BY MS. ALLEN) I think you answered my
 15 question. Is there any other surplus property or
 16 other asset that is available to be converted into
 17 money to help with the cooperative's debt service or
 18 operating expenses or things of that nature?
 19 A You know, I don't know. I don't know --
 20 that's a long question. There are a lot of conditions
 21 there and I don't know.
 22 Q I'll break it up.
 23 A Okay.
 24 Q Does the cooperative have any other surplus
 25 property today besides the seven-acre remainder over

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1 there by the old wastewater treatment plant?
 2 MR. DE LA FUENTE: Object to form.
 3 A I don't know.
 4 Q (BY MS. ALLEN) You're the president of the
 5 board of directors and you don't know what the assets
 6 of the water supply company are?
 7 MR. DE LA FUENTE: Object to form.
 8 A In the specific question you just previously
 9 asked, I don't know.
 10 Q (BY MS. ALLEN) You don't know whether there
 11 are any tracts that are available and in the water
 12 supply company's name that could be sold that aren't
 13 needed for operations; is that what you're telling me?
 14 A Yes.
 15 Q Do you know of any other assets that are
 16 available to be sold if there were money needed for
 17 debt service or operations or things like that?
 18 A I don't know.
 19 Q By the way, is it -- I have heard this gossip
 20 that one of the reasons there was a sale in March of
 21 2016 was that there was a balloon payment on a note.
 22 Have you heard that gossip?
 23 MR. DE LA FUENTE: Object to form.
 24 A That's a -- I can't answer that question the
 25 way it's asked.

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1 Q (BY MS. ALLEN) How can you answer it?
 2 MR. DE LA FUENTE: Object to form.
 3 Q Was there a balloon payment due in or around
 4 March 2016 on some debt?
 5 A I wasn't on the board, I don't know.
 6 Q You don't know?
 7 A No.
 8 Q Okay. Have you heard it said that that was
 9 one of the reasons why the board did what it did in
 10 March of 2016, that there was a balloon payment or
 11 something like that that had become due?
 12 A That has been brought up in open meetings at
 13 the membership meetings, annual membership meetings in
 14 the past. I don't know as to the factuality of it at
 15 that time.
 16 Q So you haven't researched that to find out?
 17 A Well, I know that we now currently have a
 18 balloon payment due in a few years. I don't know if
 19 it's one in the same.
 20 Q Well, one due in a few years could hardly be
 21 one that was due before, right?
 22 A That's why I'm not being able to answer your
 23 question.
 24 Q Okay. Can we agree that whether we agree on
 25 how it happened or why it happened or anything, Tract

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1 H1 and Tract H2 have been transferred out of the name
 2 of the water supply company?
 3 A So -- I'm sorry. Can we do what now?
 4 Q Agree that whether we agree on how it
 5 happened or why it happened, there's no doubt at all
 6 that tracts H1 and H2 are no longer in the name of the
 7 water supply company?
 8 A I believe that's the effect of this contract,
 9 yeah.
 10 Q Well, that was the effect of the deeds in
 11 2016 that you looked at, right?
 12 A Okay.
 13 Q Wasn't it?
 14 A I believe so, yes.
 15 Q And the agreement that was done in October
 16 did not change that?
 17 A I'm not an attorney, but I'll take your word
 18 for it.
 19 Q Okay. We can agree that if we quarrel or
 20 don't about how it happened or why it happened, 0.5151
 21 acres somewhere that used to be owned by the water
 22 supply company has now been conveyed to Friendship,
 23 correct?
 24 A Yes, ma'am.
 25 Q And if there was any consideration given at

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1 all for that, it was a consideration that is subject
 2 to refund?
 3 MR. DE LA FUENTE: Object to form.
 4 Q (BY MS. ALLEN) In the event this lawsuit
 5 does not get dismissed, right?
 6 MR. DE LA FUENTE: Objection, form.
 7 MS. O'BRIEN: Objection, form.
 8 MS. MITCHELL: Objection, form.
 9 A That's a legal hypothetical. I don't know.
 10 Q (BY MS. ALLEN) Do you know of any
 11 consideration that was given other than perhaps some
 12 part of the 20 or so thousand that we saw in the
 13 agreement?
 14 MR. DE LA FUENTE: Object to form.
 15 MS. O'BRIEN: Objection, form.
 16 MS. MITCHELL: Objection, form.
 17 A The agreement was the agreement.
 18 Q (BY MS. ALLEN) And so if it's not in there,
 19 there is not any other consideration; is that right?
 20 MR. DE LA FUENTE: Objection, form.
 21 MS. O'BRIEN: Objection, form.
 22 MS. MITCHELL: Objection, form.
 23 A The agreement was the agreement.
 24 Q (BY MS. ALLEN) The agreement does not
 25 include any payment for the right of refusal that was

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1 granted back in March of 2016, correct?
 2 MR. DE LA FUENTE: Object to form.
 3 MS. MITCHELL: Objection, form.
 4 A I think we have talked about this that the
 5 agreement is a body of terms that the board agreed to
 6 and passed.
 7 Q (BY MS. ALLEN) Here is my point. If my
 8 lawsuit complains, and it does, that the board
 9 breached its duties, exceeded its powers and did other
 10 misconduct when it granted to Friendship and Dana
 11 Martin a right of first refusal without requiring them
 12 to pay for it -- are you with me?
 13 A I'm with you.
 14 Q The October 2019 agreement does not do
 15 anything about that, does it?
 16 MR. DE LA FUENTE: Object to form.
 17 MS. O'BRIEN: Objection, form.
 18 MS. MITCHELL: Objection, form.
 19 A That's a legal question. I'm not an
 20 attorney. I can't --
 21 Q (BY MS. ALLEN) Okay. It certainly doesn't
 22 include a payment for the right of first refusal,
 23 correct?
 24 MR. DE LA FUENTE: Object to form.
 25 MS. O'BRIEN: Objection, form.

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1 A I don't know about that. I just told you
 2 that there is a body of terms.
 3 Q (BY MS. ALLEN) Do you recall that one of the
 4 controversies that is alleged in my petition is that
 5 the 2016 board landlocked the seven-acre remainder
 6 tract; do you recall that?
 7 A Vaguely, yes.
 8 Q And that as a result of that, the seven acre
 9 tract was unmarketable unless and until it had a
 10 taxiway easement; do you remember that allegation?
 11 A Vaguely.
 12 Q Can we agree that there's nothing in the
 13 October 2019 agreement that provides compensation for
 14 expenses paid and things of that nature for the time
 15 that the remainder tract could not be marketed?
 16 MR. DE LA FUENTE: Object to form.
 17 MS. O'BRIEN: Objection, form.
 18 MS. MITCHELL: Objection, form.
 19 A No, I can't -- I can't agree to that.
 20 Q (BY MS. ALLEN) Find me the provision that
 21 provides compensation for those damages.
 22 MR. DE LA FUENTE: Objection, form.
 23 MS. O'BRIEN: Objection, form.
 24 A I'm not an attorney. I'll just point you to
 25 the amended agreement that we had that had a body of

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1 terms that the board agreed to.
 2 Q (BY MS. ALLEN) Dana Martin did not agree to
 3 pay damages for the time that the seven acre tract
 4 could not be marketed, correct?
 5 MR. DE LA FUENTE: Objection, form.
 6 MS. O'BRIEN: Objection, form.
 7 A I don't know how to respond to that, no. I
 8 mean no.
 9 Q (BY MS. ALLEN) Dana Martin did not agree to
 10 pay damages in the form of the purchase price that
 11 should have been paid for the right of refusal, did
 12 she?
 13 MR. DE LA FUENTE: Objection, form.
 14 MS. O'BRIEN: Objection, form.
 15 MS. MITCHELL: Objection, form.
 16 A That's a loaded question. I don't know how
 17 to respond to all the parts of that.
 18 Q (BY MS. ALLEN) It's very straightforward.
 19 Did she agree to pay an amount for the purchase price
 20 for the right of refusal or did she not?
 21 MR. DE LA FUENTE: Objection, form.
 22 MS. O'BRIEN: Objection, form.
 23 MS. MITCHELL: Objection, form.
 24 A That was -- so that reaches back to March
 25 2016. I don't know.

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1 Q (BY MS. ALLEN) In the October 2019 deal,
 2 Dana Martin did not agree or Friendship Homes did not
 3 agree to pay an amount that would be corresponding to
 4 the purchase price for a right of refusal, correct?
 5 MR. DE LA FUENTE: Objection, form.
 6 MS. O'BRIEN: Objection, form.
 7 MS. MITCHELL: Objection, form.
 8 A I don't know how to respond to that because I
 9 have already responded that there was a body of terms
 10 agreed and it could have been part of that entire
 11 negotiated process.
 12 Q (BY MS. ALLEN) It could have been? Well, I
 13 just need to know was it -- that's all, just was it?
 14 MR. DE LA FUENTE: Object to form.
 15 MS. O'BRIEN: Objection, form.
 16 A I don't know how to answer that.
 17 Q (BY MS. ALLEN) Okay.
 18 MR. DE LA FUENTE: We are 40 minutes into
 19 your ten minutes, Kathy. How much longer we got?
 20 Please be honest with my client. He's sitting here in
 21 the chair. We skipped lunch. It's 4:25. Please be
 22 honest with us.
 23 MS. ALLEN: Would you like for me to
 24 grandstand a little on the record that it wasn't my
 25 idea to skip lunch and I was happy to have him take a

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1 break.
 2 MR. DE LA FUENTE: Well, ma'am, you
 3 represented that you had about 30 more minutes when we
 4 did that and that was at 1:00. It is 4:30. I'm not
 5 great at math as you have pointed out in the
 6 exhibit --
 7 MS. ALLEN: No, your math was excellent.
 8 MR. DE LA FUENTE: -- but I believe
 9 that's a significant amount more than 30 minutes. So
 10 I'm asking you politely, how much more do you think
 11 you have?
 12 MS. ALLEN: One topic.
 13 MR. DE LA FUENTE: How much more do you
 14 think you have, Ms. Allen? One topic.
 15 MS. ALLEN: This man will not answer a
 16 question, and there's not much that I can do about
 17 that.
 18 MR. DE LA FUENTE: There's plenty you can
 19 do, Ms. Allen, but by all means continue to ask your
 20 questions.
 21 Q (BY MS. ALLEN) Do you know what ratification
 22 is?
 23 MR. DE LA FUENTE: Object, form.
 24 MS. O'BRIEN: Object to form.
 25 MS. MITCHELL: Objection, form.

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1 A I'm not an attorney so I don't know.
 2 Q (BY MS. ALLEN) I ask because it's in the
 3 document that your signature is affixed to so I want
 4 to know if you have an understanding about what that
 5 is?
 6 MR. DE LA FUENTE: Object to form.
 7 MS. O'BRIEN: Object to form.
 8 A I don't know the legal implications of the
 9 word ratification.
 10 Q Do you have any understanding about what
 11 ratification is?
 12 MR. DE LA FUENTE: Object to form.
 13 MS. O'BRIEN: Objection, form.
 14 A I'm not an attorney so I don't understand.
 15 Q (BY MS. ALLEN) When you put your signature
 16 on the October 2019 agreement, did you have any
 17 understanding about what ratification is?
 18 MR. DE LA FUENTE: Object to form.
 19 MS. O'BRIEN: Objection, form.
 20 A I didn't know. I don't know.
 21 Q (BY MS. ALLEN) Have you -- have there been
 22 -- let me ask it this way. Have you heard from any of
 23 the membership of the water supply company that they
 24 approve of the transfer of property to Dana Martin and
 25 Friendship?

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1 A Yes, there was at least one letter read
 2 during the October 26th meeting that said that they
 3 approve of the -- agree with the agreement.
 4 Q (BY MS. ALLEN) Have you heard from many more
 5 members of the water supply company who say they do
 6 not approve of the land transactions with Dana Martin
 7 and Friendship Homes?
 8 MR. DE LA FUENTE: Object to form.
 9 MS. O'BRIEN: Objection, form.
 10 A I haven't received any.
 11 Q (BY MS. ALLEN) Nobody has told you that they
 12 do not approve of the land transactions with Dana
 13 Martin and Friendship Homes?
 14 A After the meeting I have not received any.
 15 Q Any time?
 16 A That's very broad.
 17 Q Any time before you put your signature on the
 18 October 2019 agreement, did you receive information
 19 from members to the effect that they did not approve
 20 the land transactions with Dana Martin and Friendship
 21 Homes?
 22 A Not that I recall right now, no.
 23 Q So it's just -- is this lawsuit just news to
 24 you that they are upset? How many years have they
 25 been trying to set aside this transaction? Does that

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1 not suggest to you that they are unhappy?
 2 MR. DE LA FUENTE: Object to form.
 3 MS. O'BRIEN: Objection, form.
 4 A Which -- you asked different questions from
 5 what you're asking right now.
 6 Q No. Do you not know that you have a lot of
 7 members out there who are very unhappy with the land
 8 transactions with Dana Martin and Friendship Homes?
 9 That's my question. Do you know that or do you not
 10 know that?
 11 MS. O'BRIEN: Objection, form.
 12 MS. MITCHELL: Objection, form.
 13 MR. DE LA FUENTE: Objection, form. You
 14 may answer.
 15 A There are many members in our community with
 16 -- that, you know -- yes, I guess they may be opposed
 17 to the land transaction.
 18 Q (BY MS. ALLEN) And you knew that before you
 19 signed the October 2019 agreement, didn't you?
 20 A Yes, ma'am.
 21 Q Thank you, sir. You can go.
 22 MR. DE LA FUENTE: Do you pass?
 23 MS. ALLEN: Yes.
 24 MR. DE LA FUENTE: Reserve until time of
 25 trial.

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1 MS. ALLEN: You guys?
 2 MS. MITCHELL: Reserve until trial.
 3 MS. O'BRIEN: Reserve until trial.
 4 THE VIDEOGRAPHER: We are off the record
 5 at 4:29.
 6 (Deposition concluded.)
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1 CHANGES AND SIGNATURE
 2 WITNESS NAME: JOSEPH J. GIMENEZ
 3 DATE OF DEPOSITION: NOVEMBER 19, 2019
 4 PAGE LINE CHANGE REASON
 5 _____
 6 _____
 7 _____
 8 _____
 9 _____
 10 _____
 11 _____
 12 _____
 13 _____
 14 _____
 15 _____
 16 _____
 17 I, JOSEPH J. GIMENEZ, have read the foregoing
 18 deposition and hereby fix my signature that same is
 19 true and correct, except as noted above.
 20
 21
 22 _____
 JOSEPH J. GIMENEZ
 23
 24
 25

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1 STATE OF _____)
 2 COUNTY OF _____)
 3
 4 Before me, _____, on this day
 5 personally appeared JOSEPH J. GIMENEZ, known to me (or
 6 proved to me under oath or through _____) to
 7 be the person whose name is subscribed to the
 8 foregoing instrument and acknowledged to me that they
 9 executed the same for the purposes and consideration
 10 therein expressed.
 11
 12 Given under my hand and seal of office this
 13 _____ day of _____, 2019.
 14
 15
 16
 17 _____
 NOTARY PUBLIC IN AND FOR
 THE STATE OF _____
 18
 19
 20
 21
 22
 23
 24
 25

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1 CAUSE NO. 48292
 2 RENE FFRENCH, JOHN RICHARD (IN THE DISTRICT COURT
 3 DIAL and STUART BRUCE ()
 4 SORGEN, each on his own ()
 5 behalf and as a ()
 6 representative of ()
 7 WINDERMERE OAKS WATER ()
 8 SUPPLY CORPORATION, ()
 9 Plaintiffs, ()
 10 VS. () BURNET COUNTY, TEXAS
 11 FRIENDSHIP HOMES & HANGARS, ()
 12 LLC, WINDERMERE OAKS WATER ()
 13 SUPPLY CORPORATION and its ()
 14 Directors WILLIAM EARNEST, ()
 15 THOMAS MICHAEL MADDEN, ()
 16 DANA MARTIN, ROBERT MEBANE ()
 17 and PATRICK MULLIGAN, ()
 18 Defendants. () 33RD JUDICIAL DISTRICT
 19 REPORTER'S CERTIFICATION
 20 DEPOSITION OF JOSEPH J. GIMENEZ
 21 NOVEMBER 19, 2019
 22 I, RENE SEGGERN, Certified Shorthand Reporter in
 23 and for the State of Texas, hereby certify to the
 24 following:
 25 That the witness, JOSEPH J. GIMENEZ, was duly
 sworn by the officer and that the transcript of the
 deposition is a true record of the testimony given by
 the witness:
 That the deposition transcript was submitted on
 _____, 2019 to the witness or to the
 attorney for the witness for examination, signature
 and return to _____ by
 _____, 2019;
 That the amount of time used by each party at the
 deposition is as follows:
 Ms. Kathryn E. Allen - 5 hours, 15 minutes
 That pursuant to information given to the

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1 deposition officer at the time said testimony was
 2 taken, the following includes all parties of record:
 3 Ms. Kathryn E. Allen, Attorney for Plaintiffs
 4 Mr. Jose E. de la Fuente, Attorney for Defendant
 5 Windermere Oaks Water Supply Corporation
 6 Ms. Shelby L. O'Brien, Attorney for Defendant
 7 WOWSC Directors
 8 Ms. Molly Mitchell, Attorney for Defendant
 9 Friendship Homes & Hangars
 10 I further certify that I am neither counsel for,
 11 related to, nor employed by any of the parties or
 12 attorneys in the action in which this proceeding was
 13 taken, and further that I am not financially or
 14 otherwise interested in the outcome of the action.
 15 Further certification requirements pursuant to
 16 Rule 203 of TRCP will be certified to after they have
 17 occurred.
 18 Certified by me this 3rd day of December, 2019.
 19
 20
 21
 22
 23
 24
 25

Renea Seggern

Renea Seggern, CSR #7262
 Certification Expires: 04-30-2021
 Kim Tindall & Associates, LLC
 Firm Registration No. 631
 16414 San Pedro, Suite 900
 San Antonio, Texas 78232
 (866) 672-7880

1 FURTHER CERTIFICATION UNDER RULE 203 TRCP
2 The original deposition was/was not returned to
3 the deposition officer on _____, 2019;

4 If returned, the attached Changes and Signature
5 Page contains any changes and the reasons therefor;
6 If returned, the original deposition was
7 delivered to _____, Custodial Attorney;

8 That \$_____ is the deposition officer's
9 charges to the Plaintiffs for preparing the original
10 deposition transcript and any copies of exhibits;

11 That the deposition was delivered in accordance
12 with Rule 203.3, and that a copy of this certificate
13 was served on all parties shown herein on and filed
14 with the Clerk.

15 Certified to by me this _____ day of
_____, 2019.



Renea Seggern, CSR #7262
Certification Expires: 04-30-2021
Kim Tindall & Associates, LLC
Firm Registration No. 631
16414 San Pedro, Suite 900
San Antonio, Texas 78232
(866) 672-7880

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