

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

JESSE CRANE,

Petitioner,

vs.

CASE NO.: 26-1415

THREE RIVERS ESTATES PROPERTY
OWNERS ASSOCIATION, INC.,

Respondent.

BONNIE BLACKWELL, SCOTT AND
CANDICE KAY, ET AL.,

Petitioner,

vs.

CASE NO.: 26-1416

THREE RIVERS ESTATES PROPERTY
OWNERS ASSOCIATION, INC.,

Respondent.

_____/

TRANSCRIPT OF PROCEEDINGS

VOLUME I

DATE TAKEN: May 14, 2026
TIME: 9:00 a.m - 11:30 a.m.
PLACE: Zoom
BEFORE: ALJ Robert J. Telfer III

This cause came on to be heard at the time and
place aforesaid, when and where the following
proceedings were reported by:

MARION KITTRELL, Court Reporter
For the Record Reporting, Inc.
1334 Timberlane Road, Suite 121
Tallahassee, Florida 32312

FOR THE RECORD REPORTING, INC. 850.222.5491

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1 P R O C E E D I N G S

2 THE ADMINISTRATIVE LAW JUDGE: The hearing
3 will now be in order. Today is Thursday, March
4 13th, 2026. The time is approximately 9:02 a.m.,
5 Eastern Time. We do have a court reporter here.

6 Pursuant to notice, I am in Tallahassee,
7 Florida, and the remaining parties are appearing
8 via the Zoom web conference platform for the final
9 hearing before the Division of Administrative
10 Hearings in the consolidated cases of Jesse Crane,
11 v. Three Rivers Estates Property Owners, Inc., Case
12 Number 26-1415, and Bonnie Blackwell, et al., v.
13 Three Rivers Estates Property Owners, Inc., Case
14 Number 26-1416.

15 My name is Robert Telfer and I am the
16 administrative law judge presiding.

17 The purpose of this hearing is to determine
18 whether the Department of Commerce's Determination
19 Number 26002-A, which approved the revitalization
20 of the proposed declaration of covenants,
21 conditions, and restrictions of Three Rivers
22 Estates Property Owners, Inc., was incorrect as
23 alleged in the petitions filed in these
24 consolidated matters.

25 I'd like to get appearances from the parties,

1 starting with the petitioner.

2 MR. CHARLIE: If I had gone home and gone to
3 sleep, I would have had this phone call.

4 MS. ERTL: I think Mr. Charlie needs to mute
5 himself.

6 Your Honor, this is Christene Ertl and I'm
7 here on behalf of the petitioners, Bonnie
8 Blackwell, et al.

9 And I do know that the co-petitioner's
10 counsel -- I think she's on her phone, she's in a
11 lot of traffic, but she is online, and that's
12 Tiffany Grant, but I'll let her make her
13 appearance. So I just wanted to mention that
14 because she called me.

15 THE ADMINISTRATIVE LAW JUDGE: Sure. Thank
16 you. Ms. Grant, are you there? Well, we'll await
17 Ms. Grant to appear as -- anyone else here -- any
18 other counsel here on behalf of the petitioners?

19 All right. And for the respondent.

20 MR. FOCKS: Yes. Good morning, Your Honor.
21 My name is Peter Focks. I'm here on behalf of
22 Three Rivers Estates Property Owners, Inc.

23 THE ADMINISTRATIVE LAW JUDGE: Good morning.

24 MR. FOCKS: Good morning.

25 THE ADMINISTRATIVE LAW JUDGE: I'm going to

1 wait and see if we have Mrs. Grant, or Ms. Grant.

2 MS. ERTL: I believe she said her paralegal
3 was going to try to log in as well, again, because
4 she hit a bunch of traffic heading in after
5 bringing her daughter to school. So I just know,
6 again, she called me about five minutes ago.

7 THE ADMINISTRATIVE LAW JUDGE: Okay. Well, I
8 just noticed there was about eight other
9 individuals in the waiting room. I've just let in
10 another batch of folks here. So just bear with us
11 here for a moment.

12 (Inaudible cross talk.)

13 THE ADMINISTRATIVE LAW JUDGE: Good morning.
14 All right. So I usually ask this at the beginning
15 of my hearings. Do the parties anticipate ordering
16 a copy of the transcripts?

17 MS. ERTL: Yes, I believe we are considering
18 that, Your Honor.

19 THE ADMINISTRATIVE LAW JUDGE: Okay. I'd like
20 to turn now to if there are any preliminary matters
21 that need to be addressed with at this time. I'll
22 start with me and then I'll go through the
23 practitioners and respondents. And you all can
24 correct me if I'm wrong here because I don't like
25 making any assumptions here, but it appears that

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1 based on the way I read the joint prehearing
2 stipulation, along with the joint notice of amended
3 prehearing stipulation, that there may be agreement
4 as to the exhibits that were submitted, and I just
5 want to inquire as to whether or not there's
6 agreement as to the -- I guess there are exhibits
7 numbered 1 through 11 with subparts and maybe
8 sub-subparts as well. If there is agreement as to
9 those coming into evidence, I just wanted to
10 inquire if that's the case. If not, that's fine.
11 I just wanted to cover that first. I guess I'll
12 start with Ms. Ertl.

13 MS. ERTL: That is my understanding. We
14 talked about it yesterday, and I believe we have an
15 agreement, and I'll let Mr. Focks confirm that for
16 you, but that is -- I know that Ms. Grant and I are
17 in agreement, and we discussed it, all three of us,
18 yesterday and we came to an agreement that all
19 exhibits would be admitted into evidence.

20 MR. FOCKS: That's correct, Your Honor.

21 THE ADMINISTRATIVE LAW JUDGE: All right. So
22 I will -- I take it from the -- at least the notice
23 of amended prehearing stipulation, there may be a
24 difference between the exhibit numbers and subs and
25 sub-subs that I have and what is listed in the

1 joint prehearing stipulation.

2 What I'm going to do is I'm going to admit
3 Exhibits 1 -- all the exhibits, 1 through 11, and I
4 think it would benefit me if we use the numbering
5 that I have as opposed to what's on the prehearing
6 stipulation. It looks like there's just a few
7 minor differences, but if that's okay with counsel
8 and the parties, that's kind of, I think -- to the
9 extent I can eliminate any confusion or limit the
10 confusion, that may help me, but if it would help
11 me to number them a different way, you -- I guess
12 you can let me know.

13 MS. ERTL: I believe that's how I prepared,
14 you know, the presentation, and where possible, I'm
15 going to try to reference either a stipulated fact
16 or that they're in as an exhibit or the exact
17 exhibit number, and if we need to narrow down to
18 the exact exhibit number, I can do that. I have a
19 list of them as well.

20 (Whereupon, Exhibit Nos. 1 through 11 were
21 marked for identification.)

22 THE ADMINISTRATIVE LAW JUDGE: Thank you.

23 The second preliminary matter that I want to
24 address is I noticed in the joint prehearing
25 stipulation, the parties have requested that we

1 amend the case caption to appropriately reflect the
2 name of the respondents, and that the correct name
3 of the respondent, which I think I addressed when I
4 opened this hearing, was Three Rivers Estates
5 Property Owners, Inc. Is that correct, Mr. Focks?

6 MR. FOCKS: Yes, Your Honor.

7 THE ADMINISTRATIVE LAW JUDGE: Okay. I will
8 have the clerk's office amend the caption in these.
9 Consolidated cases.

10 The third issue I want to address before I
11 turn it over to petitioners and respondents for any
12 other things that they wish to address is I
13 received earlier this week, I believe, but I'll
14 confirm that, I guess a motion to intervene from a
15 *pro se* individual named Leanne Custer, and I wanted
16 to ask the counsel if there was any -- if they had
17 -- took any position on Ms. Custer's petition to
18 intervene in this case. I'll start with Ms. Ertl
19 and then I'll go to Ms. Grant and then Mr. Focks.

20 MS. ERTL: I will say I was totally unaware of
21 that. I'm not sure that she may understand the
22 nature of this proceeding. There's a lot of things
23 that may be going on in the community, and not sure
24 she understands the limited scope of this being
25 limited to the revitalization and its approval and

1 the things that surround that. So some concerns
2 that we might get off track and might derail the
3 understanding and purpose of the proceeding, but
4 those are my initial thoughts.

5 THE ADMINISTRATIVE LAW JUDGE: Ms. Grant, any
6 position?

7 MR. CRANE: Your Honor, she said she needed
8 about two to five more minutes, that she was almost
9 there.

10 THE ADMINISTRATIVE LAW JUDGE: Okay.

11 MS. ERTL: Jesse, do you have a position on
12 whether Ms. Custer joins -- intervenes?

13 MR. CRANE: Ms. Grant, I believe, has the same
14 opinion as you. She feels like it's unnecessary.
15 And also the understanding on her part not being,
16 you know, represented by counsel and such, it's
17 probably just a hang-up that doesn't need to be
18 addressed really is what she told me she felt like.

19 THE ADMINISTRATIVE LAW JUDGE: Thank you.

20 Mr. Focks, does the respondent take a
21 position?

22 MR. FOCKS: Well, I share the concerns that I
23 think a number of the issues addressed in -- well,
24 you could call it a motion to intervene. It looked
25 like one very long paragraph to me without any

1 formatting. I didn't receive a formal petition or
2 motion to intervene. But I don't know that it's
3 timely given the status of this case today, and I
4 also share concerns that it vastly exceeds the
5 scope of today's review with respect to the
6 revitalization process.

7 THE ADMINISTRATIVE LAW JUDGE: Thank you.

8 Ms. Custer, are you here for this? Can you
9 appear here? I apologize, I have over 60 people in
10 this waiting room -- or on the screen, so I'm not
11 sure. Is Ms. Custer present? This is a public
12 hearing. Ms. Custer is certainly more than
13 willing -- permitted to appear -- or, excuse me,
14 observe this hearing.

15 I'm going to deny the request for intervention
16 based on the opposition of counsel. I'm also going
17 to mention our Uniform Rules 28-106.205, and I'm
18 just going to quote from that, "Except for good
19 cause shown, motions for leave to intervene must be
20 filed at least 20 days before the final hearing
21 unless otherwise provided by law." The motion is
22 not timely and it does not establish good cause for
23 the requested intervention as well, so I'm going to
24 deny that.

25 Okay. Those were three things that I wanted

1 to address. I'm just going to turn it over now to
2 the petitioners. Is there any other preliminary
3 matters that they wish to deal with at this time?
4 I noted from the joint prehearing stipulation and
5 from review of the docket, there weren't any
6 pending motions or anything like that, but if
7 there's anything -- I'll start with Ms. Ertl. Is
8 there anything else that petitioner wishes for me
9 to consider before we get started?

10 MS. ERTL: Well, I don't think it's much
11 consideration, it's just to advise you of some of
12 the additional stipulations and coordination that
13 we've done. Because both of the petitioners'
14 petitions overlap a lot, we have joined in on our
15 argument, and so instead of repeating things, we
16 are going to kind of share in that argument
17 presentation. So we're going to -- we'll split the
18 arguments. I'll do some, she'll do some, and we
19 might turn to each other to make sure that, you
20 know, something that the other one wanted to say
21 wasn't missed, but we're trying to be efficient
22 with everyone's time here.

23 And so we did also speak with respondent about
24 doing this county by county and argument by
25 argument such that we'll start with Columbia

1 County, present our first argument. I think I'm
2 presenting the first argument, and then I'll turn
3 to Ms. Grant and see if she has anything to add.
4 And then after that, we would expect that you would
5 turn then to the respondent, get his response, and
6 then depending on how you want to run the
7 proceeding, if there's any rebuttal, we'd have it,
8 or if you have any questions, then once that
9 question closes, we would at least poten- -- move
10 on to the next argument, understanding you can
11 always ask us something that goes along back to any
12 of them, but to try to keep this organized with the
13 number of items that are in both of our petitions,
14 the overlap of both of our petitions, we have
15 endeavored to try to make it an efficient
16 proceeding in that way. So Columbia, then
17 Suwannee, argument by argument.

18 MS. CUSTER: Your Honor, I don't know if you
19 can hear me, but when you call my name, I had to
20 unmute the phone. I'm on a cell phone, so -- I
21 just got -- I don't know if you can hear me, but I
22 just -- my name's Leanne Custer. I just got the
23 phone to unmute and get to the meeting. So I
24 already was there, I was on mute.

25 THE ADMINISTRATIVE LAW JUDGE: All right.

1 And -- well, we just addressed your request to
2 intervene, and Ms. Custer, you're more than welcome
3 to observe this hearing.

4 MS. CUSTER: Yes.

5 THE ADMINISTRATIVE LAW JUDGE: I've heard --
6 all counsel are opposed to your intervention, and I
7 am going to -- I've reviewed your pleading, but I'm
8 denying your request to intervene.

9 MS. CUSTER: Okay. But you are allowed to
10 read the documents that I did send you?

11 THE ADMINISTRATIVE LAW JUDGE: I've reviewed
12 them, but I'm denying your request for
13 intervention, but you're more than welcome to --
14 this is an open hearing. You're more than welcome
15 to observe everything.

16 MS. CUSTER: Okay.

17 THE ADMINISTRATIVE LAW JUDGE: All right.

18 MS. CUSTER: Thank you.

19 THE ADMINISTRATIVE LAW JUDGE: Thank you,
20 ma'am.

21 Okay. So back to Mr. -- I think that's fine.
22 If I sense that we're swerving into redundant
23 material, I might interject. You know, this is an
24 administrative proceeding, so the rules of evidence
25 are a little bit more relaxed, but redundant is one

1 thing that I do tend to take consideration of, but
2 it sounds like that's not going to happen. So I
3 think that's fine. And I presume you all will make
4 sure to delineate when you're going from one county
5 to the next and those sorts of things, so that's
6 fine.

7 Anything else, Ms. Ertl?

8 MS. ERTL: No. And, again, from going from
9 one county to another, we're going to present
10 Columbia County as one case so you can consider it
11 since it's one petition, and then I'll do Suwannee,
12 and I'm the only counsel who has Suwannee, so we
13 also thought that would be efficient so that Ms.
14 Grant and I could focus on the first part, and then
15 we'll do Suwannee County second. And I have noted
16 in my argument where it's the same argument, but a
17 different county. Again, I tried to make it
18 efficient for you to just say, "I'm going to
19 incorporate those arguments and then just add what
20 I need to for the specific facts for that county."

21 THE ADMINISTRATIVE LAW JUDGE: Mr. Focks, is
22 that agreeable to you, sir?

23 MR. FOCKS: Yes, Your Honor. That's what we
24 discussed, and I think that's a good format.

25 THE ADMINISTRATIVE LAW JUDGE: Okay. Thank

1 you.

2 Anything else, Ms. Ertl?

3 MS. ERTL: No, Your Honor.

4 THE ADMINISTRATIVE LAW JUDGE: All right. And
5 for Attorney Grant, any preliminary matters that I
6 need to consider?

7 MS. GRANT: No, Your Honor.

8 THE ADMINISTRATIVE LAW JUDGE: All right.

9 Thank you.

10 Mr. Focks?

11 MR. FOCKS: No, Your Honor.

12 THE ADMINISTRATIVE LAW JUDGE: Okay. May be
13 difficult, but I'll ask the question. Do the
14 parties wish to invoke the rule of sequestration in
15 this proceeding? We'll start with the petitioners.

16 MS. ERTL: No, Your Honor. Because of the
17 number of stipulated facts we were going to have, I
18 actually will not need to call any witnesses that
19 I'm aware of at this time unless an argument comes
20 up. So I am not invoking the sequestration rule.

21 THE ADMINISTRATIVE LAW JUDGE: Okay. Attorney
22 Grant?

23 MS. GRANT: No, Your Honor. The only witness
24 I intend to call is Jesse Crane, who is a
25 petitioner.

1 THE ADMINISTRATIVE LAW JUDGE: Okay. Mr.
2 Focks?

3 MR. FOCKS: No, Your Honor.

4 THE ADMINISTRATIVE LAW JUDGE: Okay. I
5 guess -- do the parties want to make an opening
6 statement, or is this going to be pure legal
7 argument on your behalf, Ms. Ertl or --

8 MS. ERTL: I suppose it's mostly pure legal
9 argument, I mean, the overall opening statement, as
10 we feel like the revitalization shouldn't be
11 approved, and to get into it is to get into all the
12 arguments, so...

13 THE ADMINISTRATIVE LAW JUDGE: Okay. Well,
14 that's fine.

15 Ms. Grant, do you wish to make an opening
16 statement?

17 MS. GRANT: No. What Attorney Ertl and I kind
18 of discussed was there's going to be some
19 preliminary just gloss for Your Honor to consider
20 of things that are already stipulated facts to just
21 kind of lay the groundwork so that you have a nice
22 framework to start taking in these arguments and
23 we'll go from there, if that works for Your Honor.

24 MS. ERTL: Correct, I do have those, and
25 that's about the gist of a preliminary statement,

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1 but it kind of kicks off into the arguments, and I
2 do have about 11 facts to just review as an opening
3 to set the stage.

4 THE ADMINISTRATIVE LAW JUDGE: Okay. I think
5 I follow what you all are saying, and that's fine.

6 I'll just ask Mr. Focks, do you wish to make
7 an opening statement?

8 MR. FOCKS: No.

9 THE ADMINISTRATIVE LAW JUDGE: Okay. Well,
10 let me just -- before we get into this, you know,
11 honestly, I was anticipating having a full day of
12 witnesses, and that's fine if we're not going to do
13 that, but I have the full day set aside for this.
14 I say all that to say if the parties need breaks
15 and if we get close to lunch and we need to
16 accommodate for that, I certainly will address that
17 as we get closer to those things, but I usually
18 take a mid-morning break, and if we need additional
19 breaks, we can do that as well.

20 With that, I guess, Ms. Ertl, I'll allow you
21 to go ahead and start your presentation, and if
22 there's any witnesses that need to be called on the
23 petitioners' side, you all let me know when you're
24 ready to call that witness, I suppose.

25 MS. ERTL: Okay. All right. Thank you very

1 much.

2 So, again, we're going to establish some of
3 the -- review some of the stipulated facts that we
4 think are important just to set the stage, and
5 that's that the petitions were timely filed, and
6 that's in Stipulated Fact Number 9; that there were
7 no technical difficulties -- or, sorry,
8 deficiencies with the petitions, and that was
9 agreed upon in Stipulated Fact Number 8; that the
10 petitioners are all interested parties for the
11 purpose of standing, that's Number 2; that a true
12 and accurate copy of the revitalization package
13 that was submitted to the Department of Commerce
14 was attached as Exhibit 2 to the Blackwell, et al.
15 petition and Exhibit E to the Crane petition, and
16 that's at Stipulated Fact Number 10. It's also
17 Exhibit 1E that's now been admitted into evidence.

18 A true and accurate copy of the package that
19 was sent by respondents to the owners that they did
20 send it out to, and it was also included in the
21 revived declaration, that's at Stipulated Fact
22 Number 15 and that is at Exhibit 1F in this
23 proceeding.

24 That a true and accurate copy of the revived
25 declarations are attached to the petitions. That

1 was established by Stipulated Facts Number 15, 17,
2 and 62. It's also Exhibits 3, 1A, Number 10, and I
3 think -- yeah, already had 1A, so sorry, Number 10.

4 That respondents, Three Rivers Estate Owners,
5 Incorporated, did not exist in 1962, but was rather
6 formed in 1980; that there are no documents
7 recorded in the official records of Columbia County
8 purporting to be deed restrictions for the Three
9 Rivers Estates Community in Columbia County between
10 a recording of a 1962 document and the alleged 1990
11 restrictions, other than individual deeds that may
12 contain restrictions or specific references to
13 certain other restrictions; that there are no
14 documents recorded purporting to be deed
15 restrictions for the Three Rivers Estates Community
16 in Suwannee County between 1962 and the recording
17 of the revived declaration in Suwannee County; that
18 there is no recorded assignment of rights from the
19 seller identified in the 1962 document identified
20 to be restrictions to TREPO. And as a side note
21 there -- and that's Number 29, sorry. I skipped
22 identifying some facts there. TREPO is a short
23 name for Three Rivers Estates Property Owners, and
24 that's what they go by. So you might in this
25 proceeding hear people say either "Three Rivers

1 Estates Owners" or just call it "TREPO" or "TREPO"
2 just because it's easier to say. And I will
3 continue with that to say that TREPO does not have
4 an assignment of rights, again, from the seller
5 identified in the 1962 restrictions, and it has no
6 assignment of rights from any restrictions that
7 could have been in Suwannee County.

8 And those are some of the main facts we wanted
9 to establish as an overarching -- set the stage --
10 sorry, let me put this on do not disturb. Sorry.

11 Ms. Grant, do you have anything to add to
12 those facts?

13 MS. GRANT: Yeah, and I may have missed it,
14 but we were going to go ahead and just ask if we
15 can stipulate to putting all of the exhibits
16 that --

17 MS. ERTL: We did.

18 MS. GRANT: We did? Okay. And then maybe I
19 didn't hear you about correcting the name of --

20 MS. ERTL: Also done.

21 MS. GRANT: Okay.

22 MS. ERTL: Yeah.

23 MS. GRANT: (Inaudible).

24 MS. ERTL: Okay. Fantastic. So the first
25 argument -- so, again, we're going to start in

1 Columbia County and we're going to stick to
2 Columbia County for, I think, the first several
3 arguments -- 10 arguments. And the first one we'd
4 like to present to this proceeding to Your Honor is
5 the documents revitalized in the Columbia County
6 were never covenants and restrictions governing the
7 property that's described in the revitalization
8 package. And I'm going to now go through those
9 reasons.

10 That the document identified as the 1962
11 restrictions that was included in the package
12 consisted of only one page, and that's at
13 Stipulated Fact Number 20.

14 That the 1962 document that was included in
15 the package did not have a legal description, and
16 thus it cannot be a verified copy of a previous
17 declaration governing the property identified in
18 the package, and that's at Stipulated Fact Number
19 21.

20 That the 1962 document and the revitalization
21 package contains no signatures, and that's at
22 Stipulated Fact Number 22.

23 That the 1962 document and the revitalization
24 package was not executed with two subscribing
25 witnesses, and that's at Stipulated Fact Number 23.

1 That the 1962 document and the revitalization
2 package was not notarized, and that's at Number 24.

3 The 1962 document does not mention a
4 homeowner's association or any corporate entity,
5 and that's at Stipulated Fact Number 25.

6 The 1962 document does not mention a mandatory
7 membership of any kind of association, club, or
8 corporate entity, and that's at Number 26.

9 There are no documents recorded in the
10 official records of Columbia County purported to be
11 deed restrictions for Three Rivers Estates in
12 Columbia County between the recording of a 1962
13 document and the alleged 1990 restrictions, and
14 that's at Number 28. The only exception are some
15 individual deeds that contain some restrictions.

16 There's no recorded assignment of rights from
17 the seller identified in the 1962 restrictions, and
18 we already went through that stipulated fact, and
19 that is at Number 29.

20 The TREPO does not have an assignment of
21 rights from the seller that's identified in the
22 1962 document, and again, there's no corporate
23 entity identified as the seller, it's just SELLER,
24 S-E-L-L-E-R, all caps, as if it's a defined term
25 without being defined, and that's at Number 29.

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1 But notwithstanding the fact that there's no
2 mention of an HOA, no mention of a mandatory
3 association, no mention of TREPO, no document
4 recorded between 1962 and 1990, and no assignment
5 of rights to TREPO, and these facts are established
6 at 25, 26, and 27 of the -- or 29 of the stipulated
7 facts. The respondent included in the
8 revitalization package a document bearing Book and
9 page number 73 at page 144 through 146 of the
10 official records of Columbia County, a document
11 that we will reference as the "1990 restrictions."
12 And this document was also included in the Columbia
13 County revived declaration. This is at Stipulated
14 Fact Number 27.

15 These 1990 restrictions were signed only by
16 two officers of TREPO with their signatures being
17 notarized. That's at Number 30.

18 TREPO never owned property identified in the
19 1990 restrictions, Stipulated Fact Number 31.

20 There are no witnesses to the signatures of
21 the TREPO officers in the 1990 restrictions.
22 That's Number 32.

23 There were no joinder and consents recorded as
24 to the 1990 restrictions as to any individual
25 owners, and none were included in the

1 revitalization package or the Columbia revived
2 declaration. And for that, you could see the --
3 both of the petitions and the revived declaration,
4 which is at Exhibit --

5 (Audio interruption.)

6 MS. ERTL: Somebody came off mute.

7 Under Florida law, TREPO was not authorized to
8 record the restrictions -- the 1990 restrictions --
9 of the property being bound by the 1990
10 restrictions. TREPO did not own the property at
11 the time of the recording of the 1990 restrictions,
12 did not have an assignment of rights, and did not
13 have any amendment authority arriving under the
14 1962 restrictions. The 1990 restrictions,
15 generally as a recorded document that purport to be
16 restrictions, also expired under the Marketable
17 Record Title Act in 2020.

18 The bottom line is there were no valid
19 restrictions in 1962, as they were not signed, they
20 did not include a legal description, they were not
21 covenants running with the land, and so they could
22 not be proper legal descriptions under Florida law.

23 That's the end of that argument. Ms. Grant,
24 do you want to add anything before we get rebuttal
25 or response?

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1 MS. GRANT: No. The only thing -- it sounded
2 like you said recorded at OR Book 73, and I just
3 want to make sure for the record, it's OR Book 733.

4 MS. ERTL: You're correct, it is 733.

5 THE ADMINISTRATIVE LAW JUDGE: Thank you.
6 Under the format that we're going through, Mr.
7 Focks, if you wish to offer any response -- and I
8 guess we're just following what Ms. Ertl raised
9 in -- I guess specific to the Columbia County
10 issue.

11 MR. FOCKS: Yes, Your Honor.

12 Generally, the stipulated facts are what they
13 are, and I don't mean to contravene those here.
14 The fundamental issue, I think, between the
15 petitioners and the respondent has to do with --
16 and we'll get to this later, I don't want to jump
17 ahead too far, but just to kind of get a context,
18 who are the affected parcel owners and what were
19 they entitled to do and what is the purpose of
20 revitalization?

21 I think that the Part 3 of Chapter 720 is very
22 clear that some owners -- and we can talk about who
23 those owners might be -- are entitled to revive
24 covenants that they believe were properly subject
25 to revitalization, and that the -- Part 3 of

1 Chapter 720 doesn't test necessarily the propriety
2 of the recording of documents some 62 years ago.
3 Rather, it allows the owners to say, "These are
4 covenants that we've lived with and abided by or
5 did in the past, and we wish to impose those on
6 ourselves today."

7 And so as we've discussed later, the number of
8 affected parcel owners and how that term is used in
9 Part 3 of Chapter 720, the respondent's position
10 with respect to the enumerated facts from Ms. Ertl
11 is that those may be true, yet, nevertheless, the
12 members of the revitalized community in both
13 counties did, in fact, approve the revitalization
14 of the 1962 document and the 1990 document. Now,
15 the 1990 document was only recorded in Columbia
16 County.

17 So, again, kind of broadly speaking, the
18 revitalization, I believe, was correct because the
19 members who did approve it knew what they were
20 approving and did, in fact, approve it, and that
21 the scope of the department's initial approval and
22 today's review is not the propriety or the
23 correctness of an original recording in 1962, but,
24 rather, was the procedure correctly followed by the
25 affected parcel owners.

1 And, secondarily, do the petitioners -- who
2 admittedly are not members of the group that moved
3 to revitalize -- are they affected parcel owners
4 who have standing to challenge the department's
5 opinion?

6 MS. GRANT: Why didn't we get a chance at
7 that?

8 THE ADMINISTRATIVE LAW JUDGE: I should have
9 probably asked at the beginning, Mr. Focks, do you
10 wish to present any witness testimony on, I guess,
11 what Ms. Ertl raised as well --

12 MR. FOCKS: No. No. Those are stipulated
13 facts. I'm not going to bring you witnesses for
14 that.

15 THE ADMINISTRATIVE LAW JUDGE: Okay. Anything
16 else, sir?

17 MR. FOCKS: No, Your Honor.

18 THE ADMINISTRATIVE LAW JUDGE: All right. Any
19 rebuttal to that, Ms. Ertl?

20 MS. ERTL: Yeah, I would just start with 720
21 -- I believe it's 720.404 talked about the fact
22 that, "All parcel owners governed by the revived
23 declaration must have been once governed by the
24 previous declaration." And so that's the nature of
25 our argument. That's why we start with these

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1 things were never -- the document that was revived
2 was never a previous document that governed the
3 community, and we feel like that's an integral part
4 of the revitalization process. It's 724.041. "All
5 parcels to be governed by the revived declaration
6 must have been" -- and that's not unclear -- "must
7 have been governed by the previous declaration that
8 it ceased to be -- govern some or all of the
9 parcels in the community."

10 THE ADMINISTRATIVE LAW JUDGE: Thank you. I
11 guess how do you wish to proceed from here? I
12 guess is that the conclusion of the Columbia
13 County --

14 MS. ERTL: No. That's the conclusion of the
15 first argument. So, again, we're going to do
16 argument by argument.

17 THE ADMINISTRATIVE LAW JUDGE: Argument, okay.

18 MS. ERTL: Because there's -- there was so
19 much in our petitions, that we thought it would be
20 easiest to follow, and we talked about it with Mr.
21 Focks. Again, if we did our whole case and then he
22 had to respond, it's a lot of note-taking, and,
23 again, we're trying to make it efficient for you to
24 understand what we're arguing as well. So we're
25 going to do argument by argument. We will get to

1 effective parcel owners, but it's not quite yet.

2 We have a few more things before we get to that.

3 THE ADMINISTRATIVE LAW JUDGE: Okay.

4 MS. ERTL: And --

5 THE ADMINISTRATIVE LAW JUDGE: So you have --
6 I think you said 10 issues, and you're going to
7 present each one, and then he's going to respond to
8 that; is that the -- that's the format?

9 MS. ERTL: Correct, and I think it's
10 approximate and that we might have actually
11 narrowed it down to seven and we've combined a few,
12 but we'll alert you to those things. And then
13 because, again, we were going to trade off because
14 we're sharing in our arguments, Ms. Grant was going
15 to present the next few arguments, and then I will
16 do as she did. If I want to add anything, I will,
17 and then we'll turn it over to Mr. Focks.

18 THE ADMINISTRATIVE LAW JUDGE: All right.
19 Thank you. I think I'm beginning to understand the
20 format here, and, still, that's fine. I just want
21 to make sure And I don't want -- to the extent
22 anyone, you -- know, I know we have a list of
23 witnesses here, and I don't know if any or how many
24 are being called, but I guess you'll alert me to
25 that if there's a witness that's going to be called

1 as well, so...

2 MS. ERTL: Yeah, I believe when we named the
3 witnesses, we were just finalizing the stipulated
4 facts, and so, you know, out of abundance of
5 caution, we left them in, and then as we discussed
6 it and got prepared, we realized, you know, in
7 reviewing all those that we only need the one -- or
8 one. And I don't know if it's absolutely
9 necessary, but we have one that is going to
10 testify. So, again, our goal with the volume of
11 these petitions was to make it efficient for the
12 proceeding.

13 THE ADMINISTRATIVE LAW JUDGE: Thank you.
14 Thank you for that clarification. I'll let you all
15 proceed.

16 MS. GRANT: Okay. Thank you, Your Honor.

17 And as Christene already articulated very
18 well, the reason we started with whether or not
19 these were valid restrictions to begin with is,
20 again, because under Chapter 720, Part 3, the
21 premise is you have to start with restrictions that
22 were validly in place at one time and are only
23 invalid or have become subject to being
24 unencumbered on a property due to the Market Record
25 Title Act.

1 Part of that Section 3 of Chapter 20 requires
2 when a revitalization package is submitted to the
3 Department of Commerce, that it include all
4 previous governing documents. Now, the argument
5 that the documents weren't actually proper
6 governing documents to begin with aside, let's
7 assume that there was no issue with them being
8 proper governing documents at one time in the past
9 and get into what was not provided when the package
10 was submitted to the Department of Commerce. And
11 one document that was omitted, obviously, the 1962
12 restrictions only have that single page. There's
13 no page before and there's no page after for what
14 was recorded in the public records of Columbia
15 County. So it's not a complete document as far as
16 we can tell. It cuts off at the end, and there's
17 no signatures, there's no wrap-up in witness
18 whereof, there's no signature from the seller who
19 allegedly would have owned all of the property at
20 the time those 1962 restrictions were recorded.

21 The only bylaws that were submitted as part of
22 the package -- again, and we're referring to this
23 as the "revitalization package," and that term is
24 being used for what was submitted to the Department
25 of Commerce for approval, and that is Exhibit 1E.

1 The only bylaws that were submitted as part of that
2 package were the 1994 bylaws, which in the language
3 of the bylaws themselves admit that they are an
4 amendment to a set of 1987 bylaws, and there's a
5 stipulated fact at Number 5 and Number 6 that
6 basically establishes the 1987 bylaws were not, in
7 fact, included in that revitalization package.

8 There was a 2008 amendment to the articles of
9 incorporation that were not included in the
10 package, and that is Stipulated Fact Number 37.
11 That's also Exhibit 1, C as in cat, little i, which
12 is a copy of that 2008 amendment to the articles of
13 incorporation.

14 There was a recorded notice of preservation
15 that was not included in the revitalization
16 package. That's Stipulated Fact Number 38. And
17 the exhibit would be 1C, as in cat, double little
18 i, is the notice of preservation.

19 There was also a 1986 warranty deed, which is
20 for the properties that everyone commonly refers to
21 throughout the community as "the park," and that
22 warranty deed does contain language that we would
23 construe as a covenant running with the land. That
24 deed was not included in the revitalization
25 package. That is Stipulated Fact Number 39 and 40,

1 Exhibit 1C, as in cat, triple little i.

2 Christene, did you want me to go ahead and
3 stop at Number 2 to let you give any input, or can
4 I go ahead and move on to Number 3?

5 MS. ERTL: I think you can move on. The only
6 thing I would add is that -- and I think we already
7 said it, but the fact that the 1962 restriction is
8 one page is at Stipulated Fact Number 20. Again,
9 we're just trying to build the record and -- also,
10 Your Honor.

11 MS. GRANT: Okay. And then getting into
12 Number 3, that the revised declaration -- so under
13 Part 3 of Chapter 720, one of the requirements when
14 you are seeking to revitalize once valid governing
15 documents -- and, again, we're assuming that we're
16 getting over the hurdle that these were, in fact,
17 at one time valid -- that you cannot in that
18 revitalization seek to adopt documents that would
19 be more restrictive than what was previously in
20 place. And the revitalization of restrictions that
21 were not previously valid by its very nature is
22 adopting restrictions that are more restrictive
23 because you didn't have covenants or restrictions
24 that were validly in place in the first place.

25 The document -- there was no association -- I

1 know we kind of covered this -- no association
2 mentioned in the 1962 restrictions at all, and then
3 all of a sudden, in the 1990 -- the 1990 recorded
4 restrictions, which were again signed off only by
5 two officers of TREPO, that's the first time you
6 have a mention of an association and of TREPO.
7 There were no rights to collect assessments in the
8 original 1962 restriction. That was later added in
9 the 1990 amended restrictions, and that's at
10 Stipulated Fact Number 33.

11 There were no rights anywhere in either the
12 1962 restrictions or the amended 1990 restrictions
13 that would have given lien right, and the only
14 place this was set forth was in the 1994 bylaws,
15 which had never actually been recorded until the
16 revitalization was approved, and then the 1994
17 bylaws were recorded with the revised declaration,
18 and some of the stipulated facts that go to what I
19 was just rambling is Stipulated Fact Numbers 33 and
20 34.

21 It's our position that the unrecorded bylaws
22 cannot serve to constitute a contract as the owner
23 would not have been aware of same when they
24 purchased if they were not recorded in the public
25 record. Only the unrecorded 1994 bylaws contain

1 the provision about lien rights, and that's at
2 Stipulated Fact Number 35 and 36.

3 The 1994 bylaws, again, were not recorded.
4 That's Stipulated Fact Number 35.

5 And in Article 6, Section 3, of those 1994
6 bylaws, it states, "Associations shall have a lien
7 on each lot for any unpaid assessment." Again, not
8 to belabor the point -- that's Stipulated Fact
9 Number 36. Sorry, Your Honor.

10 Not to belabor the point, but the only place
11 that lien rights are referred to is those 1994
12 bylaws. The 1962 restrictions and the 1990 amended
13 restrictions do not mention anything about lean
14 rights.

15 And this would be the point that -- and I'll
16 leave it, I guess, to the discretion -- this would
17 be the point that I would call Jesse Crane if we
18 needed to as far as fleshing out that those lien
19 rights are never referred to in the 1962 and 1990
20 amended restrictions, but if we're all in
21 agreement, I don't really, I guess, need Jesse's
22 testimony on that. I can call him later on the
23 consent issues.

24 MS. ERTL: And I would add just one thing to
25 circle up everything that was just said is that the

1 lien rights and all that are only in unrecorded
2 bylaws. And the main point of this is that TREPO
3 at this time, with their bylaws, they were what we
4 call a voluntary association, kind of like a club.
5 So they had bylaws, you could buy a membership in
6 the entity, there are not restrictions, it's not a
7 mandatory association. As we've already reviewed,
8 they're not in the 1962 restrictions, there's no
9 assignment to them, there's nothing giving them
10 authority to amend those restrictions, to enforce
11 those restrictions.

12 So, you know, a club can create dues and say,
13 "Hey, if you don't pay your dues, we're going to do
14 some things to you to make them pay," and that's
15 all that existed at this time in 1990. This was
16 not a part of a mandatory association, and that
17 concept is very important to understand because
18 while we're saying, "Oh," you might say, "Oh, well,
19 they were in the bylaws," but one is very important
20 under Florida law that lien rights and restrictions
21 be recorded in the public record and be a part of
22 the restrictions, and that did not exist here
23 because it was only a voluntary club, a voluntary
24 association.

25 MS. GRANT: Thank you. And then I can move

1 into Part 4, if that's okay, and then this would be
2 the stopping point, I believe, where Peter would
3 then rebut -- or, I'm sorry --

4 MS. ERTL: Respond.

5 MS. GRANT: -- respond.

6 THE ADMINISTRATIVE LAW JUDGE: That's fine.
7 Is that all right with you, Mr. Focks?

8 MR. FOCKS: Yes, but if we could just
9 specify -- I'm trying to work through the
10 prehearing stipulation, and I'm tracking the
11 questions at the end of it, but I'm not seeing that
12 we're on Number 4. So maybe some clarification
13 about exactly which question we're on would help.

14 MS. GRANT: Yeah. So when I say, "Number 4"
15 -- and I apologize for that -- this is about the
16 Columbia revived declaration containing different
17 respective amendment provisions as the previous
18 declarations, which kind of dovetails into the
19 argument that the revived documents are more
20 restrictive than the previous set of documents.

21 MR. FOCKS: So it's not actually one of the
22 facts in dispute paragraphs, is it? Is that right?

23 MS. GRANT: What --

24 MR. FOCKS: (Inaudible) subheading, but it's
25 not on that page?

1 MS. ERTL: It's not one of the enumerated -- I
2 don't know. I'd have to pull it up, but, again, as
3 we talked about, we had two overarching legal
4 questions, which were that they were -- the
5 packages were invalid, and that these -- and this
6 is what we were mentioning yesterday -- these all
7 goes into the statutory requirements for what is
8 required for a package to be valid, and so that's
9 where these arguments come in. They were in the
10 petition, and, again, they're all the points at
11 which we argued as to why the revitalization
12 package should not have been approved.

13 MS. GRANT: So on to that with the amendment
14 provisions, the previous restrictions would allow
15 for amendment with a vote of the majority of the
16 then owners of the lot. The revived restrictions
17 allows for amendments of a set of restrictions
18 because it uses that same language, but now if we
19 take TREPO's position, we're now limiting this to
20 just the parcel owners that are listed in Exhibit E
21 to their submission and Exhibit E to the revised
22 declaration that was recorded, but that's 100 lots
23 versus over 2,000 lots, but the language remains
24 the same, that the amendment could be adopted with
25 a majority of the then owners of the lot. Well,

1 owners of the lot within Three Rivers Estates is
2 still 2,000 plus homes. So are we then saying
3 these 100 owners that are in Exhibit E and now
4 subject, nobody's arguing that those -- if this was
5 a valid revitalization, that those 100 are bound
6 under the revitalized set of restrictions, that
7 those restrictions could be amended to be applied
8 against those 100 owners based on what 1,900 plus
9 other owners vote in favor of?

10 So I would construe that as that's being more
11 restrictive than the previous amendment provision,
12 which would have been everybody who is subject to
13 these restrictions gets a vote, and you're not
14 subject to people who aren't subject to the
15 restrictions getting a vote on how to amend the
16 document.

17 MS. ERTL: Peter, I want to add that it's 10A
18 and B in our stipulation is what we're in right
19 now.

20 MR. FOCKS: Thank you.

21 MS. ERTL: You're welcome.

22 MR. FOCKS: So I think at this point -- go
23 ahead.

24 MS. GRANT: No, I was just going to say,
25 Christene, did you have anything to add?

1 MS. ERTL: No, I didn't have anything to add,
2 other than the reference point for Peter. That's
3 it.

4 THE ADMINISTRATIVE LAW JUDGE: It sounds like
5 this is an appropriate point to allow Mr. Focks to
6 address the last, I guess, three disputed factual
7 matters that were just addressed by the
8 petitioners.

9 MR. FOCKS: Thank you.

10 Okay. I'll start back with Argument Number 2,
11 whether the 1962 document was incomplete as it was
12 included. The 1962 document, the one page that was
13 included in the revived declarations for both
14 counties was the sole page returned to me in a
15 title search ordered for the purpose of preparing
16 for the revitalization. It has all the hallmarks
17 of covenants. Admittedly, it wasn't signed, but
18 it's been a record for sixty-something years, and
19 the members in the community had, at some point in
20 the past, understood that it was, in fact, binding
21 on the parcels in Three Rivers. So it was subject
22 to revitalization.

23 The 1987 omission -- or the omission of the
24 1987 bylaws and the 2008 amendment were
25 unintentionally omitted, and I think the

1 association has substantial compliance with respect
2 to the actual documents that were recorded in
3 720.407(3). It provides that "The recorded
4 documents shall include the full text of the
5 approved declaration of covenants, the articles of
6 incorporation and bylaws," and then the letter of
7 approval. And that was recorded for both counties,
8 and the full text of those items was, in fact,
9 provided to the owners. So nothing was provided to
10 the department that wasn't approved by the owners.

11 The 2020 notice of preservation was, by all
12 accounts, outside of any time limit under MRTA for
13 it to be considered valid. So it was intentionally
14 excluded. It was not a governing document. It was
15 recorded more than 30 years after the 1962
16 covenants, which admittedly had lapsed, and so
17 there was no reason to include it. It wasn't a
18 binding document. And the deed would not have
19 expired, the 1986 deed, and so it would not
20 necessarily have been necessarily needed to be
21 revived pursuant to expiration under MRTA or Part 3
22 of Chapter 720.

23 Moving on to the question of the restrictive
24 nature of the new covenants, again, I think we're
25 going back to a question of who the affected

1 parcels are, but we'll come to that in just a
2 second.

3 The documents that were recorded in both
4 counties as part of the revitalization packages
5 were exactly those documents that had either been
6 previously recorded in the case of the 1962
7 document or the 1990 document in Columbia County,
8 and were the corporate documents that have been
9 approved by the members; for instance, the 1994
10 bylaw amendments, which provided for lien rights.

11 That 1994 bylaw set was recorded as part of
12 the revitalization, but it was also adopted by the
13 members through time. And I think that the
14 petitioner's reading of the statute with respect to
15 "cannot contain provisions which were more
16 restrictive than the original," would bar any
17 amendment by an association within, say, the first
18 30 years of its existence prior to expiration that
19 was more restrictive than the original covenants,
20 and I don't think that's the purpose of the
21 statute.

22 I think what it means is, 1, when attempting
23 revitalization, may not make changes to any of the
24 governing documents that are more restrictive than
25 the governing documents which existed. If you look

1 at the definition of "governing documents" in the
2 beginning of Chapter 720, in 720.301(4) -- I'm
3 sorry, (8), it means -- and it defines it there, it
4 defines the articles and the bylaws and any duly
5 adopted amendments thereto. So to revitalize the
6 governing documents meant that the association was
7 correct to revitalize not just the covenants that
8 had been recorded, but also the corporate documents
9 as they had been amended through time, which is
10 what the association did in the two revitalization
11 packages. So nothing was recorded that was changed
12 from the original, and nothing was recorded that
13 was more restrictive than anything the members had
14 already approved.

15 Similarly, the amendment provisions were the
16 same. Here I believe that Ms. Grant's argument
17 starts to move into a question of who's entitled to
18 rule the association and we get directly into the
19 question of who are affected parcel owners. The
20 revitalization was specifically an effort by a very
21 limited number of owners. They did not seek to
22 re-encumber all -- call it 2,000 parcels across two
23 counties. Rather, they specifically targeted the
24 parcels identified on Exhibit E to both counties'
25 revived declarations.

1 Exhibit E is the definitive list of those
2 parcels and only those parcels governed by the
3 revived declarations in those two counties, and so
4 only those members would get to vote on any new
5 amendment if the revitalization were upheld. Those
6 would be the participating members. They had no --
7 they would have no ability to modify any governing
8 documents with respect to anyone who's not listed
9 in Exhibit E. In other words, Exhibit E is the
10 entirely closed universe of all those who
11 participate now in the revived system for Three
12 Rivers. It does not include anyone who was not on
13 Exhibit E, and the association certainly wouldn't
14 attempt to modify any documents with respect to
15 other non-revitalized members.

16 And I believe that brings us down to the
17 present.

18 THE ADMINISTRATIVE LAW JUDGE: All right.
19 Thank you.

20 So, Ms. Ertl, I guess I'll let you all proceed
21 on your next --

22 MS. ERTL: Okay. And I've got a few just
23 response points to that, or rebuttal points.

24 With regards to -- referring to 720, I think
25 it's important that we start with looking at

1 720.301, which defines who a homeowner association
2 is. And, again, it goes back to my point that this
3 was not a mandatory association, but something
4 that's voluntary.

5 720.301(9) defines a "homeowner's association"
6 or "association" as "a Florida corporation
7 responsible for the operation of a community in
8 which the voting membership is made up of parcels
9 or their agents, in which membership is a mandatory
10 condition of parcel ownership and in which it's
11 authorized to impose assessments and, if unpaid,
12 become a lien."

13 And so that's important because that's why we
14 laid out in the beginning that this was not a
15 mandatory association. There was no mention of a
16 mandatory association in any of the prior
17 covenants. There was certainly no requirement that
18 there be assessments paid in those covenants, and
19 that's required, and that there could be a lien on
20 the parcel.

21 720.301(10) describes a "member" as the member
22 "may include but is not limited to the parcel
23 owners or an association representing parcel owners
24 and includes people obligated by the governing
25 documents to pay an assessment or fee." And so we

1 start with those as reasons why we don't think that
2 they were a mandatory association, and that's why
3 it's important where certain rights came in and who
4 had a right to do what.

5 And then we go back to our earlier argument,
6 again, in rebuttal, which said that 720.404, that
7 the declaration must have been once -- previous
8 declaration must have once governed all of the
9 parcels. And there's other requirements in there
10 that says, again, that you can't conclude more
11 restrictive covenants than amendments. And those
12 arguments were made, but that's a rebuttal that we
13 would refer you back to the statutes and the other
14 facts that we identified.

15 And then we're actually going to get into the
16 meat of the affected --

17 MS. GRANT: I had just a few things to add on
18 what we were just discussing in rebuttal.

19 As far as the missing document -- and I
20 appreciate Mr. Focks saying that the 2020 notice of
21 preservation was outside of the 30 years, that the
22 warranty deed didn't expire, so it didn't need to
23 be revitalized. The 2008 articles of incorporation
24 amendment and the 1987 bylaws were omitted just as
25 an oversight, but didn't affect the substantive

1 package that went to the owners.

2 But we're not talking about substantial
3 compliance here. I mean, when you go through a
4 revitalization, you have got to follow the statute
5 strictly. I mean, we're talking about putting
6 restrictions back in place on owners where you're
7 doing that with less than 100% of those owners
8 signing off on those restrictions being put back in
9 place on their properties. And the statute
10 requires a submission to the Department of Commerce
11 include a copy of all governing documents, not just
12 what you're trying to revive, but all governing
13 documents.

14 And our argument is that all governing
15 documents would have included the 1987 bylaws, the
16 2008 articles of incorporation amendment, the
17 warranty deed, and that notice of preservation.
18 And the purpose that the Department of Commerce
19 needs all of those documents as part of the
20 requirements for a revitalization to be valid is
21 that it not be more restrictive. So they don't
22 have all of the documents. I don't know how the
23 Department of Commerce can verify that what is
24 proposed to be revived is not more restrictive.

25 As far as -- it kept getting said that these

1 documents were -- have been in place for 60-plus
2 years and these were what were voted on by the
3 membership. To be clear, there's nothing
4 indicating that a vote of the owners was ever taken
5 for any of these documents.

6 And then to the last point that Mr. Focks made
7 about the fact that we're just talking about, with
8 respect to the amendment provision, only those
9 owners who are listed in Exhibit E, with all due
10 respect, that's not the way the documents read.

11 MS. ERTL: Yes, and we will -- we are going to
12 get into that next.

13 And to just tell one more thing is that the
14 intention of the statute is that you revive
15 everything and then you make changes afterwards.
16 Many of us representing communities have been there
17 where they want to make a change, and you have to
18 say, "You have to revive what you have, and then
19 after you've revived it, you can go back and change
20 what you want to change." But the statutes are
21 clear. When you're trying to revive something, you
22 have to revive it exactly as it existed when it
23 expired and then you get to make changes.

24 Okay. So we're going to get into now what I
25 think is some of the heart of what we're getting

1 into, which is, again, you know, their arguments
2 over who's affected, who they asked for approval,
3 what they included in their package, which was a
4 lot more than just Exhibit E, and that is who are
5 the affected parcel owners for the purpose of
6 identifying persons to receive the revitalization
7 package, to vote on it, and who this is going to be
8 affecting.

9 The term "affected parcels," "parcel owners to
10 be affected," and -- or "affected properties" comes
11 up 20 times in Part 3 of the Florida Statutes. So
12 it's a very important term, but, unfortunately,
13 they decided to not define it, and that's part of
14 the reason maybe why we're here today. So it has
15 no exact definition. It's just used a lot and you
16 have to kind of read the statute to get an
17 understanding based on the context of how it's used
18 as to who they might be talking to -- talking
19 about, and also probably the context of how it's
20 used in the documents as they're presented in the
21 revitalization package. So, again, it's a very
22 integral term.

23 As an example -- just an example of some of
24 those 20, in 720.405(1), it talks about sending the
25 package to all parcel owners to be affected by the

1 proposed revived declaration, that you -- in
2 720.405(5), we get two more references where you
3 have to send a complete text of the revived
4 declaration to all affected parcel owners in order
5 to seek the affected parcel owners' consent. In
6 720.405(6), we have three more references, and
7 that's more talking about that you have to get a
8 majority of the affected parcel owners to agree to
9 revive these covenants, and then you can do that by
10 having a vote of the meeting of the affected parcel
11 owners or you can get the written consent of a
12 majority of the affected parcel owners.

13 And then, finally, another important one of
14 the 20, we think, is 720.406(1)(c), which talks
15 about providing a legal description of the affected
16 parcel owners that are going to be governed by the
17 revised declaration, and as already alluded to,
18 that becomes very, very important in this
19 discussion because the very beginning of the
20 revitalization package, which then included the
21 proposed revived declaration, includes a Schedule
22 A. Schedule A comes around page 3. This is at
23 Stipulated Fact Number 45, and it says that,
24 "Schedule A is the legal description for the
25 revived declaration." And that legal description

1 lists all units within the community, barring two,
2 and we're not sure why they left out Unit 1A and
3 Unit 11, but it lists out over 1,900 parcels. If
4 you count the parcels that are included in Schedule
5 A, it's 1,937 parcels. And that revitalization
6 package, the revived declaration, said, "This is
7 the Schedule A. This is the legal description
8 (inaudible) of 720.406 of who we think are the
9 affected parcels." And that's 1,937 properties.
10 Then we have -- and that's in, again, Stipulated
11 Fact 45.

12 And then we get to the graphic depiction. The
13 graphic depiction is of the entire Three Rivers
14 Estates in Columbia County. That is 2,114 parcels.
15 And the document says, "This revived declaration --
16 graphic depiction of who this revived declaration
17 is going to govern is seen in Exhibit D," the
18 graphic depiction. And, again, that is 2,114
19 parcels.

20 I don't know who F.S.W. is, but you're not on
21 mute, and it would be great if you can mute. Thank
22 you.

23 That is at Stipulated Fact 44 -- I mean 54 and
24 55.

25 All Columbia petitioners, everybody who I

1 represent and that Ms. Grant and Mr. Crane
2 represent, are included in Exhibit D, the graphic
3 depiction.

4 All petitioners, barring five because they
5 either live in Unit 1A or Unit 11, are included in
6 Schedule A of the revived declaration, the legal
7 description of the revived declaration. None of
8 them received a revitalization package. None of
9 them, therefore, voted to revitalize it. And we're
10 going to get down to the numbers, but you had 55
11 people voting to revitalize it for 2,114
12 properties. That does not make a majority.

13 I skipped through some of my -- excuse me.
14 I'll look through my notes.

15 Exhibit E, which is what they have claimed --
16 they've already made the argument that they only
17 intended to revitalize it for those listed in
18 Exhibit E. And as we've talked about this in our
19 prehearing discussions, that's 100 parcels.

20 So you've got the beginning of a document that
21 starts with Schedule A listing out 1,937 parcels
22 and said, "This is the legal description for this
23 document." Then you have a paragraph on page 2
24 that says, "A graphic depiction of all of the
25 properties that are going to be governed by this

1 revived declaration is in Exhibit D," and that
2 demonstrates and shows 2,114 parcels. And then
3 confusingly, there is an Exhibit E that lists only
4 100 parcels. It just doesn't make sense, but the
5 reality is title searchers go to -- look at the
6 legal description, and it gets picked up in their
7 title. And we've got proof of that. I don't have
8 it in these notes, so Tiffany, if you want to grab
9 that, and I'll let you go through and give you that
10 exhibit number. But we did a title search, and
11 it's showing that these revived declarations do
12 show up in at least two of the petitioners, and
13 just one is more than enough, who are not on
14 Exhibit E, but they are in Schedule A and in
15 Exhibit D, the graphic depiction.

16 So there's a very large difference between 100
17 parcels and 2,000 parcels, or 100 parcels and over
18 1,800 parcels. And so that's why this definition
19 of "affected parcel owners," what does it mean?
20 That's against, I guess, the primary disputed fact
21 in this case. We present as practitioners that
22 when you include a legal description that lists out
23 units that then include 1,937 parcels, that those
24 are who you're that is who you're -- that is who is
25 going to be revived. When you include language

1 that says, "a graphic depiction of the properties
2 that are going to be subject to this revived
3 declaration is in Exhibit D" -- and that is an
4 admitted fact. I think it's at Number 56. That's
5 important, and that says that you are reviving this
6 as to 2,114 parcels.

7 So was the revitalization package sent to all
8 affected parcel owners? No, because they've
9 already admitted in Disputed Fact 47 and Disputed
10 Fact 57 that they only sent it to those 100 people
11 listed on Exhibit E, and so that's a large failure
12 of complying with Part 3 of Chapter 720.

13 I think I'm going to turn it over to Ms. Grant
14 right now, again, if you've found that exhibit
15 number and if not, I'll look for it to make sure we
16 have it for the record. Go ahead.

17 MS. GRANT: The OAE searches on the two
18 separate lots is Exhibit 3.

19 MS. ERTL: Exhibit 3. So that's important to
20 demonstrate that that's where it comes in.

21 So anything else you want to add, Tiffany,
22 now, after that?

23 MS. GRANT: No, I think you've summed that up
24 well, but I am going to get into kind of a nuanced
25 argument about the affected parcel owners and

1 giving the benefit of the doubt to TREPO that you
2 could have a smaller subset of affected parcel
3 owners than every owner of a lot throughout all of
4 Three Rivers Estate.

5 So let's say *arguendo* that you could limit
6 that class down. It's just very puzzling and we
7 cannot quite determine how TREPO came up with who
8 they considered to be an affected parcel owner. I
9 get that they're saying, "Okay, these 100 lots,
10 that's what we intend to include as affected parcel
11 owners to be subject to this revived declaration,"
12 but there are owners who were not included in that
13 100 lots that their chain of title -- a deed in
14 their chain of title specifically references the
15 1962 and/or the 1990 restriction by OR book and
16 page and pursuant to the Marketable Records Title
17 Act would currently be encumbered by those
18 restrictions, and they were left out of this
19 revitalization vote where certainly those are
20 affected parcel owners in the sense of when you get
21 down to the number, if you're going to say, "We're
22 a mandatory association basically now," you have
23 mandatory dues you have to pay in, we can lien you
24 if you don't, and that percentage share of those
25 common expenses for the association are going to be

1 affected by the number of lots you put in that pot.
2 If I have to pay one out of 100 lots, I pay more
3 than if I have to pay one out of 1,000 lots.

4 So I don't know how you say that those lots
5 that are currently by their own chain of title
6 bound by these restrictions aren't affected parcel
7 owners for purposes of this revitalization vote.

8 And we did start going through the public
9 records to pull lots that were not included in
10 those 100 Exhibit E lot owners, and once we got to
11 the number that if you added that to the base 100,
12 you don't have a majority vote with your 55
13 consent, even assuming all 55 consents were proper
14 and good to go. If you add those owners whose
15 chain of title has them bound by the restrictions,
16 add them back into the 100, get that number, we're
17 not at a majority vote, which is required baseline
18 to adopt or properly adopt a revitalized set of
19 documents.

20 And that is at Exhibit -- I believe it's 4A,
21 and I might be getting them backwards. 4A, I
22 believe, was the lots that were all -- that were
23 not included in the 100, but whose chain of title
24 would have a reference in one of the deeds in the
25 chain of title. You go back to the root of title

1 deed, which is the deed that is at least 30 years
2 old, and look at all of the deeds since then, and
3 if any reference -- the restrictions by OR book and
4 page, there's a specific exception under the
5 Marketable Record Title Act that that lot is still
6 bound by those restrictions.

7 If you look at Exhibit 4A, I believe there are
8 16 where we have attached the property appraiser
9 screenshot showing who the current owner is, and
10 then the deed or one of the deeds in their chain of
11 title that is within the -- either the root of
12 title deed or indeed fits that root of title deed
13 that specifically references the documents by OR
14 book and page.

15 And for purposes of the math, and we're
16 attorneys and we're not -- well, I'll speak for
17 myself. I'm an attorney, not usually good at math,
18 but 100 plus 16, you're at 116. A majority of that
19 is going to be 59. We have 55 consents, so we
20 don't have a majority vote.

21 Outside of that, and more confusingly, is
22 within the 100 lots that were included and did
23 receive packages in order to vote on the
24 revitalization, there were lots within that 100 who
25 their chain of title had them currently bound. So

1 it's not even like TREPO decided we're going to go
2 for these 100 lots and these are 100 lots that are
3 not currently bound. Within that 100, there are a
4 number who are bound. So it just leaves you
5 scratching your head of how did we even get to this
6 100 lots?

7 And we don't dispute that 720, Part 3, allows
8 for a revitalization to be done on a smaller set --
9 a subset of loss, so to speak, than what was
10 originally bound. No one is disputing that. But
11 when you have a large community like this where
12 you've got over 2,000 lots, it's like they just
13 took darts and started throwing it at a board and
14 said, "Hey, we're going to take this lot over here
15 and this lot over here," and there just doesn't
16 seem to be any method to the madness.

17 You know, it'd be one thing if you kind of
18 carved out a section of Three Rivers Estates and
19 said, you know, "Maybe as to Unit 1, we're going to
20 focus on Unit 1 and we're going to try and
21 revitalize the documents as to Unit 1," and then
22 maybe later proceed from there. But this
23 scattered -- I don't even know when you -- even if
24 you assumed that this revitalization --

25 THE ADMINISTRATIVE LAW JUDGE: Is that even

1 proper for me to be considering in a case like
2 this? I mean, the statute's pretty clear that it
3 says that the -- and I think as you just conceded,
4 720.404(2) (c) says revived declaration may "govern
5 fewer than all the parcels governed by the previous
6 declaration." It doesn't ask me to go behind the
7 intent behind that. I mean, some of what you're
8 saying is speculative and, I mean, I think I
9 understand the gist of your argument, but does that
10 go beyond the scope of this hearing for me to
11 decide?

12 MS. GRANT: Well, I believe that it's within
13 your purview to decide what we're talking about
14 when we talk about affected parcel owners because
15 that goes to the heart of what vote you need, what
16 thresholds you need, in order to properly adopt the
17 revitalization.

18 And so the point I'm trying to make is that
19 affected parcel owners -- we have excluded from the
20 vote what I would consider to be affected parcel
21 owners because they're currently subject to these
22 restrictions. Their assessments are dependent upon
23 how many you revitalize.

24 And then, again, just to highlight that within
25 the 100 that were included as what TREPO would see

1 as the affected parcel owners for purposes of the
2 revitalization vote, some of those actually do, in
3 fact, have deeds in their chain of title that they
4 were already bound. So they didn't really need to
5 be in the revitalization if you're not going to
6 include the others who are currently bound.

7 MS. ERTL: I guess though, the point is, if
8 you have a class of people who have a reference to
9 a document that you're purporting to be
10 restrictions, and you include some of them, but not
11 all of them, if you're trying to determine who's
12 affected parcel owners, we think that should
13 matter.

14 And to me, the even greater point is that if
15 you want to do a subset, which, again, you can do,
16 you don't include 1,937 parcels in the legal
17 description and you don't include 2,114 in the
18 graphic depiction of the property that your
19 document says is going to be bound by that
20 document. If you want to include 100, then you
21 create a map of the 100 and you only include the
22 legal description of those 100 in the beginning,
23 and you don't call out 1,937 parcels in a legal
24 description as a defined legal description, and
25 then identify the graphic depiction, 2,114, and

1 then somewhere down buried in Exhibit E include
2 this other list of owners, which doesn't really
3 make sense.

4 Title people see Schedule A legal description
5 as the people who are bound. They read page 2. It
6 clearly says, "a graphic depiction of the property
7 to be governed by this declaration as the property
8 to be governed by this declaration," and that's
9 2,114. That is not a subset.

10 So if they wanted to do a subset, we just
11 don't understand why they included all of those
12 other properties in the legal description and in
13 the graphic depiction.

14 THE ADMINISTRATIVE LAW JUDGE: Thank you.
15 Anything further before I get Mr. Focks' response?

16 MS. GRANT: Not from me, Your Honor.

17 THE ADMINISTRATIVE LAW JUDGE: All right.
18 I'll allow you to respond, sir.

19 MR. FOCKS: Thank you.

20 Starting at the top again with affected parcel
21 owners, I can see the term is used a number of
22 times in Part 3, and I think that's really the
23 issue.

24 As far as the framework for Part 3, it's clear
25 that a partial revitalization is permitted. The

1 Court seems to recognize that. Opposing counsel
2 seems to recognize that it may be permitted,
3 although they want to add conditions that are not
4 in the statute.

5 The statute simply provides that -- 720.404,
6 the beginning sentence, "Parcel owners in a
7 community are eligible," and in 720.403, it says,
8 "Approval by the parcel owners to be governed
9 thereby," which means to be governed by the revived
10 declaration.

11 So as we -- we can go through all the
12 examples, but I think that the Court was right to
13 recognize that there is no inquiry permitted at
14 this stage into the selection process of those
15 parcels selected for potential revitalization. It
16 could have been by house number, by lot number, I
17 suppose any reason --

18 (Audio interruption.)

19 THE ADMINISTRATIVE LAW JUDGE: All right. I'm
20 going to need you all to mute your devices. I
21 cannot have interruptions, particularly ones with
22 profanity. And if you all can't do that, then I'm
23 going to mute everybody and then just unmute the
24 attorneys.

25 MR. FOCKS: So I suppose any reason, as long

1 as it's not a prohibited reason, then there's no
2 allegation that there was some invidious purpose
3 behind it here.

4 So as far as the various exhibits to the
5 revived declarations, the exhibit numbers are the
6 same between the two and the two counties.

7 The declaration itself on the first page
8 identifies the subdivision in Paragraph 2.
9 Paragraph 3, it says that "MRTA caused the
10 declaration to seek to govern more or one parcel in
11 the subdivision." Paragraph 5 says, "caused each
12 affected owner in the subdivision." And then
13 Paragraph 6 says, "the majority of the affected
14 parcel owners."

15 My point in drawing attention to that language
16 is to show that the reference to Exhibit D and to
17 Schedule A was just to identify the entire scope of
18 the subdivision of which the affected parcel owners
19 took some action, and that the list of affected
20 parcel owners governed by the revived declaration
21 in each county is, in fact, the limited list shown
22 on those Exhibit E's -- or Exhibits E in each
23 county.

24 So it's not the case that the association
25 intended to bind everyone shown on the plats. It's

1 not the case that everyone -- that the association
2 intended to bind everyone shown on Schedule A with
3 a list of the previous phases and plat maps for the
4 association. It is the case that the association
5 intended to only list the affected parcel owners,
6 those subject to the revived declaration on Exhibit
7 E.

8 The statute seems to contemplate that because
9 when it says, "a graphic depiction," it doesn't
10 say, "only of the parcels." It says, "of the
11 properties," meaning a broader context. And in
12 multiple revitalizations that have been approved by
13 the department, there's a map included that
14 includes individual lots, as well as, for instance,
15 utilities, public roadways -- and no one believes
16 that the public roads included inside a revitalized
17 community are therefore subject to the covenants
18 and restrictions.

19 So the idea of a graphic depiction, an idea of
20 the list of all the parts of the subdivision that
21 had been previously governed being distinct from
22 those revitalized lots is in the statute itself.
23 It's in Part 3. And that's in the revived
24 declaration where we have Exhibit E being the
25 definitive list of those owners.

1 So moving on then, if that's the case, then it
2 should be no problem for the association to have
3 selected some parcels, but not all of the parcels
4 that were previously governed, and by doing that,
5 to obtain the majority of those parcels. Those
6 parcels would definitionally at this stage be the,
7 quote, affected parcels, and their owners, the
8 affected parcel owners. Regardless of how the
9 association chose them, those that were sent a
10 package and the package said, "We are proposing to
11 revive declarations governing your parcel. Do you
12 consent," that's the denominator. And when a
13 majority of those parcels agreed, the package was
14 submitted to the department.

15 So it doesn't matter if it was 100 or 10 or
16 1,800 of the 2,000. What matters is everyone who
17 received -- a majority of those who received the
18 package in each county, because it was done county
19 by county, agreed to the revitalization.

20 Now, moving on to Ms. Grant's argument, she
21 conceded that a partial revitalization may be
22 appropriate, but then asked the Court to inquire
23 further as to the motive or the method of
24 determining those. I don't think that's in the
25 statute. I don't think that's relevant.

1 I also don't know that it's relevant whether
2 or not a particular owner who joined a
3 revitalization effort must have had a parcel that
4 was not governed. Perhaps it was important,
5 perhaps it's not. There's nothing in the record
6 that says that the owners -- the majority of those
7 who approved in each county, had they known or if
8 they are excluded if their parcel was already
9 governed, that a majority would not have been
10 obtained. So in one county, it was 55 out of 82.
11 That's Columbia County. And somehow in Suwannee
12 County, 14 people returned consents for a total of
13 10 parcels. So we have enough parcels counts by
14 both to constitute a majority.

15 And then very briefly, what a title search
16 returns in Florida for insurance purposes -- title
17 searches are typically done for insurance purposes.
18 What a title search -- a commercial insurance title
19 insurance company does is not within the scope of
20 the department's approval process for
21 revitalization. Expired covenants appear, wild
22 deeds appear, inaccuracies appear. I order two or
23 three title searches a week, and about once a
24 month, I have to call the title examiner and ask
25 them to reconsider the results because something's

1 either been included that shouldn't have been or
2 was omitted that should have been included.

3 My point is just that the results of a title
4 search are not dispositive to the department's
5 initial determination, and I don't believe that
6 they're dispositive as to the hearing today.

7 And I think that concludes my response.

8 MS. ERTL: Your Honor, if I could just, in
9 rebuttal to that, call you again to Exhibit 1A,
10 which is the Columbia revived declaration.

11 Paragraph 9 on page 2 says, "Consideration of the
12 foregoing, the association hereby records the
13 revived declaration and other governing documents
14 as hereinafter provided of all the lots in the
15 subdivision shown and described in Exhibit D
16 attached hereto, and the association places upon
17 the land, subject to the declaration, the following
18 revived declaration," and that "every person who's
19 included in there shall become an owner of said lot
20 and shall be bound by those covenants set forth
21 herein."

22 So that's their document. They're the one
23 that called out Exhibit D as applying to everyone.

24 So, again, you can do a parcel. That's not
25 what they did. Schedule A says, "The real property

1 subject to this declaration is described as
2 follows," and then it lists out the unit numbers.
3 Again, that's 1,937 unit owners -- or parcels. And
4 if you look at the graphic depiction, which was
5 on -- it's Paragraph 9, page 2, it says -- it
6 reflects 2,114.

7 So, again, while it might be possible, that's
8 not what their document says. Their document says
9 they are imposing the restrictions on everybody
10 identified in Exhibit D, and their document says,
11 "The legal description of the real property that is
12 subject to this declaration is as follows," and
13 then it lists out all of the units, barring two,
14 which includes 1,937 parcels.

15 We contend --

16 MR. FOCKS: Your Honor, if I may --

17 MS. ERTL: One more thing. We contend that
18 the reason for the title search was to demonstrate
19 as further evidence that after they recorded it,
20 what their document said it applied to actually
21 came true, and that's what it applied to, people
22 who were -- more people than were listed on Exhibit
23 E.

24 THE ADMINISTRATIVE LAW JUDGE: I'll allow a
25 limited response, Mr. Focks. What --

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1 MR. FOCKS: Yeah, I just want to draw your
2 attention to a previous case. I don't want to have
3 any further argument. It's called Maxon, M-a-x-o-n,
4 versus Melrose Area Property Owners Association.
5 It was a Department of Commerce Agency Case Number
6 23-035, and it was heard by the Department of
7 Administrative Hearings under Case Number 23-1710.
8 In that case, a partial revitalization on very
9 similar circumstances was upheld.

10 THE ADMINISTRATIVE LAW JUDGE: And we'll get
11 to this when we're concluded with your
12 presentations, that you all have an opportunity to
13 present proposed recommended orders where you can
14 cite to authority and those sorts of things. I've
15 made note of that, but just for future reference,
16 you all have that opportunity as well. Thank you.

17 MR. FOCKS: Okay.

18 THE ADMINISTRATIVE LAW JUDGE: Okay. We can
19 move on if we're ready.

20 MS. ERTL: Okay. Wonderful. Okay. So now
21 we're going to look at how the revitalization
22 package was approved. Was it approved by the
23 requisite number of owners? There were some
24 defects in the consents that were submitted, and
25 whether or not, again, related to those consents

1 that approval was sought before 14 days of the
2 people who did get it having the package.

3 What is required, you know, by Part 3 of 720
4 is that the affected parcel owners have the package
5 for 14 days and it's written to say that you cannot
6 seek their approval until 14 days have elapsed,
7 basically, that they've had the package. And so
8 we're going to just present some argument and some
9 stipulated facts that establish that some of that
10 was done. It was sought before 14 days had
11 elapsed, which should invalidate some of those
12 consents, and some other issues with the consents
13 that were submitted, that even if we assume there's
14 some sort of partial with some sort of a hundred,
15 that they didn't even meet those numbers.

16 And so, again, we've already presented our
17 arguments on who should be affected, and we're
18 incorporating all of that, so we don't think that
19 they met the majority number based on our
20 understanding of what their document said of
21 including 1,937 or 2,114, and only submitting 55
22 signed consents.

23 They've already admitted and stipulated Fact
24 42, that they did not -- they only sent it to the
25 people in Exhibit E, which we suggest is not all of

1 the affected parcel owners. That's in 42 and 11.
2 They did not send it to everybody in Schedule A.
3 They did not send it to everybody in the graphic
4 depiction, which their document says it applies to.
5 They only sent it to the hundred. That's in
6 Stipulated Fact 11.

7 As a reference point, petitioners own 140
8 parcels. So the respondent submitted 55 consents
9 saying that they wanted to approve it, which falls
10 well short of the majority because it's well short
11 of 1,937 or majority of 2,114.

12 We also have the issue with one of the
13 consents for Lot 7A of Section 1. It lists
14 Alexandra Stock as the parcel owner and does not
15 list James Baker. Alexandra Stock did not sign the
16 consent, but James Baker did, and that's in
17 Established Fact 51 -- or Stipulated Facts 51, 52,
18 and 53.

19 720.455 says that "The revitalization cannot
20 be sought less than 14 days -- or more than 14 days
21 prior to receiving the package." The date on the
22 letter submitted with respondent's revitalization
23 package as the cover letter to sending out the
24 revitalization package is October 30th, 2025.
25 That's Number 12. Forty-six of the consents in the

1 revitalization package are dated before November
2 13th, which is less than 14 days. So that would
3 mean that 46 of those 55 consents should not be
4 counted. That leaves only five consents that would
5 be within the amount that could be counted.

6 We do note that there was an affidavit
7 submitted with the revitalization package which
8 conflicted with the letter. Typically, when you
9 submit a revitalization package, you have to submit
10 the cover letter of sending out the package. That
11 cover letter establishes the date. Usually the
12 affidavit that accompanies the cover letter, that
13 has to be from someone on the organizing committee
14 saying to affirm to certain things, including the
15 date they sent out the package. Their letter said
16 that the packages were sent out on October 27th.
17 So I'm not sure how a post-dated letter went out on
18 a package, you know, three days earlier, but we do
19 have that conflict. But even assuming we're
20 relying on the affidavit as opposed to the date on
21 the letter, we have 22 of the consents -- 22 of the
22 55 that are dated before November 10th. That would
23 mean that they signed those consents before having
24 the package for 14 days, and so that would leave
25 only 33 of the consents as valid. Thirty-three is

1 not a majority of a hundred and 33 is certainly not
2 a majority of 1,937 or 2,114.

3 In addition, the consent signed by Joanne
4 Keppel was included twice. So we believe, when we
5 count them up, that's part of the 55. So that's
6 also an issue.

7 And I'm going to turn it over to Ms. Grant
8 now, who has a couple other defects and consents
9 that were included in her petition and not mine
10 that she's going to go through.

11 MS. GRANT: Yes. To add on to what Christene
12 has already articulated -- sorry, Ms. Ertl. I
13 don't mean to be informal. I'm just going to get
14 into some specific consent. So let's take all the
15 other issues off the table and just deal with the
16 55 consents that were outside of state issue
17 arguments submitted as consenting to the
18 revitalization.

19 And if Your Honor will take a look at Exhibit
20 5. And forgive me, this is the part where I would
21 call Mr. Crane as a witness, but if the parties are
22 okay, I'm just going to go through each of these
23 exhibits -- it's a composite exhibit, Exhibit 5.
24 I'm just going to go through each of these seven
25 consents and tell you what we assert to be the

1 defects in those consents, and then, obviously, if
2 these seven consents were removed from the 55,
3 you're at 48 consents, which is not sufficient for
4 the majority vote required under Chapter 720
5 (inaudible).

6 So the first one that we get to is -- that's a
7 screenshot of the property appraiser showing that
8 this property located at 1531 Southwest Newark
9 Drive, Fort White, is owned by Miles and Kathleen
10 Riker. Their consent indicates an address of 183
11 Southwest Kansas Court, which was not included.
12 They may own multiple properties within Three
13 Rivers Estates, but 183 Southwest Kansas Court was
14 not the lot included on Exhibit E. It was 1531
15 Southwest Newark Drive, and that's not the property
16 that they signed the consent for. A copy of their
17 warranty deed -- this is for Lot 6, Three Rivers
18 Estates, Unit Number 21, that is the deed that
19 would match the 1531 address, and, again, the
20 consent form was not signed for the proper address.

21 We already touched on the next one. That's a
22 screenshot of the property appraiser for 276
23 Southwest Riverside Avenue, and this is owned by
24 Alexandra Stock and James Baker. If you go down to
25 the consent for that lot, it is only signed by

1 James Baker. With joinders and consent, it is our
2 position you would need all record owners signing
3 off on a joinder and consent or a written consent
4 form because this is not done by a vote at a
5 meeting where the documents authorize one of the
6 record owners to cast the vote on behalf of the
7 entire lot and on behalf of all record owners of
8 that lot. The life estate deed for that lot is
9 attached behind that consent.

10 The next one is for Kyle and Lacey Sullivan,
11 and this doesn't have a site address, but it's for
12 Lot 41 through Lot 44 of Unit 10 of Three Rivers
13 Estate. And the issue with this one -- and I
14 apologize, I may have to circle back to this one.
15 I don't have my notes here on what the issue was
16 with this particular set of four. Oh, it's listed
17 as being owned by Barry Foray and Angela Foray.
18 Kyle and Lacey Sullivan, I guess, purchased this
19 property within the process of the revitalization,
20 but they are not the parties that owned at the time
21 that the submission was originally put to the
22 owners.

23 The next one is for site address 375 Southwest
24 Boston Terrace, and this is owned by Lorri and
25 William Lilly. It is only signed, the consent, by

1 Lorri Lilly. There is no signature for William
2 Lilly. And, again, we are of the position -- and
3 this is applicable to all three lots that the
4 Lillys owned. They were all three only signed by
5 Lorri Lilly. Again, no signature from William
6 Lilly, and we would assert that you need signatures
7 from all record owners.

8 And the next one is Barbara Ratliff, and this
9 is for site address 335 Southwest Washington
10 Avenue. And the issue with her consent, she signed
11 on behalf of -- she signed twice on behalf of one
12 lot. There are two consents for Lot 76, and you
13 obviously cannot vote more than once per lot.

14 So that goes through those consents and the
15 issues that we would assert with those consents,
16 and, again, if you deducted those seven consents
17 from the 55, you would be at 48, and that is not a
18 sufficient number to reach the majority vote
19 necessary of even the hundred, if we assume that
20 the 100 is the correct number of affected parcels.

21 THE ADMINISTRATIVE LAW JUDGE: Anything
22 further before I allow Mr. Focks to respond?

23 MS. GRANT: No, Your Honor.

24 THE ADMINISTRATIVE LAW JUDGE: All right.

25 MR. FOCKS: Yes, Your Honor. Let me move my

1 notes around.

2 Let's start with the 14-day timeline that Ms.
3 Ertl discussed. I believe that her argument is
4 based on a misreading of the statute. Section
5 720.405(5) provides "A copy of the complete text of
6 the proposed revised covenants, et cetera" -- this
7 is the package that goes to the owners -- quote,
8 "shall be presented to all of the affected parcel
9 owners by mail or hand-delivery not less than 14
10 days before the time that the consent of the
11 affected parcel owners to the proposed governing
12 documents is sought by the organizing committee."
13 It does not say that a member may not submit a
14 consent fewer than 14 days after receiving it.

15 Again, the entire premise of opposing
16 counsel's argument is that no consent may be
17 returned by an owner fewer than 14 days, and if it
18 is submitted, it couldn't be submitted to the
19 department for approval fewer than 14 days. But
20 the word is not "shall not be submitted within 14
21 days." It says, "cannot be sought." There's no
22 evidence -- there was never a request for a
23 stipulation. There's no evidence in the record
24 that the association or the organizing committee in
25 either county ever sought a consent fewer than 14

1 days. Owners may have voluntarily returned it
2 fewer than 14 days, but that's an entirely separate
3 question and not one that's addressed in the
4 statute.

5 Indeed, if you go down to 720.406,
6 Subparagraph 1, this is on the timeline to submit
7 the package to the department for its approval. It
8 says, quote, "Within 60 days after obtaining valid
9 written consent from a majority of the affected
10 parcel owners." It does not say 60 days after the
11 14-day period has expired upon obtaining a
12 majority. It simply says, "within 60 days after
13 obtaining a valid consent." And I believe it's the
14 department's policy to reject revitalization
15 packages if the majority vote was obtained more
16 than 60 days before the package was submitted to
17 the department.

18 And so I think the entire argument about the
19 14 days and then the exclusion of certain of the
20 consents and the date of the affidavit are
21 incorrect. They're based on an incorrect reading
22 of the statute.

23 And then as far as the various consents go,
24 the revitalization was approached county by county.
25 If you discount the votes, even conceding purely

1 for the sake of argument, there's still a majority
2 in the counties to approve -- each county to get to
3 the majority required.

4 I think that one owner combined the entire
5 parcel. I don't think that there's an argument --
6 there's been no legal argument presented that a
7 voting certificate was required or that a
8 nomination by the co-owners of a parcel was
9 required to consent to the revitalization.

10 And so I think that there's a majority -- it
11 was approached county by county. The denominator
12 is the number of parcels in each county. That's
13 why there's two separate packages, two separate
14 submissions to the department, two separate
15 approvals. Initially, there were going to be two
16 approval letters, and then the department combined
17 them in one. But it's not an overall 100. It's
18 two separate county denominators. And I think that
19 the association complied with the majority, even
20 assuming there may be a defect here or there or a
21 typographical difference with some of the consents.

22 So I think that addresses all the consent
23 issue and we can move on to the next portion.

24 THE ADMINISTRATIVE LAW JUDGE: Okay. Any --

25 MS. ERTL: I would just say that I know for a

1 fact that the Department of Commerce has refused to
2 count consents that were signed before the 14 days
3 after -- the letter is usually how they do it. So
4 -- and, again, I disagree with that.

5 And also to clarify, we have only presented
6 arguments relating to the Columbia County consents.
7 We have not crossed county lines. So all of our
8 arguments as to discounting consents only dealt
9 with Columbia County. We understand there were 55
10 submitted for Columbia County. We only spoke to
11 those 55, and we are assuming that we're taking 55
12 of 100, believing that you do because restrictions
13 are recorded in a county as was submitted by two,
14 and they were going to -- decided to do maybe one
15 letter at the end, but they, again, combined one
16 letter into one because it was going to one party,
17 but nobody that I understand that Mr. Focks has
18 even tried to suggest that were able to combine the
19 counties for counting the numbers.

20 I will get into Suwannee County next, but to
21 clarify, we have only stuck with Columbia County.

22 THE ADMINISTRATIVE LAW JUDGE: Okay. I'm
23 going to suggest that we take a short break here.
24 We've been going pretty hard, and it's 10:45. Why
25 don't we break until 11:00 and we'll come back at

1 11:00. I'm just going to mute my device. We'll
2 come back at 11:00 for further hearing here. So
3 we'll stand in recess for 15 minutes. Thank you.

4 (Brief recess.)

5 THE ADMINISTRATIVE LAW JUDGE: Ms. Ertl and
6 Ms. Grant, you may continue.

7 MS. GRANT: Thank you, Your Honor. This last
8 -- and this is going to be the last argument for
9 Columbia County. This is in relation to the
10 revived declaration finding more than just the
11 owners listed on Exhibit E to the revitalization
12 package. And if Your Honor wants to stop me
13 because you feel that I'm being redundant on
14 anything we've already covered, I totally
15 understand, but I do want to emphasize the reason
16 for the confusion -- and with all due respect to
17 Mr. Focks -- indicating that their intent was to
18 only include and only have these revitalized
19 documents applicable to those 100 slots listed in
20 Exhibit E, the document that was prepared and typed
21 by either the organizing committee and/or Mr. Focks
22 on behalf of TREPO, that document itself is what
23 creates the confusion in that they typed up
24 Schedule A. There's nothing in Chapter 720, Part
25 3, that would have required Schedule A to be

FOR THE RECORD REPORTING, INC. 850.222.5491

1 included in the revived declaration certificate.

2 And, again, to reiterate, the statement in
3 here is that that is the real property being
4 subjected to these restrictions. And in Paragraph
5 9 -- and I know we've read it once, but I'm going
6 to read it again because I think it is very
7 important: "In consideration of the foregoing, the
8 association hereby records the revived declaration
9 and other governing documents pursuant to Section
10 720.403, Florida Statutes, and further restricts
11 the use as hereinafter provided of all of the lots
12 in the Subdivision" -- and Subdivision with a
13 capital S -- "shown and described in Exhibit D
14 attached hereto." And Exhibit D is that graphic
15 depiction of all of Three Rivers Estates within
16 Columbia County.

17 It goes on to further state, "The association
18 places upon the land, subject to the declaration,
19 the following revived declaration and declares to
20 and agrees with each and every person who is or who
21 may become an owner of any of said lots, that said
22 lots are bound by the covenants that (inaudible)
23 in, and that the property described in these
24 restrictions will be held and enjoyed subject to
25 and with the benefit and advantage of the following

FOR THE RECORD REPORTING, INC. 850.222.5491

1 attached documents."

2 That was typed, again, either by the
3 organizing committee or by the association or by
4 Mr. Focks on behalf of the association, and it
5 clearly reads that it is binding all lots within
6 Exhibit D.

7 And to kind of bring that point home, again,
8 the purpose of having the ONE searches, which are
9 attached and re- -- or admitted into evidence as
10 Exhibit 3, it is, in fact, showing up on the ONE
11 searches for lots that are not contained within
12 Exhibit E.

13 And with that, Your Honor -- and I'm not sure
14 if Mr. Ertl has anything to add to this particular
15 point, and then I don't know if Your Honor would
16 prefer we go ahead and do closing -- kind of
17 wrap-up arguments on just Columbia County before we
18 move into Suwannee County.

19 THE ADMINISTRATIVE LAW JUDGE: Well, I'll ask
20 Ms. Ertl if she has anything to add. I actually
21 can't hear you.

22 MS. ERTL: Sorry. I have two mute buttons to
23 ensure muting.

24 So I think that's it, and I just wanted to
25 emphasize because the 1962 restrictions did not

FOR THE RECORD REPORTING, INC. 850.222.5491

1 include a legal description, and while the 1990
2 did, they included even more than what was included
3 in Schedule A. So Schedule A was purposeful. It
4 had to be -- it was typed up on their own. It was
5 not something just scooped up with, you know, we're
6 including the old documents, and that's what they
7 say. It's what they typed. It's what they said.
8 It's what the purpose of the revitalization package
9 and the revised -- revived declaration was, and by
10 its own words, it's saying these are the affected
11 parcels, these are the property that we are putting
12 this revived declaration on.

13 THE ADMINISTRATIVE LAW JUDGE: And I'm going
14 to let Mr. Focks respond to that, and then I'll
15 discuss how we're going to move forward from there.
16 Go ahead, Mr. Focks.

17 MR. FOCKS: Thank you. Just very briefly, I
18 would draw the Court's attention to 720.406(c).
19 This is what must be submitted to the department
20 after receiving a majority of the approvals, and it
21 says, quote, "The legal description of each parcel
22 sought to be subject to the revived declaration,"
23 end quote, it goes on from there. And then also
24 720.407(3), about the middle of the paragraph,
25 these are the documents that must be recorded, and

1 it says, quote, "The recorded documents shall
2 include the full text and the legal description of
3 each affected parcel of property," end quote.

4 The drafting of the revived declaration
5 indicates that only those parcels in Exhibit E are
6 subject to the revived declaration. The reference
7 to Exhibit D and Schedule A are for reference to
8 help identify the context, but the language in the
9 Paragraphs 1 through 9 of the revived declaration
10 in both counties make it clear that "subdivision"
11 refers to all of the parcels that may have been --
12 I suppose it should be a question for the Court to
13 just read and decide how it interprets it, but
14 Exhibit E is the list of owners that's specifically
15 required by the statute, not Schedule A, not
16 Schedule D, and, again, the title work is not
17 really dispositive.

18 THE ADMINISTRATIVE LAW JUDGE: Any rebuttal to
19 that?

20 MS. ERTL: I would just say that I agree
21 that's what the statute says, and I think that just
22 by citing that, that it's -- you're going to give
23 the legal description of the property to be subject
24 to the revived declaration. That's exactly what
25 I'm saying, and that was 1,937 properties or 2,114

1 on the graphic depiction.

2 THE ADMINISTRATIVE LAW JUDGE: So it's my
3 understanding, Ms. -- we're at the precipice of
4 concluding your presentation with regards to the
5 Columbia County issue here. I normally don't allow
6 closing statements in administrative cases because
7 I allow those to be made in the proposed
8 recommended orders, and so what I'd like to do is
9 just go ahead and move on to Suwannee. If at the
10 end, you know, if you all want to try to convince
11 me that you need to make a closing, I'll entertain
12 that, but, generally, the proposed recommended
13 orders, to me, provide me a much better -- I think
14 provide party a much better opportunity, but also
15 it helps me in preparing my recommended order if
16 you do it there. So I'd like to just go ahead and
17 move on to Suwannee.

18 But before I do that, Mr. Focks -- and I
19 probably jumped the gun a little bit here. Does
20 the respondent have anything that it wishes to
21 present before we move to Suwannee?

22 MR. FOCKS: No.

23 THE ADMINISTRATIVE LAW JUDGE: Okay. Very
24 good. So we'll move on then. You all can begin
25 with Suwannee.

1 MS. ERTL: Okay. Thank you.

2 So in Suwannee County, we're going to take the
3 same format as we went through with Columbia
4 County, but because they were different documents,
5 it is a different county, and so, again, it has
6 similar issues, but it was its own filing. It was
7 a separate document, and they actually are
8 different restrictions. They just have similar
9 issues. And so while it might sound repetitive,
10 when you look through the record, you're going to
11 see they're actually different documents.

12 And so, again, we start with the fact that we
13 don't think that the Suwannee County declaration
14 was ever -- the document identified as the Suwannee
15 County declaration was ever a declaration in the
16 property. And, again, that's important because
17 that's where 720 -- so the third part of Part 3 of
18 720 starts for covenant revitalization. You have
19 to show that it was a declaration that the
20 properties were subject to.

21 And so I can understand you might have missing
22 pages or something else like that, but you have to
23 be able to demonstrate that because just because
24 something's in the public record doesn't mean that
25 it's actually been held or been enforced or that

FOR THE RECORD REPORTING, INC. 850.222.5491

1 it's actually subject to. There could have been
2 other actions, there could have been other actions
3 with settlement, there could have been a lot of
4 things that happened that aren't the purview of a
5 revitalization that wouldn't be scooped up in the
6 revitalization.

7 So when it says that you have to start with
8 declarations in which the properties were once
9 governed, that's an important thing, an important
10 requirement in the statute. And so for one, we
11 start with there was a document that was included.
12 It was, again, a one-page document, and that was
13 established at Stipulated Fact 64 that the document
14 identified as the Suwannee declaration is one page,
15 and it bears Book 130, page 57. When you go to
16 Suwannee County to look up this document, you come
17 up with an indenture, which is not the (audio
18 blank) 7 and 8 that is included in the record now
19 already.

20 In addition, this one-page document did not
21 have a legal description. So, again, starting
22 point for a restriction for anything is it has to
23 tell you where the property is restricting. And so
24 that would include having a legal description. We
25 had that deficiency in Columbia County. We also

1 have this document. The document included that
2 bears Book 130, page 57, as being representative of
3 the Suwannee County declaration does not have a
4 legal description. So there's no way to tell that
5 it was actually a restriction on any property in
6 Suwannee County. If there's no signatures, it does
7 not have two subscribing witnesses. And so we have
8 the issue of how do we know that this was ever a
9 document that was a restriction in Suwannee County?

10 I will go ahead and discuss -- and I'm sure
11 Mr. Focks is going to bring up during our
12 discussions afterwards -- he sent me a document
13 that he said, "This is what I got back in my title
14 search." It does not clarify why would you do that
15 same search, and I demonstrated and provided as an
16 exhibit that if you run a search in Suwannee County
17 right now, what you'll get (inaudible) the
18 adventure, it doesn't clear that up, that document
19 itself -- and I don't know if it was or was not
20 recorded, and it's not of evidence here, it's
21 actually a contract for deed and it is not even a
22 deed. And so it also did not create restrictions.
23 It doesn't even reference the restrictions, the one
24 missing page that he could produce.

25 And so, again, we just get back to the

1 document included in the revitalization package
2 does not have a legal description. So there's no
3 way to prove it was ever restrictions on the
4 property. It has no signatures, it has no
5 subscribing witnesses, and if you do a search
6 today, you can't even find it in the public
7 records. When I did the title search, which is
8 also one of the exhibits and admitted into
9 evidence, it did not come up in the title search,
10 and I asked them to go back to 1962. I understand
11 the arguments he's going to make about title
12 searches, but we submit that as additional evidence
13 on that point.

14 I'll let him go ahead and respond to that, and
15 then I'll get into some of the other ones that are
16 more specific as to those documents.

17 MR. FOCKS: Your Honor, I would just reiterate
18 my responses to the defects alleged about the 1962
19 Columbia County document concerning signatures,
20 witnesses, and on down the line. The responses are
21 the same. It's the same document.

22 The title search and the searching of the
23 public records, I cannot explain why a public
24 search of the clerk's records doesn't reveal that
25 this document was recorded in the public records of

1 Suwannee County. Perhaps the proposed orders can
2 clarify that a little bit.

3 I ordered a title search, like I said, some
4 time ago in this hearing, and it was returned as
5 one of the records in the public records. I don't
6 know that it was -- I don't think the allegation is
7 that the document was forged or manufactured, so I
8 think it existed in the public records, but I can't
9 explain why Ms. Ertl or her title search was unable
10 to retrieve it.

11 MS. ERTL: Okay. I will then move on. And,
12 again, I would just emphasize that without a legal
13 description, I don't know how you prove that it was
14 a record or ever applicable to the property.

15 That same one-page document has, again,
16 similar defects. I'm just going to put them in the
17 record. Again, we can adopt the arguments, but it
18 was also missing the 1987 bylaws. It was also
19 missing the 2008 articles of incorporation
20 amendment. The Part 3 of Chapter 720 does require
21 that you include all of the governing documents,
22 and those documents were also missing from this
23 package.

24 And, again, there were documents that were
25 more restrictive, the one-page document that was in

1 there that has no label description and no
2 signature, also, the whole entire package -- or,
3 sorry, that one document does not mention a
4 homeowner's association. It does not mention
5 TREPO. It's Stipulated Fact Number -- Stipulated
6 Fact Number 68.

7 Stipulated Fact Number 69 is that there's no
8 documents purporting to be deed restrictions
9 between 1962 and the revived declaration. There
10 was no assignment of rights to TREPO. There are no
11 lien rights in that document. There are no lien
12 rights to TREPO specifically.

13 And so for all those reasons -- and, again, we
14 won't hash out all the arguments, but we will adopt
15 them here. We believe that that means that those
16 -- the restrictions that are included in the
17 revived declaration to be more restrictive and/or
18 missing in part.

19 THE ADMINISTRATIVE LAW JUDGE: Thank you. Mr.
20 Focks.

21 MR. FOCKS: And I would just adopt the
22 responses that I previously made.

23 THE ADMINISTRATIVE LAW JUDGE: Okay.

24 MS. ERTL: Okay. Now we're going to get down
25 to our favorite affected parcel owners, and for the
FOR THE RECORD REPORTING, INC. 850.222.5491

1 most part, it's about getting the numbers in.

2 On this one, again, we incorporate our
3 arguments about how -- where it's at in the
4 statutes, how we define it. And then again, based
5 on that, we again turn to his -- his or their, my
6 apologies, declaration that they recorded. It's
7 labeled "the revived declaration."

8 Paragraph 9, which was read is the same
9 Paragraph 9 that Ms. Grant just read about five
10 minutes ago, which says that it is -- that Exhibit
11 D is a demonstration of all of the property in
12 which those restrictions are being placed. Exhibit
13 D in Suwannee County includes 1,111 parcels.
14 Schedule A, which was typed up by, again, either
15 respondent's attorney or respondents themselves,
16 the organizing committee says, "The real property
17 subject to this declaration is described as
18 follows: Unit 1, according to the plat thereof,
19 Book 1, pages 7 and 8, Unit 2" -- and it goes all
20 the way through Unit 1, 2, 3, 4, 5, 6, 7, 8,
21 provides the (inaudible) pages, and that is a lot
22 of property. All of the public records of Suwannee
23 County, all of those properties is 1,111
24 properties.

25 So by the revived declaration, the legal

1 description, the properties subject to the revived
2 declaration as typed out as part of the new
3 covenants or the revised covenants that are going
4 to be placed upon these properties scoops up 1,111
5 properties.

6 And so we think that's a problem because they
7 only considered 35 parcels. They have 35 parcels
8 listed in their Exhibit E. They took a majority of
9 35 by including 18 consents to revive the
10 declaration for all of the property that is subject
11 to it, which lists out 1,111 parcels, and we
12 believe that's a problem.

13 I'm going to just go through these, but I
14 think they're going to adopt a lot of the same
15 arguments. So I'm going to skip through to arguing
16 over some of the consents.

17 We have the same issues with the dates,
18 understanding his argument, I believe, and I know
19 that the Department of Commerce has rejected to
20 count parcels -- or consents if they were dated
21 before 14 days. In this case, again, we have a
22 letter dated October 13th. We have 11 of 18
23 consents that are dated before November 13th, which
24 would be 14 days. That's at Stipulated Fact 74.
25 If we take the date that's in the affidavit, again,

1 which is different, we have a difference of seven
2 consents that were dated before that date, and
3 that, again, brings the number down to 11. So you
4 either have 18 or 11 parcel owners reviving
5 documents for 1,111 properties. That is not a
6 majority.

7 And so we submit that that is in violation of
8 the statutes, the revitalization statute, and,
9 again, just bring you back to what their
10 declaration says. Schedule A says this is the
11 property that is subject to the declaration.
12 Paragraph 9, which has been read now a few times,
13 says that you look to Exhibit D to see what
14 property is being revised here and what property
15 this revived declaration is going to be subject to,
16 and, again, in Columbia County, that they match and
17 it's 1,111 properties.

18 THE ADMINISTRATIVE LAW JUDGE: Thank you. Mr.
19 Focks.

20 MR. FOCKS: Your Honor, I would repeat or
21 reiterate and adopt the same structural arguments
22 that I made above concerning the exhibits and how
23 they function in relation to Exhibit E in the
24 Suwannee County revived declaration.

25 I would also adopt and reiterate the argument

1 I made concerning the statutory interpretation on
2 14 days.

3 THE ADMINISTRATIVE LAW JUDGE: Thank you. We
4 can keep going.

5 MS. ERTL: That's it, that's our closing. We
6 ended with the consent. So, again, we've got the
7 dates that invalidate and that.

8 THE ADMINISTRATIVE LAW JUDGE: Thank you. So
9 are the petitioners prepared to close their case?

10 MS. ERTL: I am, Your Honor.

11 THE ADMINISTRATIVE LAW JUDGE: Excuse me, I
12 didn't (inaudible) rest. I apologize.

13 Mr. Focks, anything further from the
14 respondent?

15 MR. FOCKS: No, Your Honor.

16 THE ADMINISTRATIVE LAW JUDGE: Okay. Bear
17 with me for a moment.

18 (Brief pause.)

19 THE ADMINISTRATIVE LAW JUDGE: So I'm going to
20 give the parties the opportunity to file written
21 proposed recommended orders in this case. I
22 normally would set the following timeframe: 10
23 days from the date the transcript is filed, I would
24 request your proposed recommended orders, and I
25 would file my recommended order 20 days thereafter.

FOR THE RECORD REPORTING, INC. 850.222.5491

1 Is that acceptable to the parties?

2 MS. ERTL: I will have this one addition, and
3 depending how long the transcript takes, I'm going
4 to be out of the country from June 1st to June
5 20th. So if it is not available until close to
6 that timeframe, I'm going to be very much hindered
7 in getting my proposed order completed.

8 THE ADMINISTRATIVE LAW JUDGE: I'm not going
9 to put the court reporter on the spot here. I find
10 that usually it's still a gap of about 30 days to
11 get the transcript in is my calculation. I would
12 ask if that becomes an issue for you all, to file a
13 motion and I'll consider that. Just (inaudible)
14 file a motion.

15 MS. ERTL: Yeah. I will be out of the country
16 with limited access, so -- but I will, I guess,
17 leave instructions with Ms. Grant to abide by that.
18 I mean, as a general rule, if I could just -- if we
19 could say that we could have the proposed orders
20 submitted by -- I would even agree to July 10th.
21 That's exactly 10 days after I get back.

22 THE ADMINISTRATIVE LAW JUDGE: Any objection
23 to that, Mr. Focks?

24 MR. FOCKS: No, Your Honor.

25 THE ADMINISTRATIVE LAW JUDGE: Okay. Well,

1 then, I will just enter -- what I usually do is
2 enter a scheduling order after I get the
3 transcript, but I'll enter a scheduling order.
4 July 10th would be your proposed recommended
5 orders. And by asking for this extension, it
6 weighs the time for my recommended order, but I
7 would endeavor to have that to you within 30 days.

8 MS. ERTL: Thank you, Your Honor.

9 THE ADMINISTRATIVE LAW JUDGE: (Inaudible) the
10 department, yeah.

11 MS. ERTL: And thank you, Mr. Focks, for
12 agreeing.

13 MR. FOCKS: Would that be 30 days after you
14 received the proposed orders on July 10th?

15 THE ADMINISTRATIVE LAW JUDGE: Correct.

16 MR. FOCKS: Okay.

17 MS. GRANT: I apologize, I stepped away.
18 We're talking about the deadline to get in our
19 proposed recommended orders. I understand July
20 10th, and that's perfectly fine.

21 Did, Christene, you already address attorney
22 fees?

23 MS. ERTL: Oh, yes, thank you. I did want to
24 do that. So as a closing matter, I did include in
25 my petition a request for attorneys' fees, Your

FOR THE RECORD REPORTING, INC. 850.222.5491

1 Honor, and I will provide case law of that, but I
2 did want to put it on the record that I was
3 requesting attorneys' fees and it was in my
4 petition.

5 THE ADMINISTRATIVE LAW JUDGE: Okay. That's
6 fine. I would ask you to address that in your
7 proposed recommended order as well, and depending
8 on how this goes forward, there may be further
9 addressing that. I just can't comment on that, but
10 I'd just ask that you would address that in your
11 recommended order.

12 MS. ERTL: I appreciate it, but I did want to
13 put it on the record. Thank you, Tiffany.

14 THE ADMINISTRATIVE LAW JUDGE: And I guess the
15 July 10th date presumes we'll have a transcript in
16 time. I presume we will, but if we don't, we can
17 work on that as well, okay?

18 MS. ERTL: Okay. (Inaudible).

19 THE ADMINISTRATIVE LAW JUDGE: Anything else?
20 Anything further from the petitioners before I
21 close this proceeding?

22 MS. GRANT: Just the last thing from me would
23 be to ensure -- and I'm assuming I can put this in
24 our proposed recommended order, but in the relief
25 that we would be seeking would be a reversal of the

1 approval, but for that order to be in a format that
2 could be recorded in the public record and that
3 we'd be authorized to record that order from the
4 department.

5 THE ADMINISTRATIVE LAW JUDGE: That's going to
6 be up to the department. You can certainly also
7 include that in your proposed recommended order as
8 a request.

9 MS. GRANT: Understood.

10 THE ADMINISTRATIVE LAW JUDGE: Anything
11 further from petitioners?

12 All right. Anything from the respondent, Mr.
13 Focks?

14 MR. FOCKS: No, Your Honor.

15 THE ADMINISTRATIVE LAW JUDGE: Okay. Well,
16 first off, I'd like to thank the attorneys for
17 doing a fair amount of cooperating prior to this
18 hearing. I will say when I was getting prepared
19 for this hearing, I thought we'd be here all day
20 and walking through lots of documents. I've
21 reviewed them, and I will continue to review them
22 in preparing my recommended order, but I appreciate
23 your professionalism in adding a level of
24 efficiency to this hearing that I was not
25 expecting. So I appreciate that.

1 And I also want to thank you for your very
2 professional presentations today. I know there's a
3 lot of people watching, and I just want to commend
4 the attorneys involved that they've done a very
5 good job for their clients today and I appreciate
6 that. I don't get that all the time, so I do
7 appreciate that.

8 And with that, I'm going to wish the attorneys
9 and everyone here a pleasant rest of your week and
10 weekend, and I will look forward to your
11 recommended orders in July.

12 (End of proceedings.)
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CERTIFICATE OF REPORTER

I, MARION KITTRELL, do hereby certify that I was authorized to and did report the foregoing proceedings, and that the transcript, pages 3 through 101, is a true and correct record of my stenographic notes.

Dated this 11th day of June 2026 at Tallahassee, Leon County, Florida.

Marion Kittrell

MARION KITTRELL

Court Reporter

Commission No.: HH 7091

Expiration date: August 12, 2029

MR. CHARLIE: [1] 4/1 MR. CRANE: [2] 9/6 9/12 MR. FOCKS: [34] 4/19 4/23 6/19 8/5 9/21 14/22 15/10 16/2 17/7 25/10 27/11 27/16 37/7 37/20 37/23 39/19 39/21 40/8 61/18 62/24 68/15 68/25 69/16 76/24 84/16 86/21 90/16 92/20 95/19 96/14 97/23 98/12 98/15 100/13 MS. CUSTER: [5] 12/17 13/3 13/8 13/15 13/17 MS. ERTL: [55] 4/3 5/1 5/16 6/12 7/12 8/19 9/10 11/9 14/7 15/2 15/15 16/7 16/23 17/24 20/16 20/19 20/21 20/23 24/5 25/3 27/19 28/13 28/17 29/3 29/8 30/1 33/4 35/23 37/3 37/25 39/16 39/20 39/25 44/21 48/10 54/18 60/6 67/7 68/16 69/19 79/24 83/21 85/19 86/25 91/10 92/23 96/4 96/9 97/1 97/14 98/7 98/10 98/22 99/11 99/17 MS. GRANT: [28] 15/6 15/22 16/16 20/12 20/17 20/20 20/22 24/25 27/5 30/15 33/10 36/24 37/4 37/13 37/22 38/12 39/23 46/16 54/16 54/22 59/11 61/15 73/10 76/22 81/6 98/16 99/21 100/8 THE ADMINISTRATIVE LAW JUDGE: [79] 3/1 4/14 4/22 4/24 5/6 5/12 5/18 6/20 7/21 8/6 9/4 9/9 9/18 10/6 12/24 13/4 13/10 13/16 13/18 14/20 14/24 15/3 15/7 15/11 15/20 15/25 16/3 16/12 17/3 17/8 25/4 27/7 27/14 27/17 28/9 28/16 29/2 29/4 29/17 30/12 37/5 40/3 44/17 58/24 61/13 61/16 62/18 68/23 69/9 69/17 76/20 76/23 79/23 80/21 81/4 83/18 84/12 85/17 86/1 86/22 92/18 92/22 95/17 96/2 96/7 96/10 96/15 96/18 97/7 97/21 97/24 98/8 98/14 99/4 99/13 99/18 100/4 100/9 100/14	99/15 11 [11] 6/7 7/3 7/20 17/2 51/3 52/5 71/1 71/6 94/22 95/3 95/4 116 [1] 57/18 11:00 [3] 80/25 81/1 81/2 11:30 [1] 1/19 11th [1] 102/10 12 [2] 71/25 102/17 121 [1] 1/25 130 [2] 88/15 89/2 1334 [1] 1/25 13th [4] 3/4 72/2 94/22 94/23 14 [22] 1/19 66/12 70/1 70/5 70/6 70/10 71/20 71/20 72/2 72/24 77/9 77/14 77/17 77/19 77/20 77/25 78/2 78/19 80/2 94/21 94/24 96/2 14-day [2] 77/2 78/11 140 [1] 71/7 1415 [2] 1/4 3/12 1416 [2] 1/11 3/14 144 [1] 23/9 146 [1] 23/9 15 [3] 18/22 19/1 81/3 1531 [3] 74/8 74/14 74/19 16 [2] 57/8 57/18 1689 [1] 2/8 17 [1] 19/1 1710 [1] 69/7 18 [3] 94/9 94/22 95/4 183 [2] 74/10 74/13 1962 [38] 19/5 19/10 19/16 19/19 20/5 21/10 21/14 21/20 21/23 22/1 22/3 22/6 22/12 22/17 22/22 23/4 24/14 24/19 26/14 26/23 31/11 31/20 33/7 34/2 34/8 34/12 35/12 35/19 36/8 40/11 40/12 41/15 42/6 55/15 83/25 90/10 90/18 92/9 1980 [1] 19/6 1986 [2] 32/19 41/19 1987 [7] 32/4 32/6 40/23 40/24 46/24 47/15 91/18 1990 [24] 19/10 22/13 23/4 23/11 23/15 23/19 23/21 23/24 24/8 24/9 24/11 24/14 26/14 26/15 34/3 34/3 34/9 34/12 35/12 35/19 36/15 42/7 55/15 84/1 1994 [9] 32/2 34/14 34/16 34/25 35/3 35/5 35/11 42/9 42/11 1A [5] 19/2 19/3 51/2 52/5 67/9 1C [2] 32/17 33/1 1E [2] 18/17 31/25 1F [1] 18/22 1st [1] 97/4	2029 [1] 102/17 20th [1] 97/5 21 [2] 21/19 74/18 22 [3] 21/22 72/21 72/21 23 [1] 21/25 23-035 [1] 69/6 23-1710 [1] 69/7 24 [1] 22/2 25 [2] 22/5 23/6 26 [2] 22/8 23/6 26-1415 [2] 1/4 3/12 26-1416 [2] 1/11 3/14 2600 [1] 2/5 26002-A [1] 3/19 2630 [1] 2/13 27 [2] 23/6 23/14 276 [1] 74/22 27th [1] 72/16 28 [1] 22/14 28-106.205 [1] 10/17 29 [4] 19/21 22/19 22/25 23/6
0		3
035 [1] 69/6		30 [8] 23/17 41/15 42/18 46/21 57/1 97/10 98/7 98/13 30th [1] 71/24 31 [1] 23/19 32 [1] 23/22 32202 [1] 2/4 32308 [1] 2/8 32312 [1] 1/25 32606 [1] 2/14 33 [4] 34/10 34/19 72/25 73/1 335 [1] 76/9 34 [1] 34/20 35 [5] 35/2 35/4 94/7 94/7 94/9 352-654-1001 [1] 2/14 36 [2] 35/2 35/9 37 [1] 32/10 375 [1] 75/23 38 [1] 32/16 39 [1] 32/25
1		4
1,000 [1] 56/3 1,111 [6] 93/13 93/23 94/4 94/11 95/5 95/17 1,800 [2] 53/18 65/16 1,900 [2] 39/8 51/3 1,937 [12] 51/5 51/9 52/21 53/23 60/16 60/23 68/3 68/14 70/21 71/11 73/2 85/25 10 [11] 18/16 19/2 19/3 21/3 29/6 45/21 65/15 66/13 75/12 96/22 97/21 100 [33] 38/22 39/3 39/5 39/8 47/7 52/19 53/4 53/16 53/17 54/10 55/9 55/13 56/2 56/10 56/11 56/16 56/23 57/18 57/22 57/24 58/2 58/2 58/3 58/6 59/25 60/20 60/21 60/22 65/15 76/20 79/17 80/12 81/19 1001 [1] 2/14 101 [1] 102/7 106.205 [1] 10/17 10:45 [1] 80/24 10A [1] 39/17 10th [6] 72/22 97/20 98/4 98/14 98/20	2 2,000 [6] 38/23 39/2 43/22 53/17 58/12 65/16 2,114 [13] 51/14 51/18 52/11 53/2 54/6 60/17 60/25 61/9 68/6 70/21 71/11 73/2 85/25 20 [8] 10/20 21/13 31/1 33/8 49/11 49/24 50/14 96/25 2008 [6] 32/8 32/12 40/24 46/23 47/16 91/19 2020 [3] 24/17 41/11 46/20 2025 [1] 71/24 2026 [3] 1/19 3/4 102/10	40 [1] 32/25 41 [1] 75/12 41st [1] 2/13 42 [2] 70/24 71/1 44 [2] 51/23 75/12 45 [2] 50/23 51/11 46 [1] 72/3 47 [1] 54/9 48 [2] 74/3 76/17 4A [3] 56/20 56/21 57/7
		5
		5001 [1] 2/4 51 [2] 71/17 71/17 52 [1] 71/17 53 [1] 71/18 54 [1] 51/23 55 [17] 51/24 52/10 56/12 56/13 57/19 66/10 70/21 71/8 72/3 72/22 73/5 73/16 74/2 76/17 80/9 80/11 80/11 56 [1] 54/4 57 [3] 54/10 88/15 89/2 59 [1] 57/19

6	37/21 46/15 60/2 68/20 83/20 87/7 87/11 87/25 88/1 89/5 89/21 add [18] 12/3 14/19 20/11 24/24 29/16 33/6 35/24 39/17 39/25 40/1 46/17 54/21 56/14 56/16 62/3 73/11 83/14 83/20 added [2] 34/8 56/11 adding [1] 100/23 addition [3] 73/3 88/20 97/2 additional [3] 11/12 17/18 90/12 address [15] 7/24 8/10 8/12 11/1 17/16 40/6 74/10 74/19 74/20 75/11 75/23 76/9 98/21 99/6 99/10 addressed [7] 5/21 8/3 9/18 9/23 13/1 40/7 78/3 addresses [1] 79/22 addressing [1] 99/9 administrative [6] 1/1 3/9 3/16 13/24 69/7 86/6 admit [2] 7/2 32/3 admitted [7] 6/19 18/17 54/4 54/9 70/23 83/9 90/8 admittedly [3] 27/2 40/17 41/16 adopt [10] 33/18 56/18 56/18 59/16 91/17 92/14 92/21 94/14 95/21 95/25 adopted [3] 38/24 42/12 43/5 adopting [1] 33/22 advantage [1] 82/25 adventure [1] 89/18 advise [1] 11/11 affect [1] 46/25 affected [52] 25/18 26/8 26/25 27/3 41/25 43/19 46/16 49/2 49/5 49/9 49/10 49/10 49/25 50/4 50/5 50/8 50/10 50/12 50/15 51/9 53/19 54/8 54/25 55/2 55/8 55/10 55/20 56/1 56/6 59/14 59/19 59/20 60/1 60/12 61/20 63/12 63/13 63/18 63/19 64/5 65/7 65/8 70/4 70/17 71/1 76/20 77/8 77/11 78/9 84/10 85/3 92/25 affecting [1] 49/8 affidavit [5] 72/6 72/12 72/20 78/20 94/25 affirm [1] 72/14 aforesaid [1] 1/22 after [16] 5/4 12/4 31/13 41/15 48/19 54/22 68/19 77/14 78/8 78/10 78/12 80/3 84/20 97/21 98/2 98/13 afterwards [2] 48/15 89/12 again [74] 5/3 5/6 14/8 14/17 18/2 20/4 20/25 22/22 26/17 28/15 28/21 28/23 29/13 30/10 30/20 31/22 33/8 33/15 34/4 35/3 35/7 38/2 38/10 41/24 45/2 46/6 46/10 49/1 49/21 51/10 51/18 54/14 59/24 60/15 61/20 67/9 67/24 68/3 68/7 69/25 70/16 74/19 76/2 76/5 76/16 77/15 80/4 80/15 82/2 82/6 83/2 83/7 85/16 87/5 87/12 87/16 88/12 88/21 89/25 91/12 91/15 91/17 91/24 92/13 93/2 93/4 93/5 93/14 94/21 94/25 95/3 95/9 95/16 96/6 against [2] 39/8 53/20 Agency [1] 69/5 agents [1] 45/9 ago [4] 5/6 26/2 91/4 93/10 agree [3] 50/8 85/20 97/20 agreeable [1] 14/22	agreed [3] 18/9 65/13 65/19 agreeing [1] 98/12 agreement [7] 6/3 6/6 6/8 6/15 6/17 6/18 35/21 agrees [1] 82/20 ahead [13] 17/21 20/14 25/17 33/2 33/4 39/23 54/16 83/16 84/16 86/9 86/16 89/10 90/14 al [4] 1/9 3/12 4/8 18/14 alert [2] 29/12 29/24 Alexandra [3] 71/14 71/15 74/24 ALJ [1] 1/20 all [107] allegation [2] 63/2 91/6 alleged [4] 3/23 19/10 22/13 90/18 allegedly [1] 31/19 allow [8] 17/20 38/14 40/5 61/18 68/24 76/22 86/5 86/7 allowed [1] 13/9 allows [3] 26/3 38/17 58/7 alluded [1] 50/17 almost [1] 9/8 along [2] 6/2 12/11 already [20] 12/24 16/20 19/3 22/18 30/17 33/6 36/7 43/14 50/17 52/16 54/9 60/4 66/8 70/16 70/23 73/12 74/21 81/14 88/19 98/21 also [33] 9/15 10/4 10/16 11/23 14/13 18/16 18/20 19/2 20/20 23/12 24/16 32/11 32/19 33/9 42/12 43/8 49/19 66/1 71/12 73/6 80/5 84/23 86/14 88/25 89/22 90/8 91/18 91/18 91/22 92/2 95/25 100/6 101/1 although [1] 62/3 always [1] 12/11 am [6] 3/6 3/15 13/7 15/20 54/24 96/10 amend [4] 8/1 8/8 36/10 39/15 amended [8] 6/2 6/23 34/9 34/12 35/12 35/20 39/7 43/9 amendment [17] 24/13 32/4 32/8 32/12 37/17 38/13 38/15 38/24 39/11 40/24 42/17 43/15 44/5 46/24 47/16 48/8 91/20 amendments [4] 38/17 42/10 43/5 46/11 amount [2] 72/5 100/17 and/or [3] 55/15 81/21 92/17 Anderson [1] 2/7 andersongivens.com [1] 2/9 Angela [1] 75/17 another [3] 5/10 14/9 50/13 anticipate [1] 5/15 anticipating [1] 17/11 any [47] 4/17 5/20 5/25 7/9 8/11 8/16 8/17 9/5 9/25 11/2 11/5 12/7 12/8 12/11 15/5 15/18 17/22 20/6 22/4 22/7 23/24 24/13 25/7 27/10 27/18 29/23 33/3 35/7 41/12 42/16 42/23 43/4 44/4 44/7 44/14 45/16 48/5 57/3 58/16 62/17 62/25 69/3 79/24 82/21 85/18 89/5 97/22 anyone [4] 4/17 29/22 44/8 44/12 anything [27] 11/6 11/7 11/8 12/3 14/7 15/2 20/11 24/24 27/15 29/16 35/13 39/25 40/1 43/13 54/21 61/15 76/21 81/14 83/14 83/20 86/20 88/22 96/13 99/19 99/20 100/10 100/12
60 [5] 10/9 78/8 78/10 78/12 78/16 60-plus [1] 48/1 62 [2] 19/2 26/2 64 [1] 88/13 68 [1] 92/6 69 [1] 92/7		
7		
700 [1] 2/4 709364 [1] 102/16 720 [17] 25/21 26/1 26/9 27/20 30/20 33/13 41/22 43/2 44/24 54/12 58/7 70/3 74/4 81/24 87/17 87/18 91/20 720.301 [4] 43/2 45/1 45/5 45/21 720.403 [2] 62/7 82/10 720.404 [4] 27/21 46/6 59/4 62/5 720.405 [4] 49/24 50/2 50/6 77/5 720.406 [4] 50/14 51/8 78/5 84/18 720.407 [2] 41/3 84/24 720.455 [1] 71/19 724.041 [1] 28/4 73 [2] 23/9 25/2 733 [2] 25/3 25/4 74 [1] 94/24 76 [1] 76/12 7985 [1] 2/9 7A [1] 71/13		
8		
82 [1] 66/10 850-756-7985 [1] 2/9		
9		
904-356-2600 [1] 2/5 9:00 [1] 1/19 9:02 [1] 3/4		
A		
a.m [3] 1/19 1/19 3/4 abide [1] 97/17 abided [1] 26/4 ability [1] 44/7 able [2] 80/18 87/23 about [38] 5/6 5/8 6/14 9/8 11/23 16/25 17/2 20/19 25/22 27/21 28/20 35/1 35/13 37/13 37/15 38/3 47/2 47/5 48/7 48/7 49/19 49/24 50/7 50/15 52/18 54/25 59/13 59/14 66/23 78/18 84/24 90/11 90/18 93/1 93/3 93/9 97/10 98/18 above [1] 95/22 absolutely [1] 30/8 abundance [1] 30/4 acceptable [1] 97/1 access [1] 97/16 accommodate [1] 17/16 accompanies [1] 72/12 according [1] 93/18 accounts [1] 41/12 accurate [3] 18/12 18/18 18/24 across [1] 43/22 Act [4] 24/17 30/25 55/17 57/5 action [1] 63/19 actions [2] 88/2 88/2 actual [1] 41/2 actually [15] 15/18 29/10 31/5 34/15		

A	anywhere [1] 34/11 apologies [1] 93/6 apologize [5] 10/9 37/15 75/14 96/12 98/17 appear [6] 4/17 10/9 10/13 66/21 66/22 66/22 appearance [1] 4/13 appearances [2] 2/1 3/25 appearing [1] 3/7 appears [1] 5/25 applicable [3] 76/3 81/19 91/14 applied [3] 39/7 68/20 68/21 applies [1] 71/4 applying [1] 67/23 appraiser [3] 57/8 74/7 74/22 appreciate [6] 46/20 99/12 100/22 100/25 101/5 101/7 approached [2] 78/24 79/11 appropriate [2] 40/5 65/22 appropriately [1] 8/1 approval [13] 8/25 26/21 31/25 41/7 49/2 62/8 66/20 70/1 70/6 77/19 78/7 79/16 100/1 approvals [2] 79/15 84/20 approve [5] 26/13 26/19 26/20 71/9 79/2 approved [12] 3/19 16/11 34/16 38/12 41/5 41/10 42/9 43/14 64/12 66/7 69/22 69/22 approving [1] 26/20 approximate [1] 29/10 approximately [1] 3/4 are [114] Area [1] 69/4 aren't [3] 39/14 56/6 88/4 argued [1] 38/11 arguendo [1] 55/5 arguing [3] 28/24 39/4 94/15 argument [44] 11/15 11/16 11/24 11/25 12/1 12/2 12/10 12/17 12/17 14/16 14/16 15/19 16/7 16/9 20/25 24/23 27/25 28/15 28/16 28/16 28/17 28/25 28/25 31/4 37/19 40/10 43/16 46/5 47/14 52/16 54/25 59/9 65/20 69/3 70/8 77/3 77/16 78/18 79/1 79/5 79/6 81/8 94/18 95/25 arguments [23] 11/18 14/19 16/12 16/22 17/1 21/3 21/3 29/14 29/15 38/9 46/12 49/1 70/17 73/17 80/6 80/8 83/17 90/11 91/17 92/14 93/3 94/15 95/21 around [2] 50/22 77/1 arriving [1] 24/13 Article [1] 35/5 articles [7] 32/8 32/12 41/5 43/4 46/23 47/16 91/19 articulated [2] 30/17 73/12 as [131] aside [2] 17/13 31/6 ask [12] 5/14 8/16 12/11 15/13 17/6 20/14 59/6 66/24 83/19 97/12 99/6 99/10 asked [4] 27/9 49/2 65/22 90/10 asking [1] 98/5 assert [3] 73/25 76/6 76/15 assessment [2] 35/7 45/25	assessments [4] 34/7 45/11 45/18 59/22 assignment [9] 19/18 20/4 20/6 22/16 22/20 23/4 24/12 36/9 92/10 association [44] 1/6 1/13 22/4 22/7 23/3 33/25 34/1 34/6 36/4 36/7 36/16 36/24 41/1 42/17 43/6 43/10 43/18 44/13 45/1 45/3 45/5 45/6 45/15 45/16 45/23 46/2 55/22 55/25 63/24 64/1 64/4 64/4 65/2 65/9 67/12 67/16 69/4 77/24 79/19 82/8 82/17 83/3 83/4 92/4 Associations [1] 35/6 assume [3] 31/7 70/13 76/19 assumed [1] 58/24 assuming [6] 33/15 56/13 72/19 79/20 80/11 99/23 assumptions [1] 5/25 attached [8] 18/14 18/25 57/8 67/16 75/9 82/14 83/1 83/9 attempt [1] 44/14 attempting [1] 42/22 attention [3] 63/15 69/2 84/18 attorney [6] 15/5 15/21 16/17 57/17 93/15 98/21 attorneys [5] 57/16 62/24 100/16 101/4 101/8 attorneys' [2] 98/25 99/3 audio [3] 24/5 62/18 88/17 August [1] 102/17 authority [3] 24/13 36/10 69/14 authorize [1] 75/5 authorized [4] 24/7 45/11 100/3 102/5 available [1] 97/5 Avenue [3] 2/4 74/23 76/10 await [1] 4/16 aware [2] 15/19 34/23 away [1] 98/17	become [4] 30/23 45/12 67/19 82/21 becomes [2] 50/18 97/12 been [34] 18/17 20/7 27/23 28/6 28/7 34/15 34/23 38/12 39/12 40/18 41/20 42/5 42/8 43/8 43/9 46/7 48/1 48/16 62/16 64/12 64/21 66/9 67/1 67/1 67/2 79/6 80/24 85/11 87/25 87/25 88/1 88/2 88/3 95/12 before [26] 1/20 3/9 8/10 10/20 11/9 17/10 24/24 29/2 31/13 61/15 70/1 70/10 72/1 72/22 72/23 76/22 77/10 78/16 80/2 83/17 86/18 86/21 94/21 94/23 95/2 99/20 begin [3] 30/19 31/6 86/24 beginning [9] 5/14 27/9 29/19 43/2 45/14 50/19 52/20 60/22 62/6 behalf [12] 2/2 2/11 4/7 4/18 4/21 16/7 75/6 75/7 76/11 76/11 81/22 83/4 behind [4] 59/6 59/7 63/3 75/9 being [19] 8/24 9/15 22/25 23/16 24/9 29/24 30/23 31/7 31/24 39/10 47/8 64/21 64/24 75/17 81/13 82/3 89/2 93/12 95/14 belabor [2] 35/8 35/10 believe [24] 5/2 5/17 6/14 7/13 8/13 9/13 25/24 26/18 27/21 30/2 37/2 43/16 44/16 56/20 56/22 57/7 59/12 67/5 73/4 77/3 78/13 92/15 94/12 94/18 believes [1] 64/15 believing [1] 80/12 benefit [3] 7/4 55/1 82/25 better [2] 86/13 86/14 between [9] 6/24 19/9 19/16 22/12 23/4 25/14 53/16 63/6 92/9 beyond [1] 59/10 bind [2] 63/25 64/2 binding [3] 40/20 41/18 83/5 bit [3] 13/25 86/19 91/2 BLACKWELL [4] 1/8 3/12 4/8 18/14 blank [1] 88/18 board [1] 58/13 BONNIE [3] 1/8 3/12 4/7 book [9] 23/8 25/2 25/3 55/15 57/3 57/14 88/15 89/2 93/19 Boston [1] 75/24 both [11] 11/13 12/13 12/14 24/3 26/12 40/13 41/7 42/3 43/24 66/14 85/10 bottom [1] 24/18 bound [15] 24/9 39/5 56/6 56/15 57/6 57/25 58/3 58/4 58/10 60/4 60/6 60/19 61/5 67/20 82/22 break [3] 17/18 80/23 80/25 breaks [2] 17/14 17/19 Brief [2] 81/4 96/18 briefly [2] 66/15 84/17 bring [4] 27/13 83/7 89/11 95/9 bringing [1] 5/5 brings [2] 44/16 95/3 broad [1] 64/11 broadly [1] 26/17 build [1] 33/9 bunch [1] 5/4 buried [1] 61/1 buttons [1] 83/22 buy [1] 36/5
B	back [20] 12/11 13/21 40/10 41/25 45/2 46/5 46/13 47/6 47/8 48/19 56/16 56/25 75/14 80/25 81/2 89/13 89/25 90/10 95/9 97/21 backwards [1] 56/21 Baker [4] 71/15 71/16 74/24 75/1 Ball [1] 2/3 bar [1] 42/16 Barbara [1] 76/8 barring [3] 51/1 52/4 68/13 Barry [1] 75/17 base [1] 56/11 based [8] 6/1 10/16 39/8 49/17 70/19 77/4 78/21 93/4 baseline [1] 56/17 basically [3] 32/6 55/22 70/7 batch [1] 5/10 be [130] bear [2] 5/10 96/16 bearing [1] 23/8 bears [2] 88/15 89/2 because [37] 4/14 5/3 5/24 11/13 15/16 20/2 26/18 28/18 29/13 29/13 30/20 33/23 36/17 36/23 38/18 45/13 50/19 52/4 54/8 59/14 59/21 64/8 65/18 66/25 71/10 75/4 80/12 80/16 81/13 82/6 83/25 86/6 87/4 87/16 87/23 87/23 94/6		

B bylaw [2] 42/10 42/11 bylaws [23] 31/21 32/1 32/2 32/3 32/4 32/6 34/14 34/17 34/21 34/25 35/3 35/6 35/12 36/2 36/3 36/5 36/19 40/24 41/6 43/4 46/24 47/15 91/18 C calculation [1] 97/11 call [15] 4/3 9/24 12/19 15/18 15/24 17/24 20/1 35/17 35/22 36/4 43/22 60/23 66/24 67/9 73/21 called [7] 4/14 5/6 17/22 29/24 29/25 67/23 69/3 came [6] 1/22 6/18 24/6 46/3 55/7 68/21 can [39] 5/23 7/9 7/12 7/18 10/8 12/10 12/19 12/21 14/10 17/19 20/15 25/22 31/16 33/3 33/5 35/22 36/12 36/25 47/23 48/19 50/9 50/11 51/21 55/23 60/15 61/21 62/11 67/24 69/13 69/18 79/23 86/24 87/21 91/1 91/17 96/4 99/16 99/23 100/6 can't [6] 46/10 62/22 83/21 90/6 91/8 99/9 CANDICE [1] 1/9 cannot [11] 21/16 33/17 34/22 42/15 55/7 62/21 70/5 71/19 76/13 77/21 90/23 capital [1] 82/13 caps [1] 22/24 caption [2] 8/1 8/8 carved [1] 58/18 case [25] 1/4 1/11 3/11 3/13 6/10 8/1 8/18 10/3 14/10 28/21 42/6 53/21 59/1 63/24 64/1 64/4 65/1 69/2 69/5 69/7 69/8 94/21 96/9 96/21 99/1 cases [3] 3/10 8/9 86/6 cast [1] 75/6 cat [3] 32/11 32/17 33/1 cause [3] 1/22 10/19 10/22 caused [2] 63/9 63/11 caution [1] 30/5 ceased [1] 28/8 cell [1] 12/20 certain [4] 19/13 46/3 72/14 78/19 certainly [7] 10/12 17/16 44/13 45/17 55/19 73/1 100/6 certificate [3] 79/7 82/1 102/2 certify [1] 102/4 cetera [1] 77/6 chain [9] 55/13 55/14 56/5 56/15 56/23 56/25 57/10 57/25 60/3 challenge [1] 27/4 chance [1] 27/6 change [3] 48/17 48/19 48/20 changed [1] 43/11 changes [3] 42/23 48/15 48/23 Chapter [12] 25/21 26/1 26/9 30/20 31/1 33/13 41/22 43/2 54/12 74/4 81/24 91/20 Charlie [1] 4/4 chose [1] 65/9 CHRISTENE [7] 2/3 4/6 30/17 33/2 39/25 73/11 98/21 circle [2] 35/25 75/14 circumstances [1] 69/9	cite [1] 69/14 citing [1] 85/22 claimed [1] 52/15 clarification [2] 30/14 37/12 clarify [4] 80/5 80/21 89/14 91/2 class [2] 55/6 60/8 clear [7] 25/22 48/3 48/21 59/2 61/24 85/10 89/18 clearly [2] 61/6 83/5 clerk's [2] 8/8 90/24 clients [1] 101/5 close [4] 17/15 96/9 97/5 99/21 closed [1] 44/10 closer [1] 17/17 closes [1] 12/9 closing [5] 83/16 86/6 86/11 96/5 98/24 club [4] 22/7 36/4 36/12 36/23 cme [1] 2/5 co [2] 4/9 79/8 co-owners [1] 79/8 co-petitioner's [1] 4/9 collect [1] 34/7 Columbia [35] 11/25 12/16 14/10 19/7 19/9 21/1 21/2 21/5 22/10 22/12 23/10 23/12 24/1 25/9 26/15 28/12 31/14 37/16 42/7 51/14 51/25 66/11 67/10 80/6 80/9 80/10 80/21 81/9 82/16 83/17 86/5 87/3 88/25 90/19 95/16 combine [1] 80/18 combined [4] 29/11 79/4 79/16 80/15 come [6] 38/9 42/1 80/25 81/2 88/16 90/9 comes [4] 15/19 49/10 50/22 54/20 coming [1] 6/9 commend [1] 101/3 comment [1] 99/9 Commerce [10] 18/13 31/3 31/10 31/25 47/10 47/18 47/23 69/5 80/1 94/19 Commerce's [1] 3/18 commercial [1] 66/18 Commission [1] 102/16 committee [6] 72/13 77/12 77/24 81/21 83/3 93/16 common [1] 55/25 commonly [1] 32/20 communities [1] 48/16 community [13] 8/23 19/9 19/15 26/12 28/3 28/9 32/21 40/19 45/7 51/1 58/11 62/7 64/17 company [1] 66/19 complete [3] 31/15 50/3 77/5 completed [1] 97/7 compliance [2] 41/1 47/3 complied [1] 79/19 complying [1] 54/12 composite [1] 73/23 conceded [2] 59/3 65/21 conceding [1] 78/25 concept [1] 36/17 concerning [3] 90/19 95/22 96/1 concerns [3] 9/1 9/22 10/4 conclude [1] 46/10 concluded [1] 69/11 concludes [1] 67/7 concluding [1] 86/4	conclusion [2] 28/12 28/14 condition [1] 45/10 conditions [2] 3/21 62/3 conference [1] 3/8 confirm [2] 6/15 8/14 conflict [1] 72/19 conflicted [1] 72/8 confusingly [2] 53/3 57/21 confusion [4] 7/9 7/10 81/16 81/23 consent [27] 35/23 50/5 50/11 56/13 65/12 71/16 73/3 73/14 74/10 74/16 74/20 74/25 75/1 75/3 75/3 75/9 75/25 76/10 77/10 77/14 77/16 77/25 78/9 78/13 79/9 79/22 96/6 consenting [1] 73/17 consents [38] 23/23 56/13 57/19 66/12 69/24 69/25 70/12 70/12 70/22 71/8 71/13 71/25 72/3 72/4 72/21 72/23 72/25 73/8 73/16 73/25 74/1 74/2 74/3 76/12 76/14 76/15 76/16 78/20 78/23 79/21 80/2 80/6 80/8 94/9 94/16 94/20 94/23 95/2 consider [6] 11/9 14/10 15/6 16/19 59/20 97/13 consideration [4] 11/11 14/1 67/11 82/7 considered [3] 41/13 55/8 94/7 considering [2] 5/17 59/1 consisted [1] 21/12 consolidated [3] 3/10 3/24 8/9 constitute [2] 34/22 66/14 construe [2] 32/23 39/10 contain [5] 19/12 22/15 32/22 34/25 42/15 contained [1] 83/11 containing [1] 37/16 contains [1] 21/21 contemplate [1] 64/8 contend [2] 68/15 68/17 context [5] 25/17 49/17 49/19 64/11 85/8 continue [3] 20/3 81/6 100/21 contract [2] 34/22 89/21 contravene [1] 25/13 convince [1] 86/10 cooperating [1] 100/17 coordination [1] 11/12 copy [9] 5/16 18/12 18/18 18/24 21/16 32/12 47/11 74/16 77/5 corporate [5] 22/4 22/8 22/22 42/8 43/8 corporation [1] 45/6 correct [12] 5/24 6/20 8/2 8/5 16/24 25/4 26/18 29/9 43/7 76/20 98/15 102/7 correcting [1] 20/19 correctly [1] 26/24 correctness [1] 26/23 could [23] 9/24 14/14 20/7 24/2 24/21 36/5 37/8 38/24 39/7 45/19 55/2 55/5 62/16 67/8 72/5 88/1 88/2 88/3 89/24 97/18 97/19 97/19 100/2 couldn't [1] 77/18 counsel [10] 2/1 4/10 4/18 7/7 8/16 9/16 10/16 13/6 14/12 62/1 counsel's [1] 77/16 count [4] 51/4 73/5 80/2 94/20
--	--	--

C counted [2] 72/4 72/5 counties [10] 26/13 40/14 41/7 42/4 43/23 44/3 63/6 79/2 80/19 85/10 counties' [1] 43/24 counting [1] 80/19 country [2] 97/4 97/15 counts [1] 66/13 county [74] 11/24 11/24 12/1 14/4 14/9 14/10 14/15 14/17 14/20 19/7 19/9 19/16 19/17 20/7 21/1 21/2 21/5 22/10 22/12 23/10 23/13 25/9 26/16 28/13 31/15 42/7 51/14 63/21 63/23 65/18 65/18 65/19 66/7 66/10 66/11 66/12 77/25 78/24 78/24 79/2 79/11 79/11 79/12 79/18 80/6 80/7 80/9 80/10 80/13 80/20 80/21 81/9 82/16 83/17 83/18 86/5 87/2 87/4 87/5 87/13 87/15 88/16 88/25 89/3 89/6 89/9 89/16 90/19 91/1 93/13 93/23 95/16 95/24 102/11 couple [1] 73/8 court [10] 1/24 3/5 62/1 62/12 65/22 74/11 74/13 85/12 97/9 102/15 Court's [1] 84/18 covenant [2] 32/23 87/18 covenants [23] 3/20 21/6 24/21 25/24 26/4 33/23 40/17 41/5 41/16 41/24 42/19 43/7 45/17 45/18 46/11 50/9 64/17 66/21 67/20 77/6 82/22 94/3 94/3 cover [5] 6/11 71/23 72/10 72/11 72/12 covered [2] 34/1 81/14 CRANE [7] 1/2 3/10 15/24 18/15 35/17 52/1 73/21 create [3] 36/12 60/21 89/22 creates [1] 81/23 cross [1] 5/12 crossed [1] 80/7 current [1] 57/9 currently [6] 55/17 56/5 57/25 58/3 59/21 60/6 Custer [7] 8/15 9/12 10/8 10/11 10/12 12/22 13/2 Custer's [1] 8/17 cuts [1] 31/16	decide [3] 59/11 59/13 85/13 decided [3] 49/13 58/1 80/14 declaration [77] 3/20 18/21 19/17 21/17 23/13 24/2 24/3 27/23 27/24 28/5 28/7 33/12 34/17 37/16 38/22 41/5 46/7 46/8 50/1 50/4 50/17 50/21 50/25 51/6 51/15 51/16 52/6 52/7 53/1 54/3 55/11 59/4 59/6 61/7 61/8 62/10 63/7 63/10 63/20 64/6 64/24 67/10 67/13 67/17 67/18 68/1 68/12 81/10 82/1 82/8 82/18 82/19 84/9 84/12 84/22 85/4 85/6 85/9 85/24 87/13 87/15 87/15 87/19 88/14 89/3 92/9 92/17 93/6 93/7 93/17 93/25 94/2 94/10 95/10 95/11 95/15 95/24 declarations [9] 18/25 37/18 40/13 43/25 44/3 53/11 63/5 65/11 88/8 declares [1] 82/19 deducted [1] 76/16 deed [22] 19/8 19/14 22/11 32/19 32/22 32/24 41/18 41/19 46/22 47/17 55/13 57/1 57/1 57/10 57/12 57/12 74/17 74/18 75/8 89/21 89/22 92/8 deeds [7] 19/11 22/15 56/24 57/2 57/10 60/3 66/22 defect [1] 79/20 defects [5] 69/24 73/8 74/1 90/18 91/16 deficiencies [1] 18/8 deficiency [1] 88/25 define [2] 49/13 93/4 defined [3] 22/24 22/25 60/24 defines [4] 43/3 43/4 45/1 45/5 definition [3] 43/1 49/15 53/18 definitionally [1] 65/6 definitive [2] 44/1 64/25 delineate [1] 14/4 delivery [1] 77/9 demonstrate [3] 54/20 68/18 87/23 demonstrated [1] 89/15 demonstrates [1] 53/2 demonstration [1] 93/11 denominator [2] 65/12 79/11 denominators [1] 79/18 deny [2] 10/15 10/24 denying [2] 13/8 13/12 department [24] 3/18 18/13 31/3 31/10 31/24 41/10 47/10 47/18 47/23 64/13 65/14 69/5 69/6 77/19 78/7 78/17 79/14 79/16 80/1 84/19 94/19 98/10 100/4 100/6 department's [5] 26/21 27/4 66/20 67/4 78/14 dependent [1] 59/22 depending [3] 12/6 97/3 99/7 depiction [18] 51/12 51/13 51/16 51/18 52/3 52/24 53/15 54/1 60/18 60/25 61/6 61/13 64/9 64/19 68/4 71/4 82/15 86/1 derail [1] 9/2 described [6] 21/7 67/15 68/1 82/13 82/23 93/17 describes [1] 45/21 description [28] 21/15 24/20 50/15 50/24 50/25 51/7 52/7 52/22 53/6 53/22 60/17 60/22 60/24 60/24 61/4 61/12 68/11 84/1 84/21 85/2 85/23	88/21 88/24 89/4 90/2 91/13 92/1 94/1 descriptions [1] 24/22 determination [2] 3/18 67/5 determine [3] 3/17 55/7 60/11 determining [1] 65/24 device [1] 81/1 devices [1] 62/20 did [45] 11/23 13/10 18/19 19/5 20/17 20/18 21/15 24/10 24/12 24/12 24/20 26/5 26/13 26/19 26/20 28/21 29/16 33/2 36/22 39/25 43/10 43/21 53/10 56/8 57/22 58/5 67/25 70/2 70/24 71/2 71/3 71/15 71/16 83/25 84/2 88/20 89/22 90/7 90/9 98/21 98/23 98/24 99/2 99/12 102/5 didn't [11] 10/1 20/19 27/6 33/23 40/1 46/22 46/22 46/25 60/4 70/15 96/12 difference [4] 6/24 53/16 79/21 95/1 differences [1] 7/7 different [8] 7/11 14/17 37/16 87/4 87/5 87/8 87/11 95/1 difficult [1] 15/13 difficulties [1] 18/7 directly [1] 43/18 disagree [1] 80/4 discount [1] 78/25 discounting [1] 80/8 discretion [1] 35/16 discuss [2] 84/15 89/10 discussed [6] 6/17 14/24 16/18 26/7 30/5 77/3 discussing [1] 46/18 discussion [1] 50/19 discussions [2] 52/19 89/12 dispositive [3] 67/4 67/6 85/17 dispute [2] 37/22 58/7 disputed [4] 40/6 53/20 54/9 54/9 disputing [1] 58/10 distinct [1] 64/21 disturb [1] 20/10 DIVISION [2] 1/1 3/9 do [59] 3/5 4/9 5/15 7/2 7/18 9/11 11/18 11/18 14/1 14/11 14/15 15/13 16/5 16/15 16/24 17/2 17/6 17/12 17/19 20/10 20/11 24/24 25/15 25/19 27/1 27/9 28/11 28/15 28/25 29/16 35/13 36/13 46/4 50/9 53/11 60/2 60/15 60/15 61/10 62/22 65/11 67/24 72/6 72/18 80/3 80/12 80/14 81/15 83/16 86/8 86/16 86/18 89/8 89/14 90/5 98/1 98/24 101/6 102/4 docket [1] 11/5 document [68] 19/10 19/19 21/10 21/14 21/20 21/23 22/1 22/3 22/6 22/13 22/22 23/3 23/8 23/10 23/12 24/15 26/14 26/14 26/15 28/1 28/2 31/11 31/15 33/25 39/16 40/11 40/12 41/14 41/18 42/7 42/7 46/19 51/15 52/20 52/23 60/9 60/19 60/20 67/22 68/8 68/8 68/10 68/20 70/20 71/4 81/20 81/22 87/7 87/14 88/11 88/12 88/13 88/16 88/20 89/1 89/1 89/9 89/12 89/18 90/1 90/19 90/21 90/25 91/7 91/15 91/25 92/3 92/11 documents [57] 13/10 19/6 19/14 21/5 22/9 26/2 31/4 31/5 31/6 31/8 33/15 33/18 37/19 37/20 41/2 41/4 42/3 42/5
D darts [1] 58/13 date [11] 1/19 71/21 72/11 72/15 72/20 78/20 94/25 95/2 96/23 99/15 102/17 dated [8] 72/1 72/17 72/22 94/20 94/22 94/23 95/2 102/10 dates [2] 94/17 96/7 daughter [1] 5/5 day [6] 17/11 17/13 77/2 78/11 100/19 102/10 days [32] 10/20 70/1 70/5 70/6 70/10 71/20 71/20 72/2 72/18 72/24 77/10 77/14 77/17 77/19 77/21 78/1 78/2 78/8 78/10 78/12 78/16 78/19 80/2 94/21 94/24 96/2 96/23 96/25 97/10 97/21 98/7 98/13 deadline [1] 98/18 deal [2] 11/3 73/15 dealt [1] 80/8		

D documents... [39] 42/8 42/24 42/25 43/1 43/6 43/8 44/8 44/14 45/25 47/11 47/13 47/15 47/19 47/22 48/1 48/5 48/10 49/20 56/19 57/13 58/21 67/13 75/5 77/12 81/19 82/9 83/1 84/6 84/25 85/1 87/4 87/11 90/16 91/21 91/22 91/24 92/8 95/5 100/20 does [23] 9/20 10/22 20/3 22/3 22/6 22/20 32/22 44/12 52/12 53/19 59/9 66/19 71/14 77/13 78/10 86/19 89/3 89/6 89/14 90/2 91/20 92/3 92/4 doesn't [13] 9/17 26/1 53/4 58/15 59/6 61/2 64/9 65/15 75/11 87/24 89/18 89/23 90/24 doing [4] 11/24 47/7 65/4 100/17 don't [48] 5/24 10/2 11/10 12/18 12/21 25/13 25/16 29/21 29/23 30/8 35/21 36/13 38/2 42/20 46/1 47/21 47/22 51/20 53/7 55/24 56/4 56/12 57/20 58/7 58/23 60/16 60/17 60/23 61/11 65/24 65/25 66/1 67/5 69/2 70/18 73/13 75/15 79/5 80/25 83/15 86/5 87/13 89/19 91/5 91/6 91/13 99/16 101/6 done [8] 11/13 20/20 58/8 65/18 66/17 70/10 75/4 101/4 double [1] 32/17 doubt [1] 55/1 dovetails [1] 37/18 down [12] 7/17 29/11 44/16 52/10 55/6 55/21 61/1 74/24 78/5 90/20 92/24 95/3 drafting [1] 85/4 draw [2] 69/1 84/18 drawing [1] 63/15 Drive [3] 2/8 74/9 74/15 due [3] 30/24 48/9 81/16 dues [3] 36/12 36/13 55/23 duly [1] 43/4 during [1] 89/11	encumbered [1] 55/17 end [8] 24/23 31/16 37/11 80/15 84/23 85/3 86/10 101/12 endeavor [1] 98/7 endeavored [1] 12/15 ended [1] 96/6 enforce [1] 36/10 enforced [1] 87/25 enjoyed [1] 82/24 enough [2] 53/13 66/13 ensure [2] 83/23 99/23 enter [3] 98/1 98/2 98/3 entertain [1] 86/11 entire [7] 51/13 63/17 75/7 77/15 78/18 79/4 92/2 entirely [2] 44/10 78/2 entitled [3] 25/19 25/23 43/17 entity [4] 22/4 22/8 22/23 36/6 enumerated [2] 26/10 38/1 ERTL [21] 2/3 4/6 6/12 8/18 11/7 14/7 15/2 16/7 16/17 17/20 25/8 26/10 27/11 27/19 44/20 73/12 77/3 81/5 83/14 83/20 91/9 ESQUIRE [3] 2/3 2/7 2/12 establish [4] 10/22 18/2 20/9 70/9 established [4] 19/1 23/5 71/17 88/13 establishes [2] 32/6 72/11 estate [4] 19/4 55/4 75/8 75/13 ESTATES [18] 1/5 1/12 3/11 3/13 3/22 4/22 8/4 19/9 19/15 19/23 20/1 22/11 39/1 51/14 58/18 74/13 74/18 82/15 et [5] 1/9 3/12 4/8 18/14 77/6 even [19] 56/13 58/1 58/5 58/23 58/23 58/25 60/14 70/13 70/15 72/19 76/19 78/25 79/19 80/18 84/2 89/21 89/23 90/6 97/20 ever [7] 48/4 77/25 87/14 87/15 89/8 90/3 91/14 every [3] 55/3 67/18 82/20 everybody [6] 39/12 51/25 62/23 68/9 71/2 71/3 everyone [7] 32/20 63/25 64/1 64/2 65/16 67/23 101/9 everyone's [1] 11/22 everything [3] 13/15 35/25 48/15 evidence [11] 6/9 6/19 13/24 18/17 68/19 77/22 77/23 83/9 89/20 90/9 90/12 exact [3] 7/16 7/18 49/15 exactly [5] 37/13 42/5 48/22 85/24 97/21 examiner [1] 66/24 example [2] 49/23 49/23 examples [1] 62/12 exceeds [1] 10/4 Except [1] 10/18 exception [2] 22/14 57/4 excluded [3] 41/14 59/19 66/8 exclusion [1] 78/19 excuse [3] 10/13 52/13 96/11 executed [1] 21/24 exhibit [73] 6/24 7/16 7/17 7/18 7/20 18/14 18/15 18/17 18/22 24/4 31/25 32/11 32/17 33/1 38/20 38/21 39/3 43/24 44/1 44/9 44/9 44/13 48/9 49/4 51/17 52/2 52/15 52/18 53/1 53/3 53/10 53/14 53/15 54/3 54/11 54/14	54/18 54/19 56/10 56/20 57/7 61/1 63/5 63/16 63/22 64/6 64/24 67/9 67/15 67/23 68/10 68/22 70/25 73/19 73/23 73/23 74/14 81/11 81/20 82/13 82/14 83/6 83/10 83/12 85/5 85/7 85/14 89/16 93/10 93/12 94/8 95/13 95/23 exhibits [12] 6/4 6/6 6/19 7/3 7/3 19/2 20/15 63/4 63/22 73/23 90/8 95/22 Exhibits 1 [1] 7/3 exist [2] 19/5 36/22 existed [4] 36/15 42/25 48/22 91/8 existence [1] 42/18 expect [1] 12/4 expecting [1] 100/25 expenses [1] 55/25 expiration [3] 41/21 42/18 102/17 expire [1] 46/22 expired [5] 24/16 41/19 48/23 66/21 78/11 explain [2] 90/23 91/9 extension [1] 98/5 extent [2] 7/9 29/21 F F.S.W [1] 51/20 fact [53] 7/15 18/6 18/9 18/16 18/21 21/13 21/18 21/22 21/25 22/5 22/18 23/1 23/14 23/19 26/13 26/20 27/21 32/5 32/7 32/10 32/16 32/25 33/7 33/8 33/16 34/10 34/19 35/2 35/4 35/8 40/20 41/8 48/7 50/23 51/11 51/23 53/20 54/4 54/9 54/10 60/3 63/21 70/23 71/6 71/17 80/1 83/10 87/12 88/13 92/5 92/6 92/7 94/24 facts [20] 14/20 15/17 16/20 17/2 18/3 19/1 19/22 20/8 20/12 23/5 23/7 25/12 26/10 27/13 30/4 34/18 37/22 46/14 70/9 71/17 factual [1] 40/6 failure [1] 54/11 fair [1] 100/17 falls [1] 71/9 Fantastic [1] 20/24 far [8] 25/17 31/15 35/18 46/19 47/25 61/24 63/4 78/23 favor [1] 39/9 favorite [1] 92/25 fee [1] 45/25 feel [3] 16/10 28/3 81/13 feels [1] 9/14 fees [3] 98/22 98/25 99/3 felt [1] 9/18 few [7] 7/6 29/2 29/11 29/15 44/22 46/17 95/12 fewer [6] 59/5 77/14 77/17 77/19 77/25 78/2 file [4] 96/20 96/25 97/12 97/14 filed [4] 3/23 10/20 18/5 96/23 filing [1] 87/6 final [2] 3/8 10/20 finalizing [1] 30/3 finally [1] 50/13 find [2] 90/6 97/9 finding [1] 81/10 fine [11] 6/10 13/21 14/3 14/6 16/14 17/5 17/12 29/20 37/6 98/20 99/6
---	--	--

F first [14] 6/11 12/1 12/2 14/14 20/24 21/2 21/3 28/15 33/24 34/5 42/17 63/7 74/6 100/16 Fisher [1] 2/3 fishertousey.com [1] 2/5 fits [1] 57/12 five [5] 5/6 9/8 52/4 72/4 93/9 FL [3] 2/4 2/8 2/14 fleshing [1] 35/18 FLORIDA [11] 1/1 1/25 3/7 24/7 24/22 36/20 45/6 49/11 66/16 82/10 102/11 FOCKS [35] 2/12 2/13 4/21 6/15 8/5 8/19 9/20 14/21 15/10 16/2 17/6 25/7 27/9 28/21 29/17 37/7 40/5 46/20 48/6 68/25 76/22 80/17 81/17 81/21 83/4 84/14 84/16 86/18 89/11 92/20 95/19 96/13 97/23 98/11 100/13 Focks' [1] 61/15 focus [2] 14/14 58/20 folks [1] 5/10 follow [3] 17/5 28/20 47/4 followed [1] 26/24 following [6] 1/22 25/8 67/17 82/19 82/25 96/22 follows [3] 68/2 68/12 93/18 Foray [2] 75/17 75/17 foregoing [3] 67/12 82/7 102/5 forged [1] 91/7 forgive [1] 73/20 form [2] 74/20 75/4 formal [1] 10/1 format [6] 14/24 25/6 29/8 29/20 87/3 100/1 formatting [1] 10/1 formed [1] 19/6 Fort [1] 74/9 forth [2] 34/14 67/20 Forty [1] 71/25 Forty-six [1] 71/25 forward [3] 84/15 99/8 101/10 found [1] 54/14 four [1] 75/16 framework [2] 16/22 61/24 Fredericks [1] 2/7 full [5] 17/11 17/13 41/4 41/8 85/2 function [1] 95/23 fundamental [1] 25/14 further [12] 61/15 65/23 68/19 69/3 76/22 81/2 82/10 82/17 96/13 99/8 99/20 100/11 future [1] 69/15	gets [2] 39/13 53/6 getting [9] 33/11 33/16 39/15 47/25 48/25 56/21 93/1 97/7 100/18 gist [2] 16/25 59/9 give [4] 33/3 53/9 85/22 96/20 given [2] 10/3 34/13 Givens [1] 2/7 giving [2] 36/9 55/1 gloss [1] 16/19 go [38] 5/22 8/19 16/23 17/21 19/24 20/14 21/8 33/2 33/4 34/18 39/22 46/5 47/3 48/19 53/5 53/9 54/16 56/14 56/25 58/1 59/6 59/10 62/11 73/10 73/22 73/24 74/24 78/5 78/23 83/16 84/16 86/9 86/16 88/15 89/10 90/10 90/14 94/13 goal [1] 30/10 goes [10] 12/11 38/7 45/2 59/15 76/14 77/7 82/17 84/23 93/19 99/8 going [101] 4/25 5/3 7/2 7/2 7/15 8/23 10/15 10/16 10/18 10/23 11/1 11/16 11/17 13/7 14/2 14/4 14/8 14/9 14/18 15/17 16/6 16/18 17/12 18/2 20/14 20/25 21/1 21/8 25/6 27/13 28/15 28/25 29/6 29/7 29/13 29/14 29/25 30/9 36/13 39/24 41/25 46/15 48/11 48/24 49/7 50/16 51/17 52/10 52/25 53/25 54/2 54/13 54/24 55/21 55/25 56/8 57/19 58/1 58/14 58/19 58/20 60/5 60/19 62/20 62/23 69/21 70/8 73/7 73/10 73/13 73/22 73/24 79/15 80/14 80/16 80/23 80/24 81/1 81/8 82/5 84/13 84/15 85/22 87/2 87/10 89/11 90/11 91/16 92/24 94/3 94/13 94/14 94/15 95/15 96/4 96/19 97/3 97/6 97/8 100/5 101/8 gone [2] 4/2 4/2 good [11] 4/20 4/23 4/24 5/13 10/18 10/22 14/24 56/14 57/17 86/24 101/5 got [11] 12/21 12/22 30/6 44/22 47/4 52/20 53/7 56/10 58/12 89/13 96/6 govern [4] 28/8 51/17 59/4 63/10 governed [20] 27/22 27/23 28/2 28/5 28/7 44/2 46/8 50/16 52/25 59/5 61/7 61/8 62/8 62/9 63/20 64/21 65/4 66/4 66/9 88/9 governing [21] 21/6 21/17 31/4 31/6 31/8 33/14 41/14 42/24 42/25 43/1 43/6 44/7 45/24 47/11 47/12 47/14 65/11 67/13 77/11 82/9 91/21 grab [1] 53/8 GRANT [24] 2/7 4/12 4/16 4/17 5/1 5/1 6/16 8/19 9/5 9/13 12/3 14/14 15/5 15/22 16/15 20/11 24/23 29/14 52/1 54/13 73/7 81/6 93/9 97/17 Grant's [2] 43/16 65/20 graphic [18] 51/12 51/13 51/16 51/18 52/2 52/24 53/15 54/1 60/18 60/25 61/6 61/13 64/9 64/19 68/4 71/3 82/14 86/1 great [1] 51/21 greater [1] 60/14 groundwork [1] 16/21 group [1] 27/2 guess [21] 6/6 6/11 7/11 8/14 16/5 17/20 25/8 25/9 27/10 28/11 28/12 29/24 35/16 35/21 40/6 44/20 53/20	60/7 75/18 97/16 99/14 gun [1] 86/19 H had [27] 4/2 4/3 8/16 12/19 19/3 28/22 34/15 36/5 38/3 40/19 41/16 42/5 43/8 43/9 43/13 44/6 46/4 46/17 52/10 57/25 64/21 66/3 66/7 70/7 70/10 84/4 88/25 hallmarks [1] 40/16 hand [1] 77/9 hand-delivery [1] 77/9 hang [1] 9/17 hang-up [1] 9/17 happen [1] 14/2 happened [1] 88/4 hard [1] 80/24 has [25] 9/13 12/3 14/12 20/5 25/15 40/16 41/1 49/14 56/15 72/13 73/8 73/12 78/11 80/1 80/17 83/14 83/20 87/5 88/22 90/4 90/4 91/15 92/1 94/19 95/12 hash [1] 92/14 have [148] having [6] 17/11 50/10 70/2 72/23 83/8 88/24 he [4] 28/21 89/12 89/13 89/24 he's [2] 29/7 90/11 head [1] 58/5 heading [1] 5/4 hear [5] 12/19 12/21 19/25 20/19 83/21 heard [3] 1/22 13/5 69/6 hearing [16] 3/2 3/9 3/17 8/4 10/12 10/14 10/20 13/3 13/14 59/10 67/6 81/2 91/4 100/18 100/19 100/24 hearings [4] 1/1 3/10 5/15 69/7 heart [2] 48/25 59/15 held [2] 82/24 87/25 help [4] 7/10 7/10 37/13 85/8 helps [1] 86/15 her [10] 4/10 4/12 4/12 5/2 5/5 9/15 73/9 76/10 77/3 91/9 here [36] 3/5 4/7 4/17 4/18 4/21 5/10 5/11 5/24 5/25 10/8 10/9 11/22 25/13 28/11 29/20 29/23 36/22 43/16 47/3 49/14 58/14 58/15 63/3 75/15 79/20 80/23 81/2 82/3 86/5 86/19 89/20 92/15 95/14 97/9 100/19 101/9 hereby [3] 67/12 82/8 102/4 herein [1] 67/21 hereinafter [2] 67/14 82/11 hereto [2] 67/16 82/14 Hey [2] 36/13 58/14 HH [1] 102/16 highlight [1] 59/24 him [2] 35/22 90/14 himself [1] 4/5 hindered [1] 97/6 his [4] 12/5 93/5 93/5 94/18 hit [1] 5/4 HOA [1] 23/2 home [2] 4/2 83/7 homeowner [1] 45/1 homeowner's [3] 22/4 45/5 92/4 homes [1] 39/2 honestly [1] 17/11
G Gainesville [1] 2/14 gap [1] 97/10 general [1] 97/18 generally [3] 24/15 25/12 86/12 get [50] 3/25 9/2 11/9 12/5 12/23 16/11 16/11 17/10 17/15 17/17 24/24 25/16 25/17 27/6 28/25 29/2 31/9 43/18 44/4 46/15 48/12 48/23 48/24 49/16 50/2 50/7 50/11 51/12 52/10 54/24 55/9 55/20 56/16 58/5 61/15 69/10 70/2 73/13 74/6 79/2 80/20 89/17 89/25 90/15 92/24 97/11 97/21 98/2 98/18 101/6		

H Honor [40] 4/6 4/20 5/18 6/20 8/6 9/7 12/18 14/23 15/3 15/7 15/11 15/16 15/23 16/3 16/19 16/23 21/4 25/11 27/17 30/16 33/10 35/9 61/16 67/8 68/16 73/19 76/23 76/25 81/7 81/12 83/13 83/15 90/17 95/20 96/10 96/15 97/24 98/8 99/1 100/14 house [1] 62/16 how [26] 7/13 12/6 26/8 28/11 29/23 39/15 47/22 49/17 49/19 55/7 56/4 58/5 59/23 65/8 69/21 72/17 80/3 84/15 85/13 89/8 91/13 93/3 93/4 95/22 97/3 99/8 hundred [4] 70/14 71/5 73/1 76/19 hurdle [1] 33/16	59/25 61/11 64/13 64/16 67/1 67/2 67/19 73/4 73/9 74/11 74/14 82/1 84/2 84/2 88/11 88/18 89/1 90/1 92/16 includes [5] 45/24 50/21 64/14 68/14 93/13 including [4] 70/21 72/14 84/6 94/9 incomplete [1] 40/11 incorporate [2] 14/19 93/2 Incorporated [1] 19/5 incorporating [1] 70/18 incorporation [6] 32/9 32/13 41/6 46/23 47/16 91/19 incorrect [3] 3/22 78/21 78/21 indeed [2] 57/12 78/5 indenture [1] 88/17 indicates [2] 74/10 85/5 indicating [2] 48/4 81/17 individual [5] 8/15 19/11 22/15 23/24 64/14 individuals [1] 5/9 informal [1] 73/13 initial [3] 9/4 26/21 67/5 Initially [1] 79/15 input [1] 33/3 inquire [3] 6/5 6/10 65/22 inquiry [1] 62/13 inside [1] 64/16 instance [2] 42/9 64/14 instead [1] 11/15 instructions [1] 97/17 insurance [4] 66/16 66/17 66/18 66/19 integral [2] 28/3 49/22 intend [2] 15/24 55/10 intended [4] 52/17 63/25 64/2 64/5 intent [2] 59/7 81/17 intention [1] 48/14 intentionally [1] 41/13 interested [1] 18/10 interject [1] 13/23 interpretation [1] 96/1 interprets [1] 85/13 interruption [2] 24/5 62/18 interruptions [1] 62/21 intervene [7] 8/14 8/18 9/24 10/2 10/19 13/2 13/8 intervenes [1] 9/12 intervention [4] 10/15 10/23 13/6 13/13 invalid [2] 30/23 38/5 invalidate [2] 70/11 96/7 invidious [1] 63/2 invoke [1] 15/14 invoking [1] 15/20 involved [1] 101/4 is [233] issue [15] 8/10 25/10 25/14 31/7 61/23 71/12 73/6 73/16 75/13 75/15 76/10 79/23 86/5 89/8 97/12 issues [9] 9/23 29/6 35/23 70/12 73/15 76/15 87/6 87/9 94/17 it [219] it was [1] 91/6 it'd [1] 58/17 it's [79] 9/14 9/16 10/2 11/10 11/11 14/11 14/16 16/8 18/16 19/2 20/2 22/23 22/24 25/3 27/21 28/4 28/22 29/1 29/9 30/8 31/15 34/21 36/6 37/21	37/24 38/1 39/17 40/18 44/25 45/10 46/3 49/12 49/15 49/17 49/19 49/21 51/5 53/11 54/4 55/6 56/20 58/1 58/12 59/12 61/24 63/1 63/24 63/25 64/23 66/1 66/5 68/5 69/3 70/5 71/10 73/23 75/11 75/16 78/13 79/17 79/17 80/24 84/7 84/7 84/8 84/10 85/22 86/2 87/25 88/1 89/20 89/20 90/21 92/5 93/1 93/3 93/6 95/17 97/10 items [2] 12/13 41/8 its [6] 8/25 33/21 42/18 78/7 84/10 87/6 itself [4] 63/7 64/22 81/22 89/19
I I'd [7] 3/25 5/19 38/2 86/8 86/16 99/10 100/16 I'll [32] 4/12 5/21 5/22 6/11 6/15 8/13 8/18 8/19 11/7 11/18 12/2 14/11 15/13 17/6 17/20 30/14 35/15 40/10 44/20 52/14 53/9 54/15 57/16 61/18 68/24 83/19 84/14 86/11 90/14 90/15 97/13 98/3 I'm [56] 4/6 4/21 4/25 5/24 7/2 7/2 7/14 8/21 10/10 10/15 10/16 10/17 10/23 11/1 12/1 12/20 13/7 13/12 14/12 14/18 15/19 21/8 27/13 29/19 37/3 37/9 37/10 37/11 43/2 54/13 57/17 59/18 62/19 62/22 72/17 73/7 73/13 73/22 73/24 80/22 81/1 81/13 82/5 83/13 84/13 85/25 89/10 91/16 94/13 94/15 96/19 97/3 97/6 97/8 99/23 101/8 I've [7] 5/9 13/5 13/7 13/11 44/22 69/14 100/20 idea [2] 64/19 64/19 identification [1] 7/21 identified [14] 19/19 19/19 20/5 21/10 21/17 22/17 22/21 22/23 23/18 43/24 46/14 68/10 87/14 88/14 identifies [1] 63/8 identify [3] 60/25 63/17 85/8 identifying [2] 19/22 49/6 Ill [1] 1/20 important [16] 18/4 36/17 36/19 44/25 45/13 46/3 49/12 50/13 50/18 54/5 54/19 66/4 82/7 87/16 88/9 88/9 impose [2] 26/5 45/11 imposing [1] 68/9 inaccuracies [1] 66/22 inaudible [12] 5/12 20/23 37/24 51/8 74/5 82/22 89/17 93/21 96/12 97/13 98/9 99/18 INC [8] 1/6 1/13 1/24 3/11 3/13 3/22 4/22 8/5 include [25] 24/20 31/3 41/4 41/17 44/12 45/22 47/11 53/22 53/23 53/25 55/10 60/6 60/10 60/16 60/17 60/20 60/21 61/1 81/18 84/1 85/2 88/24 91/21 98/24 100/7 included [41] 18/20 21/11 21/14 23/7 23/12 23/25 32/7 32/9 32/15 32/24 40/12 40/13 47/15 49/3 50/20 51/4 52/2 52/5 55/12 56/9 56/23 57/22	J Jacksonville [1] 2/4 James [4] 71/15 71/16 74/24 75/1 JESSE [5] 1/2 3/10 9/11 15/24 35/17 Jesse's [1] 35/21 Joanne [1] 73/3 job [1] 101/5 joinder [2] 23/23 75/3 joinders [1] 75/1 joined [2] 11/14 66/2 joins [1] 9/12 joint [5] 6/1 6/2 7/1 7/24 11/4 judge [1] 3/16 July [6] 97/20 98/4 98/14 98/19 99/15 101/11 jump [1] 25/16 jumped [1] 86/19 June [3] 97/4 97/4 102/10 just [104]	K Kansas [2] 74/11 74/13 Kathleen [1] 74/9 KAY [1] 1/9 keep [2] 12/12 96/4 Keppel [1] 73/4 kept [1] 47/25 kicks [1] 17/1 kind [16] 7/8 11/16 16/17 16/21 17/1 22/7 25/17 26/17 34/1 36/4 37/18 49/16 54/24 58/17 83/7 83/16 KITTRELL [3] 1/24 102/4 102/14 knew [1] 26/19 know [43] 4/9 5/5 6/16 7/12 7/14 9/16 10/2 11/20 12/18 12/21 13/23 17/10 17/23 29/22 29/22 29/23 30/4 30/6 30/8 34/1 36/12 38/2 47/22 49/1 51/20 56/4 58/17 58/19 58/23 66/1 70/3 72/18 79/25 82/5 83/15 84/5 86/10 89/8 89/19 91/6 91/13 94/18 101/2 known [1] 66/7 Kyle [2] 75/10 75/18
L label [1] 92/1 labeled [1] 93/7 Lacey [2] 75/10 75/18 laid [1] 45/14 land [4] 24/21 32/23 67/17 82/18 language [7] 32/2 32/22 38/18 38/23 53/25 63/15 85/8 lapsed [1] 41/16 large [3] 53/16 54/11 58/11		

L last [5] 40/6 48/6 81/7 81/8 99/22 later [5] 25/16 26/7 34/8 35/22 58/22 law [6] 3/16 10/21 24/7 24/22 36/20 99/1 lay [1] 16/21 lean [1] 35/13 Leanne [2] 8/15 12/22 Leas [1] 2/3 least [5] 6/22 10/20 12/9 53/12 57/1 leave [4] 10/19 35/16 72/24 97/17 leaves [2] 58/4 72/4 left [3] 30/5 51/2 55/18 legal [32] 16/6 16/8 21/15 24/20 24/22 38/3 50/15 50/24 50/25 51/7 52/6 52/22 53/6 53/22 60/16 60/22 60/23 60/24 61/4 61/12 68/11 79/6 84/1 84/21 85/2 85/23 88/21 88/24 89/4 90/2 91/12 93/25 Leon [1] 102/11 less [4] 47/7 71/20 72/2 77/9 let [14] 4/12 5/9 6/15 7/12 17/10 17/23 20/10 30/14 33/3 44/20 53/9 76/25 84/14 90/14 let's [4] 31/6 55/5 73/14 77/2 letter [14] 41/6 71/22 71/23 72/8 72/10 72/11 72/12 72/15 72/17 72/21 80/3 80/15 80/16 94/22 letters [1] 79/16 level [1] 100/23 lien [13] 34/13 35/1 35/6 35/11 35/18 36/1 36/20 42/10 45/12 45/19 55/23 92/11 92/11 life [1] 75/8 like [24] 3/25 5/19 5/24 7/6 9/14 9/18 9/25 11/6 14/2 16/10 21/4 25/2 28/3 36/4 40/4 58/1 58/11 58/12 59/1 86/8 86/16 87/22 91/3 100/16 Lilly [5] 75/25 76/1 76/2 76/5 76/6 Lillys [1] 76/4 limit [3] 7/9 41/12 55/5 limited [7] 8/24 8/25 43/21 45/22 63/21 68/25 97/16 limiting [1] 38/19 line [2] 24/18 90/20 lines [1] 80/7 list [12] 7/19 29/22 44/1 61/2 63/19 63/21 64/3 64/5 64/20 64/25 71/15 85/14 listed [11] 6/25 38/20 44/8 48/9 52/17 54/11 68/22 75/16 81/11 81/19 94/8 listing [1] 52/21 lists [8] 51/1 51/3 53/3 53/22 68/2 68/13 71/13 94/11 little [6] 13/25 32/11 32/17 33/1 86/19 91/2 live [1] 52/5 lived [1] 26/4 located [1] 74/8 log [1] 5/3 long [3] 9/25 62/25 97/3 look [13] 42/25 52/14 53/5 54/15 57/2 57/7 68/4 69/21 73/19 87/10 88/16 95/13 101/10 looked [1] 9/24 looking [1] 44/25 looks [1] 7/6	Lorri [3] 75/24 76/1 76/5 loss [1] 58/9 lot [33] 4/11 8/22 11/14 28/22 35/7 38/16 38/25 39/1 49/4 49/15 55/3 56/10 57/5 58/14 58/15 62/16 67/19 71/13 74/14 74/17 74/25 75/7 75/8 75/8 75/12 75/12 76/12 76/12 76/13 88/3 93/21 94/14 101/3 lots [27] 38/22 38/23 54/18 55/9 55/13 56/1 56/2 56/3 56/4 56/9 56/22 57/22 57/24 58/2 58/2 58/6 58/12 64/14 64/22 67/14 76/3 82/11 82/21 82/22 83/5 83/11 100/20 lunch [1] 17/15 M M-a-x-o-n [1] 69/3 ma'am [1] 13/20 made [9] 45/8 46/12 48/6 52/16 69/15 86/7 92/22 95/22 96/1 madness [1] 58/16 Mahan [1] 2/8 mail [1] 77/9 main [2] 20/8 36/2 majority [33] 38/15 38/25 50/8 50/12 52/12 56/12 56/17 57/18 57/20 63/13 65/5 65/13 65/17 66/6 66/9 66/14 70/19 71/10 71/11 73/1 73/2 74/4 76/18 78/9 78/12 78/15 79/1 79/3 79/10 79/19 84/20 94/8 95/6 make [25] 4/12 11/19 12/15 14/3 14/17 16/5 16/15 17/6 25/3 28/23 29/21 30/11 36/14 42/23 48/15 48/17 48/23 52/12 53/4 54/15 59/18 61/3 85/10 86/11 90/11 making [1] 5/25 mandatory [11] 22/6 23/2 36/7 36/16 45/3 45/9 45/15 45/16 46/2 55/22 55/23 manufactured [1] 91/7 many [3] 29/23 48/16 59/23 map [2] 60/21 64/13 maps [1] 64/3 March [1] 3/3 MARION [3] 1/24 102/4 102/14 marked [1] 7/21 Market [1] 30/24 Marketable [3] 24/16 55/16 57/5 match [2] 74/19 95/16 material [1] 13/23 math [2] 57/15 57/17 matter [4] 7/23 60/13 65/15 98/24 matters [6] 3/24 5/20 11/3 15/5 40/7 65/16 Maxon [1] 69/3 may [26] 1/19 6/3 6/23 7/10 8/21 8/23 15/12 19/11 20/13 26/11 42/23 45/22 59/4 62/2 65/21 68/16 74/12 75/14 77/13 77/16 78/1 79/20 81/6 82/21 85/11 99/8 maybe [7] 6/7 20/18 37/12 49/14 58/19 58/22 80/14 McCarty [1] 2/13 mccartyfocks.com [1] 2/15 me [37] 4/14 5/6 5/22 5/24 7/4 7/10 7/11 7/12 9/18 9/25 10/13 11/8 12/19 12/21 17/10 17/23 20/10 29/24 33/2	40/14 52/13 59/1 59/6 59/10 60/14 61/16 73/20 76/25 81/12 86/11 86/13 86/13 86/15 89/12 96/11 96/17 99/22 mean [14] 16/9 25/13 47/3 47/5 51/23 53/19 59/2 59/7 59/8 72/3 72/23 73/13 87/24 97/18 meaning [1] 64/11 means [4] 42/22 43/3 62/9 92/15 meant [1] 43/6 meat [1] 46/16 meet [1] 70/15 meeting [3] 12/23 50/10 75/5 Melrose [1] 69/4 member [3] 45/21 45/21 77/13 members [10] 26/12 26/19 27/2 40/19 42/9 42/13 43/13 44/4 44/6 44/15 membership [5] 22/7 36/5 45/8 45/9 48/3 mention [12] 4/13 10/17 22/3 22/6 23/2 23/2 23/3 34/6 35/13 45/15 92/3 92/4 mentioned [1] 34/2 mentioning [1] 38/6 met [1] 70/19 method [2] 58/16 65/23 mid [1] 17/18 mid-morning [1] 17/18 middle [1] 84/24 might [13] 9/2 9/2 11/19 13/23 19/24 25/23 29/10 36/18 49/18 56/21 68/7 87/9 87/21 Miles [1] 74/9 mine [1] 73/9 minor [1] 7/7 minutes [4] 5/6 9/8 81/3 93/10 misreading [1] 77/4 missed [2] 11/21 20/13 missing [7] 46/19 87/21 89/24 91/18 91/19 91/22 92/18 modify [2] 44/7 44/14 moment [2] 5/11 96/17 month [1] 66/24 more [38] 9/8 10/12 13/2 13/13 13/14 13/25 29/2 33/19 33/22 37/19 39/10 41/15 42/15 42/19 42/24 43/13 46/10 47/21 47/24 48/13 49/4 50/2 50/6 50/7 53/13 56/2 57/21 63/10 68/17 68/22 71/20 76/13 78/15 81/10 84/2 90/16 91/25 92/17 morning [5] 4/20 4/23 4/24 5/13 17/18 most [1] 93/1 mostly [1] 16/8 motion [6] 8/14 9/24 10/2 10/21 97/13 97/14 motions [2] 10/19 11/6 motive [1] 65/23 move [15] 12/9 33/4 33/5 36/25 43/17 69/19 76/25 79/23 83/18 84/15 86/9 86/17 86/21 86/24 91/11 moved [1] 27/2 moving [3] 41/23 65/1 65/20 Mr [38] 4/4 6/15 8/5 8/19 9/20 13/21 14/21 15/10 16/1 17/6 25/6 27/9 28/20 29/17 37/7 40/5 46/20 48/6 52/1 61/15 68/25 73/21 76/22 80/17 81/17 81/21 83/4 83/14 84/14 84/16 86/18 89/11 92/19 95/18 96/13 97/23 98/11 100/12
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M Mrs [1] 5/1 MRTA [3] 41/12 41/21 63/9 Ms [45] 4/16 4/17 5/1 6/12 6/16 8/17 8/18 8/19 9/5 9/12 9/13 10/8 10/11 10/12 11/7 12/3 13/2 14/7 14/13 15/2 16/7 16/15 17/20 20/11 24/23 25/8 26/10 27/11 27/19 29/14 43/16 44/20 52/1 54/13 65/20 73/7 73/12 77/2 81/5 81/6 83/20 86/3 91/9 93/9 97/17 much [6] 11/10 18/1 28/19 86/13 86/14 97/6 multiple [2] 64/12 74/12 must [9] 10/19 27/23 28/6 28/6 46/7 46/8 66/3 84/19 84/25 mute [9] 4/4 12/24 24/6 51/21 51/21 62/20 62/23 81/1 83/22 muting [1] 83/23 my [30] 3/15 4/21 5/15 6/13 9/4 12/19 12/22 14/16 45/2 52/13 52/14 63/15 67/3 67/7 75/15 76/25 81/1 86/2 86/15 89/13 90/18 93/5 96/25 97/7 97/11 98/6 98/25 99/3 100/22 102/7 myself [1] 57/17	none [3] 23/25 52/7 52/8 normally [2] 86/5 96/22 Nos [1] 7/20 not [160] notarized [2] 22/2 23/17 note [4] 19/20 28/22 69/15 72/6 note-taking [1] 28/22 noted [2] 11/4 14/15 notes [5] 52/14 53/8 75/15 77/1 102/8 nothing [7] 36/9 41/9 43/11 43/12 48/3 66/5 81/24 notice [8] 3/6 6/2 6/22 32/14 32/18 41/11 46/20 47/17 noticed [2] 5/8 7/24 notwithstanding [1] 23/1 November [3] 72/1 72/22 94/23 now [23] 3/3 5/20 11/1 18/17 21/8 26/14 31/4 38/18 38/19 39/3 39/19 44/11 48/24 54/14 54/22 55/22 65/20 69/20 73/8 88/18 89/17 92/24 95/12 nuanced [1] 54/24 number [76] 3/12 3/14 3/19 7/11 7/17 7/18 9/23 12/13 15/17 18/6 18/9 18/11 18/16 18/22 19/1 19/2 19/3 19/21 21/13 21/18 21/22 21/25 22/2 22/5 22/8 22/14 22/19 22/25 23/9 23/14 23/17 23/19 23/22 26/7 32/5 32/5 32/10 32/16 32/25 33/3 33/4 33/8 33/12 34/10 35/2 35/4 35/9 37/12 37/14 40/10 43/21 50/23 53/10 54/4 54/15 55/21 56/1 56/11 56/16 58/4 61/21 62/16 62/16 69/5 69/7 69/23 70/19 71/25 74/18 76/18 76/20 79/12 92/5 92/6 92/7 95/3 numbered [1] 6/7 numbering [1] 7/4 numbers [8] 6/24 34/19 52/10 63/5 68/2 70/15 80/19 93/1 NW [1] 2/13	omission [2] 40/23 40/23 omitted [4] 31/11 40/25 46/24 67/2 once [10] 12/8 27/23 33/14 46/7 46/8 56/10 66/23 76/13 82/5 88/8 one [69] 9/25 11/20 13/25 14/4 14/9 14/10 14/11 21/3 21/12 29/7 30/7 30/8 30/9 30/22 31/8 31/11 33/8 33/13 33/17 35/24 36/19 37/21 38/1 40/12 48/13 50/13 53/13 56/2 56/3 56/24 57/10 58/10 58/17 63/10 64/15 66/10 67/22 68/17 71/12 74/6 74/21 75/5 75/10 75/13 75/14 75/23 76/8 76/11 78/3 79/4 79/17 80/14 80/15 80/16 80/16 83/8 83/10 88/10 88/12 88/14 88/20 89/23 90/8 91/5 91/15 91/25 92/3 93/2 97/2 one-page [4] 88/12 88/20 91/15 91/25 ones [2] 62/21 90/15 online [1] 4/11 only [44] 14/12 15/23 21/12 22/14 23/15 25/1 26/15 30/7 30/22 31/12 31/21 32/1 33/5 34/4 34/13 34/25 35/10 36/1 36/23 44/2 44/4 48/8 52/16 53/3 54/10 60/21 64/5 64/10 70/21 70/24 71/5 72/4 72/25 74/25 75/25 76/4 80/5 80/8 80/10 80/21 81/18 81/18 85/5 94/7 open [1] 13/14 opened [1] 8/4 opening [5] 16/5 16/9 16/15 17/2 17/7 operation [1] 45/7 opinion [2] 9/14 27/5 opportunity [4] 69/12 69/16 86/14 96/20 opposed [3] 7/5 13/6 72/20 opposing [2] 62/1 77/15 opposition [1] 10/16 order [18] 3/3 50/4 57/23 59/16 66/22 86/15 96/25 97/7 98/2 98/3 98/6 99/7 99/11 99/24 100/1 100/3 100/7 100/22 ordered [2] 40/15 91/3 ordering [1] 5/15 orders [11] 69/13 86/8 86/13 91/1 96/21 96/24 97/19 98/5 98/14 98/19 101/11 organized [1] 12/12 organizing [6] 72/13 77/12 77/24 81/21 83/3 93/16 original [5] 26/23 34/8 42/16 42/19 43/12 originally [2] 58/10 75/21 other [24] 4/18 5/8 8/12 11/2 11/19 11/20 19/11 19/13 39/9 40/2 44/9 44/15 46/9 46/13 61/2 61/12 67/13 70/12 73/8 73/15 82/9 88/2 88/2 90/15 others [1] 60/6 otherwise [1] 10/21 our [25] 10/17 11/14 12/1 12/13 12/14 27/25 28/19 28/21 29/14 30/10 34/21 39/18 46/5 47/14 52/18 70/16 70/19 75/1 80/7 89/11 92/25 93/2 96/5 98/18 99/24 ourselves [1] 26/6 out [27] 18/20 30/4 35/18 45/14 51/2 51/3 52/21 53/22 55/18 56/2 56/3 58/18 60/23 66/10 67/23 68/2 68/13 71/23 72/10 72/15 72/16 72/17 92/14
N name [7] 3/15 4/21 8/2 8/2 12/19 19/23 20/19 name's [1] 12/22 named [2] 8/15 30/2 narrow [1] 7/17 narrowed [1] 29/11 nature [4] 8/22 27/24 33/21 41/24 necessarily [3] 26/1 41/20 41/20 necessary [2] 30/9 76/19 need [20] 5/21 7/17 9/17 14/20 15/6 15/18 17/14 17/15 17/18 17/22 30/7 35/21 46/22 59/15 59/16 60/4 62/20 75/2 76/6 86/11 needed [3] 9/7 35/18 41/20 needs [2] 4/4 47/19 never [7] 21/6 23/18 28/1 28/2 34/15 35/19 77/22 nevertheless [1] 26/11 new [3] 41/24 44/4 94/2 Newark [2] 74/8 74/15 next [11] 12/10 14/5 29/15 44/21 48/12 74/21 75/10 75/23 76/8 79/23 80/20 nice [1] 16/21 no [82] 1/4 1/11 14/8 15/3 15/7 15/11 15/16 15/23 16/3 16/17 17/8 18/7 19/6 19/13 19/18 20/5 21/21 22/9 22/16 22/22 23/1 23/2 23/3 23/3 23/4 23/20 23/23 24/18 25/1 27/12 27/12 27/17 28/14 31/7 31/13 31/13 31/17 31/17 31/18 33/25 34/1 34/7 34/11 36/8 39/24 40/1 41/17 44/6 44/7 45/15 45/17 49/15 54/8 54/23 58/10 62/13 63/1 64/15 65/2 76/1 76/5 76/23 77/16 77/21 77/23 79/6 86/22 89/4 89/6 90/2 90/4 90/4 92/1 92/1 92/7 92/10 92/10 92/11 96/15 97/24 100/14 102/16 nobody [1] 80/17 nobody's [1] 39/4 nomination [1] 79/8 non [1] 44/15 non-revitalized [1] 44/15	O OAE [1] 54/17 objection [1] 97/22 obligated [1] 45/24 observe [3] 10/14 13/3 13/15 obtain [1] 65/5 obtained [2] 66/10 78/15 obtaining [3] 78/8 78/11 78/13 obviously [3] 31/11 74/1 76/13 October [3] 71/24 72/16 94/22 off [10] 9/2 17/1 24/6 29/13 31/16 34/4 47/8 73/15 75/3 100/16 offer [1] 25/7 office [1] 8/8 officers [3] 23/16 23/21 34/5 official [3] 19/7 22/10 23/10 Oh [4] 36/18 36/18 75/16 98/23 okay [50] 5/7 5/19 7/7 8/7 9/10 10/25 13/9 13/16 13/21 14/25 15/12 15/21 16/1 16/4 16/13 17/4 17/9 17/25 20/18 20/21 20/24 27/15 28/17 29/3 30/16 33/11 37/1 40/10 44/22 48/24 55/9 69/17 69/18 69/20 69/20 73/22 79/24 80/22 86/23 87/1 91/11 92/23 92/24 96/16 97/25 98/16 99/5 99/17 99/18 100/15 old [2] 57/2 84/6	

O out... [4] 94/2 94/11 97/4 97/15 outside [4] 41/12 46/21 57/21 73/16 over [15] 8/11 10/9 11/1 29/17 33/16 38/23 49/2 51/3 53/17 54/13 58/12 58/14 58/15 73/7 94/16 overall [2] 16/9 79/17 overarching [2] 20/9 38/3 overlap [2] 11/14 12/14 oversight [1] 46/25 own [7] 24/10 56/5 71/7 74/12 84/4 84/10 87/6 owned [8] 23/18 31/19 74/9 74/23 75/17 75/20 75/24 76/4 owner [11] 34/22 55/3 55/8 57/9 63/12 66/2 67/19 71/14 77/17 79/4 82/21 owners [94] 1/6 1/13 3/11 3/13 3/22 4/22 8/5 18/19 19/4 19/23 20/1 23/25 25/18 25/22 25/23 26/3 26/8 26/25 27/3 27/22 29/1 38/16 38/20 38/25 39/1 39/3 39/8 39/9 41/9 41/10 43/19 43/21 45/23 45/23 47/1 47/6 47/7 48/4 48/9 49/5 49/9 49/25 50/4 50/8 50/11 50/12 50/16 53/19 54/8 54/25 55/3 55/11 55/12 55/20 56/7 56/10 56/14 59/14 59/19 59/21 60/1 60/12 61/2 61/21 62/6 62/8 63/14 63/18 63/20 64/5 64/25 65/7 65/8 66/6 68/3 69/4 69/23 70/4 71/1 75/2 75/6 75/7 75/22 76/7 77/7 77/9 77/11 78/1 78/10 79/8 81/11 85/14 92/25 95/4 owners' [1] 50/5 ownership [1] 45/10	64/5 65/8 65/11 66/3 66/8 67/24 70/4 71/1 71/14 77/8 77/11 78/10 79/5 79/8 84/21 85/3 92/25 95/4 parcels [53] 28/5 28/9 40/21 42/1 43/22 43/24 44/2 44/2 45/8 46/9 49/9 51/3 51/4 51/5 51/9 51/14 51/19 52/19 52/21 53/2 53/4 53/17 53/17 53/17 53/18 53/23 54/6 59/5 60/16 60/23 62/15 64/10 65/3 65/3 65/5 65/6 65/7 65/13 66/13 66/13 68/3 68/14 71/8 76/20 79/12 84/11 85/5 85/11 93/13 94/7 94/7 94/11 94/20 park [1] 32/21 part [35] 9/15 14/14 25/21 25/25 26/9 28/3 30/20 31/1 31/21 32/1 33/13 36/16 36/21 37/1 41/21 42/4 42/11 47/19 49/11 49/13 54/12 58/7 61/22 61/24 64/23 70/3 73/5 73/20 81/24 87/17 87/17 91/20 92/18 93/1 94/2 partial [4] 61/25 65/21 69/8 70/14 participate [1] 44/11 participating [1] 44/6 particular [3] 66/2 75/16 83/14 particularly [1] 62/21 parties [13] 3/7 3/25 5/15 7/8 7/25 15/14 16/5 17/14 18/10 73/21 75/20 96/20 97/1 parts [1] 64/20 party [2] 80/16 86/14 past [3] 26/5 31/8 40/20 pause [1] 96/18 pay [7] 36/13 36/14 45/25 55/23 56/2 56/2 56/3 pending [1] 11/6 people [15] 10/9 19/25 39/14 45/24 52/11 54/10 60/8 61/4 61/5 66/12 68/21 68/22 70/2 70/25 101/3 per [1] 76/13 percentage [1] 55/24 perfectly [1] 98/20 perhaps [3] 66/4 66/5 91/1 period [1] 78/11 permitted [4] 10/13 61/25 62/2 62/13 person [2] 67/18 82/20 persons [1] 49/6 peter [6] 2/12 2/15 4/21 37/2 39/17 40/2 petition [9] 8/17 10/1 14/11 18/15 18/15 38/10 73/9 98/25 99/4 petitioner [6] 1/3 1/10 2/2 4/1 11/8 15/25 petitioner's [2] 4/9 42/14 petitioners [16] 4/7 4/18 8/11 11/2 15/15 18/10 25/15 27/1 40/8 51/25 52/4 53/12 71/7 96/9 99/20 100/11 petitioners' [2] 11/13 17/23 petitions [10] 3/23 11/14 12/13 12/14 18/5 18/8 18/25 24/3 28/19 30/11 phases [1] 64/3 phone [5] 4/3 4/10 12/20 12/20 12/23 picked [1] 53/6 place [11] 1/20 1/22 30/22 33/20 33/24 33/24 34/14 35/10 47/6 47/9 48/1 placed [2] 93/12 94/4 places [2] 67/16 82/18 plat [2] 64/3 93/18 platform [1] 3/8	plats [1] 63/25 pleading [1] 13/7 pleasant [1] 101/9 PLLC [1] 2/13 plus [4] 39/2 39/8 48/1 57/18 point [22] 35/8 35/10 35/15 35/17 36/2 37/2 39/22 40/2 40/5 40/19 45/2 48/6 59/18 60/7 60/14 63/15 67/3 71/7 83/7 83/15 88/22 90/13 points [3] 38/10 44/23 44/23 policy [1] 78/14 portion [1] 79/23 position [9] 8/17 9/6 9/11 9/21 26/9 34/21 38/19 75/2 76/2 possible [2] 7/14 68/7 post [1] 72/17 post-dated [1] 72/17 pot [1] 56/1 poten [1] 12/9 potential [1] 62/15 practitioners [2] 5/23 53/21 precipice [1] 86/3 prefer [1] 83/16 prehearing [9] 6/1 6/3 6/23 7/1 7/5 7/24 11/4 37/10 52/19 preliminary [6] 5/20 7/23 11/2 15/5 16/19 16/25 premise [2] 30/21 77/15 prepared [5] 7/13 30/6 81/20 96/9 100/18 preparing [3] 40/15 86/15 100/22 present [12] 10/11 12/1 14/9 21/4 27/10 29/7 29/15 44/17 53/21 69/13 70/8 86/21 presentation [4] 7/14 11/17 17/21 86/4 presentations [2] 69/12 101/2 presented [5] 49/20 70/16 77/8 79/6 80/5 presenting [1] 12/2 preservation [5] 32/14 32/18 41/11 46/21 47/17 presiding [1] 3/16 presume [2] 14/3 99/16 presumes [1] 99/15 pretty [2] 59/2 80/24 previous [13] 21/16 27/24 28/2 28/7 31/4 37/17 37/20 38/14 39/11 46/7 59/5 64/3 69/2 previously [6] 33/19 33/21 42/6 64/21 65/4 92/22 primary [1] 53/20 prior [4] 42/18 45/16 71/21 100/17 pro [1] 8/15 probably [4] 9/17 27/9 49/19 86/19 problem [3] 65/2 94/6 94/12 procedure [1] 26/24 proceed [4] 28/11 30/15 44/20 58/22 proceeding [11] 8/22 9/3 12/7 12/16 13/24 15/15 18/23 19/25 21/4 30/12 99/21 proceedings [4] 1/17 1/23 101/12 102/6 process [5] 10/6 28/4 62/14 66/20 75/19 produce [1] 89/24 profanity [1] 62/22
---	---	--

P professional [1] 101/2 professionalism [1] 100/23 prohibited [1] 63/1 proof [1] 53/7 proper [6] 24/22 31/5 31/8 56/13 59/1 74/20 properly [3] 25/24 56/18 59/16 properties [20] 32/20 47/9 49/10 51/9 52/12 52/25 54/1 61/12 64/11 74/12 85/25 87/20 88/8 93/23 93/24 94/1 94/4 94/5 95/5 95/17 property [44] 1/5 1/12 3/11 3/13 3/22 4/22 8/5 19/23 21/7 21/17 23/18 24/9 24/10 30/24 31/19 57/8 60/18 61/6 61/7 67/25 68/11 69/4 74/7 74/8 74/15 74/22 75/19 82/3 82/23 84/11 85/3 85/23 87/16 88/23 89/5 90/4 91/14 93/11 93/16 93/22 94/10 95/11 95/14 95/14 proposed [20] 3/20 47/24 50/1 50/21 69/13 77/6 77/11 86/7 86/12 91/1 96/21 96/24 97/7 97/19 98/4 98/14 98/19 99/7 99/24 100/7 proposing [1] 65/10 propriety [2] 26/1 26/22 prove [2] 90/3 91/13 provide [3] 86/13 86/14 99/1 provided [8] 10/21 31/9 41/9 41/9 42/10 67/14 82/11 89/15 provides [4] 41/3 62/5 77/5 93/21 providing [1] 50/15 provision [3] 35/1 39/11 48/8 provisions [4] 37/17 38/14 42/15 43/15 public [16] 10/11 31/14 34/24 36/21 56/8 64/15 64/16 87/24 90/6 90/23 90/23 90/25 91/5 91/8 93/22 100/2 pull [2] 38/2 56/9 purchased [2] 34/24 75/18 pure [2] 16/6 16/8 purely [1] 78/25 purport [1] 24/15 purported [1] 22/10 purporting [4] 19/8 19/14 60/9 92/8 purpose [11] 3/17 9/3 18/11 25/19 40/15 42/20 47/18 49/5 63/2 83/8 84/8 purposeful [1] 84/3 purposes [5] 56/7 57/15 60/1 66/16 66/17 pursuant [4] 3/6 41/21 55/16 82/9 purview [2] 59/13 88/4 put [9] 20/10 47/8 56/1 75/21 91/16 97/9 99/2 99/13 99/23 putting [3] 20/15 47/5 84/11 puzzling [1] 55/6	rambling [1] 34/19 rather [4] 19/5 26/3 26/24 43/23 Ratliff [1] 76/8 re [2] 43/22 83/9 re-encumber [1] 43/22 reach [1] 76/18 read [11] 6/1 13/10 48/10 49/16 61/5 82/5 82/6 85/13 93/8 93/9 95/12 reading [2] 42/14 78/21 reads [1] 83/5 ready [2] 17/24 69/19 real [4] 67/25 68/11 82/3 93/16 reality [1] 53/5 realized [1] 30/6 really [6] 9/18 35/21 60/4 61/2 61/22 85/17 reason [8] 30/18 41/17 49/14 62/17 62/25 63/1 68/18 81/15 reasons [3] 21/9 46/1 92/13 rebut [1] 37/3 rebuttal [9] 12/7 24/24 27/19 44/23 46/6 46/12 46/18 67/9 85/18 receive [3] 10/1 49/6 57/23 received [5] 8/13 52/8 65/17 65/17 98/14 receiving [3] 71/21 77/14 84/20 recess [2] 81/3 81/4 recognize [3] 62/1 62/2 62/13 recommended [16] 69/13 86/8 86/12 86/15 96/21 96/24 96/25 98/4 98/6 98/19 99/7 99/11 99/24 100/7 100/22 101/11 reconsider [1] 66/25 record [27] 1/24 24/8 24/17 25/3 30/24 33/9 34/25 36/21 40/18 54/16 57/5 66/5 75/2 75/6 75/7 76/7 77/23 87/10 87/24 88/18 91/14 91/17 99/2 99/13 100/2 100/3 102/7 recorded [38] 19/7 19/14 19/18 22/9 22/16 23/4 23/23 24/15 25/2 26/15 31/14 31/20 32/14 34/3 34/15 34/17 34/24 35/3 36/21 38/22 41/2 41/3 41/7 41/15 42/3 42/6 42/11 43/8 43/11 43/12 68/19 80/13 84/25 85/1 89/20 90/25 93/6 100/2 recording [6] 19/10 19/16 22/12 24/11 26/2 26/23 records [16] 19/7 22/10 23/10 31/14 55/16 56/9 67/12 82/8 90/7 90/23 90/24 90/25 91/5 91/5 91/8 93/22 redundant [3] 13/22 13/25 81/13 refer [1] 46/13 reference [12] 7/15 23/11 40/2 56/24 57/3 60/8 63/16 69/15 71/7 85/6 85/7 89/23 references [5] 19/12 50/2 50/6 55/14 57/13 referred [2] 35/11 35/19 referring [2] 31/22 44/24 refers [2] 32/20 85/11 reflect [1] 8/1 reflects [1] 68/6 refused [1] 80/1 Regardless [1] 65/8 regards [2] 44/24 86/4 reiterate [4] 82/2 90/17 95/21 95/25 reject [1] 78/14	rejected [1] 94/19 related [1] 69/25 relating [1] 80/6 relation [2] 81/9 95/23 relaxed [1] 13/25 relevant [2] 65/25 66/1 relief [1] 99/24 relying [1] 72/20 remaining [1] 3/7 remains [1] 38/23 removed [1] 74/2 repeat [1] 95/20 repeating [1] 11/15 repetitive [1] 87/9 report [1] 102/5 reported [1] 1/23 reporter [5] 1/24 3/5 97/9 102/2 102/15 Reporting [1] 1/24 represent [2] 52/1 52/2 representative [1] 89/2 represented [1] 9/16 representing [2] 45/23 48/16 request [8] 10/15 13/1 13/8 13/12 77/22 96/24 98/25 100/8 requested [2] 7/25 10/23 requesting [1] 99/3 require [1] 91/20 required [10] 38/8 45/19 56/17 70/3 74/4 79/3 79/7 79/9 81/25 85/15 requirement [2] 45/17 88/10 requirements [4] 33/13 38/7 46/9 47/20 requires [2] 31/1 47/10 requisite [1] 69/23 respect [9] 10/5 26/10 41/1 42/14 44/8 44/14 48/8 48/10 81/16 respective [1] 37/17 respond [8] 28/22 29/7 37/4 37/5 61/18 76/22 84/14 90/14 respondent [14] 1/7 1/14 2/11 4/19 8/3 9/20 11/23 12/5 23/7 25/15 71/8 86/20 96/14 100/12 respondent's [3] 26/9 71/22 93/15 respondents [6] 5/23 8/2 8/11 18/19 19/4 93/15 response [7] 12/5 24/25 25/7 44/23 61/15 67/7 68/25 responses [3] 90/18 90/20 92/22 responsible [1] 45/7 rest [2] 96/12 101/9 restricting [1] 88/23 restriction [6] 33/7 34/8 55/15 88/22 89/5 89/9 restrictions [78] 3/21 19/8 19/11 19/12 19/13 19/15 19/20 20/5 20/6 21/6 21/11 22/11 22/13 22/15 22/17 23/11 23/15 23/19 23/21 23/24 24/8 24/8 24/10 24/11 24/14 24/14 24/16 24/19 30/19 30/21 31/12 31/20 33/20 33/22 33/23 34/2 34/4 34/9 34/12 34/12 35/12 35/13 35/20 36/6 36/8 36/10 36/11 36/20 36/22 38/14 38/16 38/17 39/6 39/7 39/13 39/15 47/6 47/8 55/18 56/6 56/15 57/3 57/6 59/22 60/10 64/18 68/9 80/12 82/4 82/24 83/25 87/8 89/22 89/23 90/3 92/8
Q question [9] 12/9 15/13 37/13 41/23 41/25 43/17 43/19 78/3 85/12 questions [3] 12/8 37/11 38/4 quite [2] 29/1 55/7 quote [8] 10/18 65/7 77/7 78/8 84/21 84/23 85/1 85/3		
R raised [2] 25/8 27/11		

R restrictions... [2] 92/16 93/12 restrictive [14] 33/19 33/22 37/20 39/11 41/23 42/16 42/19 42/24 43/13 46/11 47/21 47/24 91/25 92/17 restricts [1] 82/10 results [2] 66/25 67/3 retrieve [1] 91/10 returned [5] 40/14 66/12 77/17 78/1 91/4 returns [1] 66/16 reveal [1] 90/24 reversal [1] 99/25 review [6] 10/5 11/5 17/2 18/3 26/22 100/21 reviewed [4] 13/7 13/11 36/7 100/21 reviewing [1] 30/7 revised [8] 33/12 34/17 38/21 50/17 77/6 84/9 94/3 95/14 revitalization [76] 3/19 8/25 10/6 16/10 18/12 21/7 21/20 21/23 22/1 23/8 24/1 25/20 25/25 26/13 26/18 28/4 31/2 31/23 32/7 32/15 32/24 33/18 33/20 34/16 38/11 39/5 40/16 40/22 42/4 42/12 42/23 43/10 43/20 44/5 47/4 47/20 49/6 49/21 50/20 51/5 52/8 54/7 55/19 56/7 57/24 58/8 58/24 59/17 60/2 60/5 61/25 62/15 65/19 65/21 66/3 66/21 69/8 69/21 71/19 71/22 71/24 72/1 72/7 72/9 73/18 75/19 78/14 78/24 79/9 81/11 84/8 87/18 88/5 88/6 90/1 95/8 revitalizations [1] 64/12 revitalize [9] 27/3 33/14 43/5 43/7 52/9 52/11 52/17 58/21 59/23 revitalized [9] 21/5 26/12 39/6 44/15 46/23 56/18 64/16 64/22 81/18 revive [9] 25/23 47/12 48/14 48/18 48/21 48/22 50/9 65/11 94/9 revived [60] 18/21 18/24 19/17 23/13 24/1 24/3 27/22 28/1 28/5 37/16 37/19 38/16 40/13 41/21 43/25 44/3 44/11 47/24 48/19 50/1 50/3 50/21 50/25 51/6 51/15 51/16 52/6 52/7 53/1 53/11 53/25 54/2 55/11 59/4 62/9 63/5 63/20 64/6 64/23 67/10 67/13 67/18 81/10 82/1 82/8 82/19 84/9 84/12 84/22 85/4 85/6 85/9 85/24 92/9 92/17 93/7 93/25 94/1 95/15 95/24 reviving [2] 54/5 95/4 right [23] 4/19 5/14 6/21 12/25 13/17 15/4 15/8 17/25 27/18 29/18 34/13 37/7 37/22 39/18 44/18 46/4 54/14 61/17 62/12 62/19 76/24 89/17 100/12 rights [20] 19/18 20/4 20/6 22/16 22/21 23/5 24/12 34/7 34/11 35/1 35/11 35/14 35/19 36/1 36/20 42/10 46/3 92/10 92/11 92/12 Riker [1] 74/10 RIVERS [23] 1/5 1/12 3/11 3/13 3/21 4/22 8/4 19/4 19/9 19/15 19/23 19/25 22/11 39/1 40/21 44/12 51/13 55/4 58/18 74/13 74/17 75/12 82/15 Riverside [2] 2/4 74/23 Road [1] 1/25 roads [1] 64/16 roadways [1] 64/15	Robert [2] 1/20 3/15 room [2] 5/9 10/10 root [3] 56/25 57/11 57/12 rule [4] 15/14 15/20 43/18 97/18 rules [2] 10/17 13/24 run [2] 12/6 89/16 running [2] 24/21 32/23 S S-E-L-L-E-R [1] 22/24 said [22] 5/2 9/7 25/2 29/6 33/7 35/25 46/6 47/25 51/6 52/22 58/14 58/19 65/10 67/19 68/20 70/20 72/15 82/21 82/21 84/7 89/13 91/3 sake [1] 79/1 same [16] 9/13 14/16 34/23 38/18 38/24 43/16 63/6 87/3 89/15 90/21 90/21 91/15 93/8 94/14 94/17 95/21 say [27] 8/20 11/20 14/18 17/14 17/14 19/25 20/2 20/3 26/3 36/12 36/18 37/14 39/24 42/17 48/18 55/5 55/21 56/4 64/10 70/5 77/13 78/10 79/25 84/7 85/20 97/19 100/18 saying [10] 17/5 36/18 39/2 46/20 55/9 59/8 71/9 72/14 84/10 85/25 says [37] 46/10 50/23 51/15 52/24 54/1 54/5 59/3 59/4 60/19 61/6 62/7 63/9 63/11 63/13 64/9 64/10 66/6 67/11 67/25 68/5 68/8 68/8 68/10 71/4 71/19 77/21 78/8 78/12 84/21 85/1 85/21 88/7 93/10 93/16 95/10 95/10 95/13 scattered [1] 58/23 Schedule [22] 50/21 50/22 50/24 51/4 51/7 52/6 52/21 53/14 61/4 63/17 64/2 67/25 71/2 81/24 81/25 84/3 84/3 85/7 85/15 85/16 93/14 95/10 scheduling [2] 98/2 98/3 school [1] 5/5 scooped [2] 84/5 88/5 scoops [1] 94/4 scope [6] 8/24 10/5 26/21 59/10 63/17 66/19 SCOTT [1] 1/8 scratching [1] 58/5 screen [1] 10/10 screenshot [3] 57/9 74/7 74/22 se [1] 8/15 search [16] 40/15 53/10 66/15 66/18 67/4 68/18 89/14 89/15 89/16 90/5 90/7 90/9 90/22 90/24 91/3 91/9 searchers [1] 53/5 searches [6] 54/17 66/17 66/23 83/8 83/11 90/12 searching [1] 90/22 second [3] 7/23 14/15 42/2 secondarily [1] 27/1 section [6] 31/1 35/5 58/18 71/13 77/4 82/9 see [8] 5/1 12/3 24/2 59/25 61/4 61/21 87/11 95/13 seeing [1] 37/11 seek [5] 33/18 43/21 50/5 63/10 70/6 seeking [2] 33/14 99/25 seem [1] 58/16 seems [3] 62/1 62/2 64/8 seen [1] 51/17	selected [2] 62/15 65/3 selection [1] 62/14 seller [7] 19/19 20/4 22/17 22/21 22/23 22/23 31/18 send [5] 13/10 18/20 50/3 71/2 71/3 sending [3] 49/24 71/23 72/10 sense [4] 13/22 53/4 55/20 61/3 sent [9] 18/19 54/7 54/10 65/9 70/24 71/5 72/15 72/16 89/12 sentence [1] 62/6 separate [7] 54/18 78/2 79/13 79/13 79/14 79/18 87/7 sequestration [2] 15/14 15/20 serve [1] 34/22 set [15] 17/3 17/13 18/4 20/9 32/4 34/14 37/20 38/17 39/6 42/11 56/18 58/8 67/20 75/16 96/22 settlement [1] 88/3 seven [5] 29/11 73/24 74/2 76/16 95/1 several [1] 21/2 shall [7] 35/6 41/4 67/19 67/20 77/8 77/20 85/1 share [4] 9/22 10/4 11/16 55/24 sharing [1] 29/14 she [19] 4/11 4/14 5/2 5/4 5/6 8/21 8/24 9/7 9/7 9/8 9/14 9/18 9/18 12/3 29/16 65/20 76/10 76/11 83/20 she'll [1] 11/18 she's [3] 4/10 4/10 73/10 short [4] 19/22 71/10 71/10 80/23 should [9] 27/8 38/12 60/12 65/2 67/2 70/11 70/17 72/3 85/12 shouldn't [2] 16/10 67/1 show [3] 53/12 63/16 87/19 showing [4] 53/11 57/9 74/7 83/10 shown [6] 10/19 63/21 63/25 64/2 67/15 82/13 shows [1] 53/2 side [2] 17/23 19/20 sign [1] 71/15 signature [4] 31/18 76/1 76/5 92/2 signatures [8] 21/21 23/16 23/20 31/17 76/6 89/6 90/4 90/19 signed [15] 23/15 24/19 34/4 40/17 70/22 72/23 73/3 74/16 74/20 74/25 75/25 76/4 76/10 76/11 80/2 signing [2] 47/8 75/2 similar [4] 69/9 87/6 87/8 91/16 Similarly [1] 43/15 simply [2] 62/5 78/12 since [2] 14/11 57/2 single [1] 31/12 sir [3] 14/22 27/16 61/18 site [3] 75/11 75/23 76/9 six [1] 71/25 sixty [1] 40/18 sixty-something [1] 40/18 skip [1] 94/15 skipped [2] 19/21 52/13 sleep [1] 4/3 slots [1] 81/19 smaller [2] 55/2 58/8 so [153] sole [1] 40/14 some [40] 9/1 11/11 11/18 11/18 16/18 18/2 18/3 19/22 20/8 22/14 22/15 25/22 26/2 28/8 34/18 36/14 37/12
---	--	---

S some... [23] 40/19 48/25 49/23 52/13 59/7 60/2 60/10 63/2 63/19 65/3 69/23 70/8 70/8 70/9 70/11 70/12 70/14 70/14 73/14 79/21 90/15 91/3 94/16 Somebody [1] 24/6 somehow [1] 66/11 someone [1] 72/13 something [7] 11/20 12/11 40/18 45/3 48/21 84/5 87/22 something's [2] 66/25 87/24 somewhere [1] 61/1 sorry [11] 18/7 19/3 19/21 20/10 20/10 35/9 37/3 43/3 73/12 83/22 92/3 sort [2] 70/14 70/14 sorts [2] 14/5 69/14 sought [7] 70/1 70/10 71/20 77/12 77/21 77/25 84/22 sound [1] 87/9 sounded [1] 25/1 sounds [2] 14/2 40/4 Southwest [7] 74/8 74/11 74/13 74/15 74/23 75/23 76/9 speak [3] 11/23 57/16 58/9 speaking [1] 26/17 specific [6] 14/20 19/12 25/9 57/4 73/14 90/16 specifically [6] 43/20 43/23 55/14 57/13 85/14 92/12 specify [1] 37/9 speculative [1] 59/8 split [1] 11/17 spoke [1] 80/10 spot [1] 97/9 stage [5] 17/3 18/4 20/9 62/14 65/6 stand [1] 81/3 standing [2] 18/11 27/4 start [20] 5/22 6/12 8/18 11/7 11/25 15/15 16/22 17/21 20/25 27/20 27/25 30/21 40/10 44/25 46/1 56/8 77/2 87/12 88/7 88/11 started [3] 11/9 30/18 58/13 starting [3] 4/1 61/20 88/21 starts [3] 43/17 52/21 87/18 state [3] 1/1 73/16 82/17 statement [6] 16/6 16/9 16/16 16/25 17/7 82/2 statements [1] 86/6 states [1] 35/6 status [1] 10/3 statute [18] 42/14 42/21 47/4 47/9 48/14 49/16 62/4 62/5 64/8 64/22 65/25 77/4 78/4 78/22 85/15 85/21 88/10 95/8 statute's [1] 59/2 statutes [6] 46/13 48/20 49/11 82/10 93/4 95/8 statutory [2] 38/7 96/1 stenographic [1] 102/7 stepped [1] 98/17 stick [1] 21/1 still [5] 29/20 39/2 57/5 79/1 97/10 stipulate [1] 20/15 stipulated [44] 7/15 15/17 16/20 18/3 18/6 18/9 18/16 18/21 19/1 21/13 21/18 21/22 21/25 22/5 22/18 23/6 23/13 23/19 25/12 27/12 30/3 32/5	32/10 32/16 32/25 33/8 34/10 34/18 34/19 35/2 35/4 35/8 50/23 51/10 51/23 70/9 70/23 71/6 71/17 88/13 92/5 92/5 92/7 94/24 stipulation [10] 6/2 6/3 6/23 7/1 7/6 7/25 11/4 37/10 39/18 77/23 stipulations [1] 11/12 Stock [3] 71/14 71/15 74/24 stop [2] 33/3 81/12 stopping [1] 37/2 Street [1] 2/13 strictly [1] 47/5 structural [1] 95/21 stuck [1] 80/21 sub [2] 6/8 6/25 sub-subparts [1] 6/8 sub-subs [1] 6/25 subdivision [9] 63/8 63/11 63/12 63/18 64/20 67/15 82/12 82/12 85/10 subheading [1] 37/24 subject [27] 25/24 30/23 39/4 39/12 39/14 39/14 40/21 54/2 55/11 59/21 64/6 64/17 67/17 68/1 68/12 82/18 82/24 84/22 85/6 85/23 87/20 88/1 93/17 94/1 94/10 95/11 95/15 subjected [1] 82/4 submission [3] 38/21 47/10 75/21 submissions [1] 79/14 submit [6] 72/9 72/9 77/13 78/6 90/12 95/7 submitted [22] 6/4 18/13 31/2 31/10 31/21 31/24 32/1 65/14 69/24 70/13 71/8 71/22 72/7 73/17 77/18 77/18 77/20 78/16 80/10 80/13 84/19 97/20 submitting [1] 70/21 Subparagraph [1] 78/6 subparts [2] 6/7 6/8 subs [2] 6/24 6/25 subscribing [3] 21/24 89/7 90/5 subset [5] 55/2 58/9 60/15 61/9 61/10 substantial [2] 41/1 47/2 substantive [1] 46/25 such [2] 9/16 11/25 sudden [1] 34/3 sufficient [2] 74/3 76/18 suggest [3] 70/25 80/18 80/23 Suite [4] 1/25 2/4 2/8 2/13 Sullivan [2] 75/10 75/18 summed [1] 54/23 suppose [5] 16/8 17/24 62/17 62/25 85/12 sure [13] 4/15 8/21 8/23 10/11 11/19 14/4 25/3 29/21 51/2 54/15 72/17 83/13 89/10 surround [1] 9/1 Suwannee [27] 12/17 14/11 14/12 14/15 19/16 19/17 20/7 66/11 80/20 83/18 86/9 86/17 86/21 86/25 87/2 87/13 87/14 88/14 88/16 89/3 89/6 89/9 89/16 91/1 93/13 93/22 95/24 swerving [1] 13/22 system [1] 44/11 T table [1] 73/15 take [11] 6/22 9/20 14/1 17/18 38/19 58/14 73/14 73/19 80/23 87/2 94/25	taken [2] 1/19 48/4 takes [1] 97/3 taking [3] 16/22 28/22 80/11 talk [3] 5/12 25/22 59/14 talked [5] 6/14 27/21 28/20 38/3 52/18 talking [8] 47/2 47/5 48/7 49/18 49/18 50/7 59/13 98/18 talks [2] 49/24 50/14 Tallahassee [4] 1/25 2/8 3/6 102/11 targeted [1] 43/23 technical [1] 18/7 Telfer [2] 1/20 3/15 tell [5] 31/16 48/13 73/25 88/23 89/4 tend [1] 14/1 term [7] 22/24 26/8 31/23 49/9 49/12 49/22 61/21 Terrace [1] 75/24 test [1] 26/1 testify [1] 30/10 testimony [2] 27/10 35/22 text [5] 41/4 41/8 50/3 77/5 85/2 tgrant [1] 2/9 than [36] 10/12 13/2 13/13 13/14 19/11 33/19 37/20 39/11 40/2 41/15 42/16 42/19 42/24 43/13 46/11 47/7 49/4 53/13 55/3 56/3 58/9 59/5 68/22 71/20 71/20 72/2 76/13 77/9 77/14 77/17 77/19 77/25 78/2 78/16 81/10 84/2 thank [37] 4/15 7/22 9/19 10/7 13/18 13/19 14/25 15/9 17/25 25/5 28/10 29/19 30/13 30/14 30/16 36/25 39/20 40/9 44/19 51/21 61/14 61/19 69/16 81/3 81/7 84/17 87/1 92/19 95/18 96/3 96/8 98/8 98/11 98/23 99/13 100/16 101/1 that [607] that's [124] their [35] 23/16 36/3 38/21 45/9 47/9 49/1 49/3 53/6 55/13 55/14 56/5 57/10 57/25 59/22 60/3 65/7 66/8 67/22 68/8 68/8 68/10 68/20 70/6 70/20 71/4 72/15 74/10 74/16 81/17 84/4 93/5 94/8 95/9 96/9 101/5 them [26] 7/11 7/19 12/12 13/12 30/5 31/7 36/9 36/9 36/14 52/8 52/9 56/15 56/16 56/21 57/25 60/10 60/11 65/9 66/25 73/5 79/17 90/10 91/16 92/15 100/21 100/21 themselves [2] 32/3 93/15 then [72] 5/22 8/19 8/19 12/2 12/4 12/5 12/6 12/8 12/16 14/11 14/14 14/19 20/18 28/21 29/7 29/12 29/15 29/17 30/5 33/11 34/2 34/16 36/25 37/1 37/3 38/16 38/25 39/2 41/6 46/5 46/15 48/6 48/15 48/18 48/23 50/9 50/13 50/20 51/10 51/12 52/23 53/2 53/23 57/2 57/10 58/21 59/24 60/20 60/25 61/1 62/22 62/23 63/1 63/12 65/1 65/1 65/22 66/15 68/2 68/13 74/1 78/19 78/23 79/16 83/15 84/14 84/23 86/24 90/15 91/11 93/4 98/1 there [73] 4/16 5/8 5/20 6/3 6/6 6/8 6/23 8/16 9/9 11/2 11/5 11/8 12/24 16/23 18/6 19/6 19/13 19/18 19/21 19/22 22/9 23/20 23/23 24/18 28/18 31/7 32/8 32/14 32/19 33/25 34/7
---	---	--

T there... [42] 34/11 36/6 41/17 43/3 45/15 45/17 45/18 45/19 46/9 48/16 53/3 55/12 57/7 57/24 58/3 58/15 58/22 62/13 63/2 67/19 69/23 72/6 76/1 76/12 77/22 79/15 79/20 79/20 80/9 84/15 84/23 86/16 88/1 88/2 88/3 88/11 91/24 92/1 92/9 92/10 92/11 99/8 there's [41] 6/5 7/6 8/22 11/7 12/7 16/18 17/22 22/16 22/22 23/1 28/18 29/25 31/12 31/13 31/16 31/17 31/18 32/4 36/8 36/9 46/9 48/3 53/16 57/4 63/1 64/13 66/5 70/13 77/21 77/23 79/1 79/5 79/6 79/10 79/13 81/24 89/4 89/6 90/2 92/7 101/2 thereafter [1] 96/25 thereby [1] 62/9 therefore [2] 52/9 64/17 thereof [1] 93/18 thereto [1] 43/5 these [37] 3/23 8/8 16/22 23/5 23/15 26/3 27/25 30/11 30/19 33/16 38/5 38/6 38/9 39/3 39/13 47/25 48/2 48/5 50/9 53/8 53/11 55/9 56/6 58/2 58/2 59/21 73/22 73/24 74/2 81/18 82/4 82/23 84/10 84/11 84/25 94/4 94/13 they [86] 8/12 8/16 11/3 18/19 19/24 24/19 24/19 24/20 24/21 25/12 25/19 25/24 26/19 27/3 32/3 34/23 34/24 36/3 36/5 36/19 38/4 38/9 43/9 43/21 43/23 44/6 44/7 46/2 47/21 48/17 49/2 49/3 49/13 49/18 51/2 52/4 52/15 52/16 53/14 54/10 55/8 55/18 58/12 60/3 60/4 61/5 61/10 61/11 62/3 66/7 66/8 67/25 68/9 68/19 70/15 70/19 70/24 70/24 71/2 71/3 71/5 71/9 72/15 72/23 74/12 74/16 75/20 76/4 80/3 80/14 80/15 81/23 84/2 84/6 84/7 84/7 87/4 87/7 87/8 93/6 94/6 94/7 94/8 94/20 95/16 95/23 they're [11] 7/16 36/8 38/10 49/20 55/9 59/21 67/6 67/22 78/21 87/11 94/14 they've [5] 52/16 54/8 70/7 70/23 101/4 thing [9] 14/1 25/1 33/6 35/24 48/13 58/17 68/17 88/9 99/22 things [16] 8/12 8/22 9/1 10/25 11/15 14/5 16/20 17/17 28/1 29/2 29/12 36/14 46/17 69/14 72/14 88/4 think [60] 4/4 4/10 7/4 7/8 8/3 9/23 11/10 12/1 13/21 14/3 14/24 17/4 18/4 19/3 21/2 25/14 25/21 29/6 29/9 29/19 33/5 33/6 39/22 40/25 41/24 42/13 42/20 42/22 44/24 46/1 48/25 50/14 51/8 54/4 54/13 54/23 59/3 59/8 60/12 61/22 62/12 65/24 65/25 67/7 70/18 78/18 79/4 79/5 79/10 79/18 79/22 82/6 83/24 85/21 86/13 87/13 91/6 91/8 94/6 94/14 third [2] 8/10 87/17 Thirty [1] 72/25 Thirty-three [1] 72/25 this [130] those [89] 6/9 9/4 10/25 14/5 14/19 16/24 17/17 20/8 20/12 21/8 25/13	25/23 26/5 26/11 27/12 29/12 30/7 31/20 35/5 35/11 35/18 36/10 36/11 39/4 39/5 39/7 39/8 41/8 42/5 44/1 44/2 44/3 44/4 44/5 44/10 45/18 46/1 46/11 47/7 47/8 47/19 48/8 49/24 52/17 53/23 54/10 55/17 55/19 55/24 56/4 56/10 56/14 57/6 60/2 60/22 61/11 62/14 63/22 64/6 64/22 64/25 65/5 65/5 65/9 65/13 65/17 65/24 66/6 67/20 69/14 69/25 70/11 70/15 72/3 72/23 74/1 76/14 76/15 76/16 80/11 81/19 85/5 86/7 90/16 91/22 92/13 92/15 93/12 93/23 though [1] 60/7 thought [3] 14/13 28/19 100/19 thoughts [1] 9/4 three [32] 1/5 1/12 3/11 3/13 3/21 4/22 6/17 8/4 10/25 19/4 19/8 19/15 19/23 19/25 22/11 39/1 40/6 40/21 44/11 50/6 51/13 55/4 58/18 66/23 72/18 72/25 74/12 74/17 75/12 76/3 76/4 82/15 thresholds [1] 59/16 through [30] 5/22 6/7 7/3 7/20 21/8 22/18 23/9 25/6 37/9 42/13 43/9 47/3 52/13 52/14 53/9 56/8 62/11 73/10 73/22 73/24 75/12 76/14 85/9 87/3 87/10 93/20 94/13 94/15 100/20 102/6 throughout [2] 32/21 55/3 throwing [1] 58/13 Thursday [1] 3/3 thus [1] 21/16 TIFFANY [5] 2/7 4/12 53/8 54/21 99/13 Timberlane [1] 1/25 time [25] 1/19 1/22 3/4 3/5 5/21 11/3 11/22 15/19 24/11 30/22 31/8 31/20 33/17 34/5 36/3 36/15 41/12 42/13 43/9 75/20 77/10 91/4 98/6 99/16 101/6 timeframe [2] 96/22 97/6 timeline [2] 77/2 78/6 timely [3] 10/3 10/22 18/5 times [3] 49/11 61/22 95/12 title [37] 24/17 30/25 40/15 53/5 53/7 53/10 55/13 55/14 55/16 56/5 56/15 56/23 56/25 56/25 57/5 57/11 57/12 57/12 57/25 60/3 61/4 66/15 66/16 66/18 66/18 66/23 66/24 67/3 68/18 85/16 89/13 90/7 90/9 90/11 90/22 91/3 91/9 today [8] 3/3 10/3 26/6 49/14 67/6 90/6 101/2 101/5 today's [2] 10/5 26/22 told [1] 9/18 too [1] 25/17 took [4] 8/17 58/13 63/19 94/8 top [1] 61/20 total [1] 66/12 totally [2] 8/20 81/14 touched [1] 74/21 Tousey [1] 2/3 track [1] 9/2 tracking [1] 37/10 trade [1] 29/13 traffic [2] 4/11 5/4 transcript [7] 1/17 96/23 97/3 97/11 98/3 99/15 102/6	transcripts [1] 5/16 TREPO [24] 19/20 19/22 20/1 20/1 20/3 22/20 23/3 23/5 23/16 23/18 23/21 24/7 24/10 34/5 34/6 36/2 55/1 55/7 58/1 59/25 81/22 92/5 92/10 92/12 TREPO's [1] 38/19 tried [2] 14/17 80/18 triple [1] 33/1 true [6] 18/11 18/18 18/24 26/11 68/21 102/7 try [6] 5/3 7/15 12/12 12/15 58/20 86/10 trying [8] 11/21 28/23 33/9 37/9 47/12 48/21 59/18 60/11 turn [10] 5/20 8/11 11/1 11/19 12/2 12/5 29/17 54/13 73/7 93/5 twice [2] 73/4 76/11 two [25] 9/8 21/24 23/16 34/5 38/3 43/10 43/22 44/3 50/2 51/1 53/12 54/17 63/6 63/6 66/22 68/13 76/12 79/13 79/13 79/14 79/15 79/18 80/13 83/22 89/7 typed [7] 81/20 81/23 83/2 84/4 84/7 93/14 94/2 typically [2] 66/17 72/8 typographical [1] 79/21 U unable [1] 91/9 unaware [1] 8/20 unclear [1] 28/6 under [14] 24/7 24/13 24/16 24/22 25/6 30/20 33/12 36/20 39/6 41/12 41/21 57/4 69/7 74/4 understand [12] 8/21 28/24 29/19 36/17 59/9 61/11 80/9 80/17 81/15 87/21 90/10 98/19 understanding [8] 6/13 9/3 9/15 12/10 49/17 70/20 86/3 94/18 understands [1] 8/24 understood [2] 40/20 100/9 unencumbered [1] 30/24 unfortunately [1] 49/12 Uniform [1] 10/17 unintentionally [1] 40/25 unit [14] 51/2 51/3 52/5 52/5 58/19 58/20 58/21 68/2 68/3 74/18 75/12 93/18 93/19 93/20 units [3] 51/1 53/23 68/13 universe [1] 44/10 unless [2] 10/21 15/19 unmute [3] 12/20 12/23 62/23 unnecessary [1] 9/14 unpaid [2] 35/7 45/11 unrecorded [3] 34/21 34/25 36/1 until [4] 34/15 70/6 80/25 97/5 up [26] 9/17 15/20 31/17 35/25 38/2 45/8 49/11 53/6 53/12 54/23 55/7 73/5 81/23 83/10 83/17 84/4 84/5 88/5 88/16 88/17 89/11 89/18 90/9 93/14 94/4 100/6 upheld [2] 44/5 69/9 upon [6] 18/9 59/22 67/16 78/11 82/18 94/4 us [5] 5/10 6/17 12/11 44/16 48/16 use [2] 7/4 82/11
--	--	--

U used [6] 26/8 31/24 49/15 49/17 49/20 61/21 uses [1] 38/18 usually [7] 5/14 17/17 57/17 72/11 80/3 97/10 98/1 utilities [1] 64/15	58/19 58/20 59/13 69/11 69/19 69/21 70/8 70/17 72/19 80/11 84/5 84/15 86/3 87/2 92/24 98/18 we've [12] 11/13 26/4 26/7 29/11 36/7 52/18 53/7 70/16 80/24 81/14 82/5 96/6 web [1] 3/8 week [3] 8/13 66/23 101/9 weekend [1] 101/10 weighs [1] 98/6 welcome [4] 13/2 13/13 13/14 39/21 well [31] 4/16 5/3 5/7 6/8 7/19 9/22 9/23 10/23 11/10 13/1 16/13 17/9 17/19 27/11 28/24 30/1 30/18 36/18 38/25 54/24 57/16 59/12 64/14 69/16 71/10 71/10 83/19 97/25 99/7 99/17 100/15 went [4] 22/18 47/1 72/17 87/3 were [96] 1/23 6/4 7/20 10/25 15/17 18/5 18/6 20/14 21/6 23/15 23/23 23/25 24/18 24/19 24/20 25/18 25/24 26/19 28/1 29/13 30/3 30/19 30/22 31/20 31/21 32/1 32/2 32/6 32/9 33/16 33/21 33/24 34/4 34/7 34/11 34/17 34/24 35/3 36/3 36/19 38/4 38/4 38/5 38/6 38/9 40/7 40/24 41/2 42/3 42/5 42/8 42/15 43/15 44/5 46/2 46/12 46/18 46/24 48/1 48/2 48/2 55/12 55/18 56/9 56/13 56/22 56/22 57/22 57/24 59/25 60/4 65/4 65/9 68/22 68/22 69/23 69/24 70/13 72/16 73/9 73/16 74/2 76/4 79/15 80/2 80/9 80/14 80/18 87/4 87/20 88/8 91/22 91/24 91/24 94/20 95/2 weren't [2] 11/5 31/5 what [77] 6/25 7/2 9/18 14/19 14/23 16/17 17/5 19/24 25/8 25/12 25/18 25/19 26/19 27/11 28/24 31/9 31/13 31/24 33/19 34/18 36/3 37/23 38/6 38/7 39/8 39/18 42/22 43/10 46/4 46/18 47/12 47/23 48/2 48/18 48/20 48/24 48/25 49/3 52/15 53/19 55/10 58/9 59/7 59/13 59/15 59/15 59/20 59/25 65/16 66/15 66/18 67/25 68/8 68/20 68/21 68/25 70/3 70/20 73/11 73/25 75/15 81/22 84/2 84/6 84/7 84/7 84/8 84/19 85/21 85/24 86/8 89/13 89/17 95/9 95/13 95/14 98/1 what's [1] 7/5 when [31] 1/22 8/3 12/19 14/4 17/23 30/2 31/2 31/9 33/13 34/23 37/14 42/22 47/3 48/21 48/22 53/22 53/25 55/20 58/11 58/23 59/14 64/9 65/12 69/11 72/8 73/4 87/10 88/7 88/15 90/7 100/18 where [20] 1/22 7/14 14/16 37/2 38/9 46/3 47/6 48/17 50/2 54/20 55/19 57/8 58/11 64/24 69/13 73/20 75/5 87/17 88/23 93/3 whereof [1] 31/18 Whereupon [1] 7/20 whether [7] 3/18 6/5 9/12 30/18 40/11 66/1 69/25 which [57] 3/19 8/3 24/4 32/2 32/11 32/19 34/4 34/15 37/13 37/18 38/4 38/11 39/12 41/16 42/10 42/15 42/25 43/9 45/1 45/8 45/9 45/10 46/6 49/1	49/3 50/14 50/20 52/15 56/17 57/1 60/15 61/2 62/9 63/18 67/10 68/4 68/14 70/11 70/25 71/4 71/9 72/2 72/7 74/3 74/11 83/8 88/8 88/17 90/7 93/8 93/10 93/12 93/14 94/11 94/23 95/1 95/12 while [4] 36/18 68/7 84/1 87/9 White [1] 74/9 who [47] 14/12 15/24 25/18 25/22 26/19 27/1 27/4 31/18 39/12 39/14 41/25 43/19 44/10 44/12 45/1 46/3 48/9 49/2 49/4 49/7 49/18 51/8 51/16 51/20 51/25 53/13 53/24 53/24 53/24 55/7 55/12 57/9 57/24 58/4 60/6 60/8 61/5 65/16 65/17 66/2 66/7 68/22 70/2 70/17 73/8 82/20 82/20 who's [5] 43/17 44/8 49/2 60/11 67/18 whole [2] 28/21 92/2 whose [2] 56/14 56/23 why [15] 27/6 27/25 38/11 45/13 46/1 46/2 49/14 51/2 53/18 61/11 79/13 80/24 89/14 90/23 91/9 wild [1] 66/21 will [28] 3/3 6/22 8/7 8/20 14/3 15/18 17/16 20/2 23/11 28/25 29/15 29/16 48/11 73/19 80/20 82/24 89/10 91/11 92/14 97/2 97/15 97/16 98/1 99/1 99/16 100/18 100/21 101/10 William [3] 75/25 76/1 76/5 willing [1] 10/13 wish [10] 8/12 11/3 15/14 16/15 17/6 25/7 26/5 27/10 28/11 101/8 wishes [2] 11/8 86/20 within [20] 39/1 42/17 51/1 57/11 57/22 57/24 58/3 59/12 59/24 66/19 72/5 74/12 75/19 77/20 78/8 78/12 82/15 83/5 83/11 98/7 without [3] 9/25 22/25 91/12 witness [6] 15/23 17/24 27/10 29/25 31/17 73/21 witnesses [11] 15/18 17/12 17/22 21/25 23/20 27/13 29/23 30/3 89/7 90/5 90/20 won't [1] 92/14 Wonderful [1] 69/20 word [1] 77/20 words [2] 44/9 84/10 work [3] 37/9 85/16 99/17 works [1] 16/23 would [78] 4/3 6/19 7/4 7/10 12/4 12/4 12/9 14/13 27/20 28/19 31/19 32/17 32/22 33/6 33/18 34/13 34/23 35/15 35/16 35/17 35/24 37/1 37/2 37/13 38/14 39/10 39/12 41/18 41/19 42/16 44/4 44/6 44/7 46/13 47/15 51/21 55/17 56/24 59/20 59/25 65/6 66/9 72/2 72/4 72/22 72/24 73/20 74/19 75/2 76/6 76/15 76/17 79/25 81/25 83/15 84/18 85/20 88/24 89/14 90/17 91/12 92/21 94/24 95/20 95/25 96/22 96/23 96/25 97/11 97/20 98/4 98/7 98/13 99/6 99/10 99/22 99/25 99/25 wouldn't [2] 44/13 88/5 wrap [2] 31/17 83/17 wrap-up [2] 31/17 83/17 written [5] 50/11 70/5 75/3 78/9 96/20 wrong [1] 5/24
V valid [12] 24/18 30/19 33/14 33/17 33/21 38/8 39/5 41/13 47/20 72/25 78/8 78/13 validly [2] 30/22 33/24 various [2] 63/4 78/23 vastly [1] 10/4 verified [1] 21/16 verify [1] 47/23 versus [2] 38/23 69/4 very [23] 9/25 17/25 25/21 30/17 33/21 36/17 36/19 43/20 49/12 49/21 50/18 50/18 50/19 53/16 55/6 66/15 69/8 82/6 84/17 86/23 97/6 101/1 101/4 via [1] 3/8 violation [1] 95/7 volume [2] 1/18 30/10 voluntarily [1] 78/1 voluntary [4] 36/4 36/23 36/23 45/4 vote [23] 38/15 39/9 39/13 39/15 44/4 48/4 49/7 50/10 55/19 56/7 56/12 56/17 57/20 57/23 59/15 59/20 60/2 74/4 75/4 75/6 76/13 76/18 78/15 voted [2] 48/2 52/9 votes [1] 78/25 voting [3] 45/8 52/11 79/7		
W wait [1] 5/1 waiting [2] 5/9 10/10 walking [1] 100/20 want [29] 6/5 7/23 8/10 12/6 16/5 24/24 25/3 25/16 29/16 29/20 29/21 33/2 39/17 48/17 48/20 53/8 54/21 60/15 60/20 62/3 69/1 69/2 81/15 86/10 98/23 99/2 99/12 101/1 101/3 wanted [10] 4/13 6/9 6/11 8/15 10/25 11/20 20/8 61/10 71/9 83/24 wants [1] 81/12 warranty [5] 32/19 32/22 46/22 47/17 74/17 was [169] Washington [1] 76/9 wasn't [4] 11/21 40/17 41/10 41/17 watching [1] 101/3 way [7] 6/1 7/11 12/16 48/10 89/4 90/3 93/20 we [178] we'd [4] 12/7 21/3 100/3 100/19 we'll [16] 4/16 11/17 11/25 14/15 15/15 16/23 25/16 29/12 29/17 42/1 69/10 80/25 81/1 81/3 86/24 99/15 we're [58] 11/17 11/21 13/22 14/9 17/12 18/2 20/25 21/1 25/6 25/8 28/15 28/23 28/24 28/24 29/14 31/22 33/9 33/15 33/15 35/20 36/13 36/18 37/12 37/13 38/19 39/18 41/24 46/15 47/2 47/5 48/7 48/24 48/25 49/14 51/2 52/9 55/21 56/16 57/15 57/16 58/1 58/14		

Y

yeah [9] 19/3 20/13 20/22 27/20 30/2 37/14 69/1 97/15 98/10

years [7] 26/2 40/18 41/15 42/18 46/21 48/2 57/1

yes [11] 4/20 5/17 8/6 13/4 14/23 25/11 37/8 48/11 73/11 76/25 98/23

yesterday [3] 6/14 6/18 38/6

yet [2] 26/11 29/1

you [230]

you'll [2] 29/24 89/17

you're [24] 13/2 13/13 13/14 14/4 17/23 25/4 29/6 39/13 39/21 47/6 47/12 48/21 51/20 53/24 53/24 55/21 57/18 59/7 60/5 60/9 60/11 74/3 85/22 87/10

you've [5] 48/19 52/20 54/14 54/23 58/12

your [68] 4/6 4/20 5/18 6/20 8/6 9/7 12/18 13/1 13/6 13/7 13/8 13/12 14/23 15/3 15/7 15/11 15/16 15/23 16/3 16/7 16/19 16/23 17/21 21/4 25/11 27/17 30/16 33/10 35/9 36/13 44/21 56/12 58/5 59/9 59/13 60/18 61/16 62/20 65/11 67/8 68/16 69/1 69/11 73/19 76/23 76/25 81/7 81/12 83/13 83/15 86/4 90/17 95/20 96/10 96/15 96/24 97/24 98/4 98/8 98/25 99/6 99/10 100/7 100/14 100/23 101/1 101/9 101/10

Z

Zoom [2] 1/20 3/8